

## **Chapter 172**

### **ZONING**

#### **GENERAL REFERENCES**

**Planning Commission — See Ch. 33.**

**Building construction — See Ch. 69.**

**Uniform Construction Code — See Ch. 79.**

**Natural features and landscaping — See Ch. 104.**

**Slope conservation — See Ch. 134.**

**Soil erosion and sediment control — See Ch. 138.**

**Stormwater management — See Ch. 143.**

**Streets and sidewalks — See Ch. 145.**

**Subdivision and land development — See Ch. 148.**



ARTICLE I  
**Terminology**

**§ 172-1. Word usage.**

The present tense includes the future, the singular number includes the plural, and the plural the singular. The word "building" includes the word "structure" and shall be construed as if followed by the words "or part thereof." The word "occupy" includes the words "designed or intended to be occupied." The word "use" includes the words "arranged, designed or intended to be used." The word "shall" is always mandatory. "May" is always discretionary.

**§ 172-2. Definitions.**

- A. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated in this article:

**ACCESSORY BUILDING** — A structure subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building. A building or use which satisfies the definition of "accessory building" or "accessory use" may not be a principal use on a lot. Where an owner or applicant owns or controls adjoining parcels and wishes to place an accessory building on the separate parcel, this may only be done by consolidating the said parcels so that the accessory use or building is in fact accessory to the principal use on the consolidated lot and not a principal use on a separate tax folio.

**ACCESSORY USE** — A use subordinate to the main use of land or of a building on a lot and customarily incidental thereto. A building or use which satisfies the definition of "accessory building" or "accessory use" may not be a principal use on a lot. Where an owner or applicant owns or controls adjoining parcels and wishes to place an accessory building on the separate parcel, this may only be done by consolidating the said parcels so that the accessory use or building is in fact accessory to the principal use on the consolidated lot and not a principal use on a separate tax folio.

**APARTMENT** — A room or group of rooms in an apartment house designated for and occupied exclusively as a residence for only one family.

**APARTMENT HOUSE BUILDING** — A building designated for and occupied exclusively as a residence for three or more families living independently of one another and which building is a single building unit for purpose of operation, management and maintenance, and/or a group of one or more townhouses or row houses.[**Amended 10-11-1976 by Ord. No. 1976-4**]

**APPLICATION** — The required form to request relief under this chapter. An application is docketed when received, and the fee is paid and noted on the face of the form.

**BASE FLOOD** — The flood which has been selected to serve as the basis upon which the floodplain management provisions of this Chapter 172 have been prepared. For purposes of this Chapter 172, a flood which has a one-percent chance of being equaled or exceeded in any given year, which is a flood referred to as the one-hundred-year flood.[**Added 10-15-2013 by Ord. No. 2013-08; amended**

**9-2-2015 by Ord. No. 2015-03]**

**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).[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]

**BASE FLOOD ELEVATION (BFE)** — The water surface elevation resulting from a base flood (i.e., the one-hundred-year-flood elevation). Within an approximated floodplain as delineated in the Flood Insurance Study (FIS), or other areas subject to flooding outside of the Flood Insurance Study, the base flood elevation shall be established as a point on the boundary of the Floodplain Management District closest to a subject property. When available, information from other federal, state and other acceptable sources shall be used to determine the one-hundred-year-flood elevation, as well as a floodway area, if possible. The elevation shown on the Flood Insurance Rate Map (FIRM) that indicates the water surface elevation resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year.[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]

**BASEMENT** — Any area of the building having its floor below ground level on all sides.[Amended 9-2-2015 by Ord. No. 2015-03]

**BOARDINGHOUSE or ROOMING HOUSE** — A house in which one or more people are sheltered or fed for profit and where the person or persons occupying the premises are not members of the same family.

**BUILDING** — A combination of materials to form a permanent structure having walls and a roof intended for supporting or sheltering any use or occupancy. All manufactured homes and trailers to be used for human habitation are buildings.[Amended 10-15-2013 by Ord. No. 2013-08; 9-2-2015 by Ord. No. 2015-03]

- (1) **BUILDING (DETACHED)** — A building which has no party wall.
- (2) **BUILDING (SEMIDETACHED)** — A building which has only one party wall.

**BUILDING AREA** — The net lot area a building may be built upon after subtracting the building area driveway. Portions of structures that extend from the building need not be located within the building area. These include cornices, eaves, gutters, steps or ramps, chimneys, balconies, unroofed terraces (patios), and unroofed porches. However, decks sufficient for purposes of seating and terraces or patios large enough for that same purpose must be within the building area if they exceed 16 square feet.

**BUILDING ENVELOPE** — Any area formed by lines connecting all setback lines on a lot, but excluding floodplains, rights-of-way and other areas where building is prohibited.

**BUILDING HEIGHT** — The vertical measurement of a building from the mean or average level of the ground abutting the building to the highest point of the main roof, provided that chimneys, spires, towers, elevator penthouses, tanks and similar projections of the building shall not be included in calculating the height.

CARTWAY — The paved portion of a street.

COMMERCIAL VEHICLE — Any vehicle which exceeds a gross vehicle weight of 9,200 pounds or is greater than 84 inches in height, whether or not engaged in a commercial enterprise, trade, profession or industry, and which may or may not bear commercial aspects, such as signs or attached ladder or tool racks, shall be considered a commercial vehicle in this chapter.**[Added 11-25-1996 by Ord. No. 1996-2]**

COMPLETELY DRY SPACE — A space which will remain totally dry during flooding; the structure designed and constructed to prevent the intrusion of water and water vapor.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

CONDITIONAL USE — A use which is permitted in a particular zoning district only upon demonstration that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified by this condition and authorized by the Board of Supervisors, which compliance is demonstrated by drawings and related documents.**[Amended 1-10-1983 by Ord. No. 1983-1; 11-14-1994 by Ord. No. 1994-4]**

CONSTRUCTION — The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of manufactured homes and construction as otherwise defined under the Pennsylvania Construction Code Act.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

CONTIGUOUS BUILDABLE LOT AREA — The area of a lot on which the principal permitted building is located, comprised of those adjoining horizontal areas exclusive of the following environmentally sensitive areas:**[Added 1-7-1991 by Ord. No. 1991-1]**

- (1) The one-hundred-year-floodplain areas, as defined in Chapter 91, Flood Damage Prevention.<sup>1</sup>
- (2) Wetland areas (including buffers) within the subject matter jurisdiction of the Commonwealth of Pennsylvania Department of Environmental Protection and/or the United States Army Corps of Engineers.
- (3) Areas of very steep slopes [25% or greater], as defined in Chapter 134, Slope Conservation.

CONTINUING CARE RETIREMENT COMMUNITY (CCRC) — A development that provides a continuum of accommodations and care for senior persons, including a combination of residential living units, personal care living units, a skilled nursing facility and accessory uses.**[Added 8-12-2013 by Ord. No. 2013-04]**

DAY-CARE CENTER — A facility providing care, supervision and organized educational and recreational activities for more than six children, 12 years of age or younger, unrelated to the operator. This facility shall be located in a building

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1. Editor's Note: Former Ch. 91, Flood Damage Prevention, adopted 8-11-1980 by Ord. No. 1980-12, as amended, was repealed 9-9-2002 by Ord. No. 2002-5. See now Art. XXB, Flood Hazard District, of this chapter.

with appropriate area, designed and intended for day care in compliance with the approval and/or licensure requirements as specified by the Commonwealth of Pennsylvania, Department of Public Welfare and the Department of Education.

**DAY CARE, HOME-BASED** — A day-care program, operating in a residential single-family dwelling, for six children or less, 12 years of age or younger, including the children of the operator.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to construction, alteration, or repair of buildings or other structures; the placement of manufactured homes, streets, paving, and utilities; mining, dredging, filling, grading, excavation or drilling operations; the storage of materials and equipment on the land; the subdivision of land; and development as otherwise defined by the Pennsylvania Municipalities Planning Code. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**DOMESTIC AND OTHER ANIMALS** — Cats, dogs, birds and other domesticated animals may be kept in any residential district, except that all such animals must be kept on the premises in a fenced space unless on a leash. Livestock and poultry may be kept so long as suitable shelter is provided in a fenced space and so long as they are kept no less than 50 feet from any street line or property line. Horses may be kept in a ratio of one horse to every two acres so long as an adequate stable is provided and the space wherein the horse(s) are kept is fenced and no closer than 50 feet to any street line or property line.

**DWELLING** — A building suitable for human occupancy under the Codified Ordinances of Newtown Township. No dwelling may be eligible for relief under this chapter unless it has access to water and sewage disposal at the time of the application for zoning relief.

- (1) **SINGLE-FAMILY DWELLING** — A building on a lot designed and occupied exclusively as a residence for one family. (See also the definition for "family.")
- (2) **TWO-FAMILY DWELLING** — A building on a lot designed and occupied exclusively as a residence for two families, with one family living wholly or partly over the other.
- (3) **MULTIFAMILY DWELLING** — A building on a lot designed, altered or used exclusively as a residence for three or more families.

**EFFECTIVE DATE** — The effective date of this chapter is February 4, 1938, except that, as to amendments with respect to minimum lot area, minimum habitable floor area, off-street parking, minimum lot width and similar requirements, the effective date shall be the date when the particular amendment became or becomes effective.

**ESSENTIALLY DRY SPACE** — A space which will remain dry during flooding, except for the intrusion of some water vapor or minor seepage; the structure is substantially impermeable to the intrusion of water. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** — A manufactured home park or subdivision for which the construction of facilities for

servicing the lots on which 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) was completed before September 17, 1980.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**EXISTING STRUCTURE or EXISTING CONSTRUCTION** — A structure for which the "start of construction" commenced before September 17, 1980.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**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 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.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**FAMILY** — Any number of persons living and cooking together as a single housekeeping unit, but shall not include more than three unrelated persons living and cooking together as a single cooperative housekeeping unit, and said persons may not be purely transient.

**FLOOD** — A temporary, partial or complete inundation of normally dry land areas from the overflow of a watercourse.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**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.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**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.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**FLOODPLAIN** — A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby body of water including a stream, river or watercourse; and/or any area subject to inundation by the base flood through the unusual and rapid accumulation of surface waters from any source.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**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.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be preserved to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**FLOODWAY FRINGE** — That part of the floodplain adjacent to and extending from the floodway and subject to inundation by the one-hundred-year flood. Also referred to by the FIS and FIRM as the AE Area with an identified or delineated floodplain.[**Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03**]

**FREEBOARD** — A factor of safety usually expressed in feet above a flood level for purposes of floodplain management.[**Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03**]

**GARAGE** —

- (1) **NONRESIDENTIAL GARAGE** — An accessory building used for the storage of motor vehicles, not trucks or commercial vehicles, only two of which may be owned and used by persons other than the owner or tenant of the lot on which the private garage is erected.
- (2) **RESIDENTIAL GARAGE** — A building or group of buildings, other than a private garage, one story in height, used for the storage of automobiles and not used for making repairs thereto. A residential garage may be integral to a residential dwelling or an accessory building to a residential dwelling. Where a residential garage is an accessory building, it may be only one story in height, unless a second story is added in accordance with the provisions of this chapter. Where a residential garage is attached to a residential dwelling, a second story which will be integral to the residential dwelling may be added and be part of the ordinary residential use of the property.
- (3) **PUBLIC GARAGE** — A building, other than a residential garage or nonresidential garage, one or more stories in height, used for the storage or repair of automobiles.

**GARAGE SPACE** — A parking space within a garage.

**GRADE** — The actual level of the ground adjacent to the exterior walls of a building.

**GROSS FLOOR AREA** — The sum of the areas of each floor of a building suited for occupancy as measured within the perimeter of the outside surface of the walls of each floor, including basements, without deduction for hallways, stairwells, elevators, closets, lavatories, utility rooms, utility raceways and thickness of walls, but with deductions for indoor parking and those open spaces of partial floors which are airspace above a lower floor when those areas exceed 200 square feet per area. Open areas of partial floors shall include, but not be limited to, atriums and enclosed courtyards within the outside surface of the walls of a building.[**Added 2-27-1989 by Ord. No. 1989-2**]

**HABITABLE ROOM** — A room or enclosed floor space arranged for living, eating or sleeping purposes, not including bathrooms, water closet compartments, laundries, pantries, foyers, hallways and other accessory floor spaces.

**HANDICAPPED PARKING SPACES** — All nonresidential uses and apartment buildings shall provide for handicapped access by motor vehicles by providing handicapped spaces, sized and marked in accordance with the Building Code<sup>2</sup> and Motor Vehicle Code.<sup>3</sup>



**HELIPORT** — An area, either at ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters, and any appurtenant areas which are designed to be used for helicopter support facilities, such as maintenance, refueling and parking. **[Amended 5-14-1984 by Ord. No. 1984-3]**

- (1) **PERSONAL USE HELIPORT** — Any heliport that is used exclusively by the owner and/or operator. Personal use heliports are owned by individuals, companies or corporations.
- (2) **PUBLIC USE HELIPORTS** — Any heliport open to the general public and not requiring prior permission of the owner and/or operator to land.

**HIGHEST ADJACENT GRADE** — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**HISTORIC STRUCTURE or HISTORIC BUILDING** — A building or other structure that is: **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the United States Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- (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; or
- (3) Individually listed on a Pennsylvania inventory of historic resources; or
- (4) Individually listed on a local inventory of historic resources.

**HOUSING FOR THE ELDERLY** — A residence occupied generally by older or retired persons, which contains housekeeping, semihousekeeping or nonhousekeeping dwelling units especially designed for elderly persons or families. **[Amended 1-28-1980 by Ord. No. 1980-2]**

**IDENTIFIED FLOODPLAIN AREA** — The floodplain area specifically identified as being inundated by the one-hundred-year flood. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**LOT** — A parcel of land which is occupied or is to be occupied by one principal use and/or building (except where multiple buildings/uses are authorized), together with any accessory uses and/or buildings authorized and customarily incidental to such principal use and/or building and such open spaces as are arranged or desired to be used in connection with such use and/or principal building, such open spaces to be not less than the minimum required by this chapter. A lot is a single tax parcel, notwithstanding that a deed may contain reference to several lots. See also "single and separate ownership."

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2. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.

3. Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

**LOT AREA** — The area of land included within the title lines of a lot. **[Added 1-7-1991 by Ord. No. 1991-1; amended 9-11-2000 by Ord. No. 2000-4]**

- (1) The following shall not be calculated in determining the minimum lot area:
  - (a) Seventy-five percent of any land lying within the Flood Conservation District or located in wetlands.
  - (b) Area within the title lines set aside as right-of-way for a street, public or private utilities and all areas of easements, including, but not limited to, storm drainage easements, sewage easements and easements of access.
  - (c) Fifty percent of the land containing very steep slopes and 25% of the land containing steep slopes.
  - (d) If the lot area, as determined in accordance with Subsection (1)(a) and (b) above, is three acres or more, then the area of steep slope and very steep slope lands is not required to be deleted from the lot area.
- (2) In case of an interior (flag) lot, any portion connecting such interior (flag) lot to a road or street shall not be included in the calculation of minimum lot area.

**LOT, CORNER** — A lot at the junction of and abutting two or more intersecting streets where the interior angle of intersection does not exceed 135°. A lot abutting a curved street shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135°. A corner lot shall be considered as having two front yards for the purpose of setback requirements of the zoning district wherein the corner lot is located. A corner lot shall have one rear yard. See "lot frontage" below for determination of the front of a corner lot. See also §§ 172-109 and 172-112 for further guidance.

**LOT FRONTAGE** — The distance along the street line of a lot. The frontage of a corner lot is the shorter street line distance.

**LOWEST FLOOR** — The lowest floor of the lowest fully enclosed area, including the basement of a building. 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 nonelevation design requirements. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**MAJOR HIGHWAY** — West Chester Pike and Newtown Street Road, but only that portion also known as "State Route 252."

**MANUFACTURED HOME** (also referred to as **MOBILE HOME**) — A structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for occupancy as a dwelling, office, school, or other place of assembly with or without a permanent foundation when attached to 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. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**MANUFACTURED HOME LOT** — A parcel of land improved with the necessary utility connections and other appurtenances necessary for the placement thereon of a single manufactured home. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**MANUFACTURED HOME PARK OR SUBDIVISION** — A parcel of land under single ownership which has been planned and improved for the placement of manufactured homes for nontransient use, consisting of two or more manufactured home lots. "Manufactured home parks" shall include manufactured home developments. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**MINOR REPAIR** — The replacement of existing work with equivalent materials for the purpose of routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit-way requirements. "Minor repairs" shall not include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**MOTOR VEHICLES SALES AGENCY** — An area of land, together with structures thereon, used primarily for the sales, service and repair of new motor vehicles under a manufacturer's franchise agreement, including the sales of goods and products normally provided in connection with such sales, repairs and service, together with a permitted component for used motor vehicles sales, repairs and service. **[Added 9-10-2018 by Ord. No. 2018-04]**

**NET FLOOR SPACE** — The floor area of the inside perimeter of the outside walls of the building or part of the building under consideration, with deductions for hallways, stairs, lavatories and structural features. For the purpose of determining the minimum net floor space for a business entity or building in an SU-1 Zone District, only areas totally under the control of the business entity shall be included as net floor space. **[Added 6-26-1989 by Ord. No. 1989-6]**

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of the floodplain management article and includes any subsequent improvements to such structures. Any construction started after September 17, 1980, and before the effective date of the floodplain management article 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. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**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 placed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed on or after September 17, 1980. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**NO-IMPACT HOME-BASED BUSINESS** — A lawful business use conducted solely by the resident of a dwelling unit, but not an apartment which is incidental and secondary to the residential use of the dwelling. A no-impact home-based business may include a for-profit home business or a home office for a resident of a dwelling unit who may be self-employed or work for another employer or contract with another company or individual, whether full-time or part-time. See also § 172-101.

**ONE-HUNDRED-YEAR FLOOD** — A flood that has one chance in 100 or a one-percent chance of being equaled or exceeded in any one year. For the purposes of this chapter, base flood.[**Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03**]

**PARKING LOT** — An open area on a lot used for the parking of motor vehicles.

**PARKING SPACE** — A space on a lot used for the storing or temporary parking of motor vehicles, the space for which shall measure at least 10 feet by 20 feet, and to which there is an access road of not less than nine feet wide from a street or alley. Where parking spaces within a building are used for vehicle storage only, such spaces may be less than 10 feet by 20 feet, but only where the spaces are not accessible to or used by the general public, but, in any event, no space may be less than nine feet by 18 feet. All parking spaces are to be constructed to Township standards, are to be paved, and, in commercial applications, are to be striped. Where this chapter requires all-weather parking spaces, these are intended to be under roof. See also other provisions of this chapter which pertain specifically to parking.[**Amended 10-9-1978 by Ord. No. 1978-9**]

**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.[**Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03**]

**PERSONAL CARE LIVING UNIT** — A dwelling unit within a personal care home licensed by the Commonwealth of Pennsylvania, in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation of a residence in the event of any emergency, or medication prescribed for self administration.[**Added 8-12-2013 by Ord. No. 2013-04**]

**POST-FIRM STRUCTURE** — A structure for which construction or substantial improvement occurred after September 17, 1980 (the initial FIRM for Newtown Township), and as such would be required to be compliant with the regulations of the National Flood Insurance Program (NFIP).[**Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03**]

**PRE-FIRM STRUCTURE** — A structure for which construction or substantial improvement occurred on or before September 17, 1980 (the initial FIRM for Newtown Township), and as such would not be required to be compliant with the regulations of the NFIP.[**Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03**]

PROFESSION — A vocation, including lawyers, doctors, dentists, architects and similar callings, which the Zoning Hearing Board deems to be of the same general nature as the above.**[Amended 9-8-1980 by Ord. No. 1980-16]**

PUBLIC PARKING SPACE — A parking space made available by the owner(s) for use by all persons without the expressed permission from the owner(s).**[Amended 10-9-1978 by Ord. No. 1978-9]**

RECREATIONAL VEHICLE (also referred to as a TRAILER HOUSE) — A vehicle which is:**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

- (1) Built on a single chassis; and
- (2) Not more than 400 square feet, measured at the largest horizontal projections; and
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Not designed for use as a permanent dwelling but as temporary living quarters for recreation, camping, travel, or seasonal use.

RECREATIONAL VEHICLE PARK (also referred to as a TRAILER HOUSE PARK) — Any premises used as a parking space for more than one recreational vehicle.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

REDEVELOPMENT AREA — A census tract or group of census tracts eligible for a revitalization program and identified in an adopted revitalization plan.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

REGULATORY FLOOD ELEVATION — The elevation to which development is regulated for purposes of elevation and/or dry floodproofing. Within the Township, it is equal to the base flood elevation plus a freeboard of two feet.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

REPETITIVE LOSS — Flood-related damages sustained by a structure on at least two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, cumulatively equals or exceeds 50% of the market value of the structure before the damages occurred.**[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

RESIDENTIAL LIVING UNIT — A dwelling unit in a building of multiple dwelling units, or standing alone, used exclusively for occupancy by one or more senior persons in a continuing care retirement community.**[Added 8-12-2013 by Ord. No. 2013-04]**

RIGHT-OF-WAY LINE — See "street line" and "street right-of-way."

SECONDARY ROAD — Any road in the Township having a paved cartway not less than 30 feet wide and further having access to a major highway via secondary roads, as defined herein.

SERVICE OFFICE BUILDING — A building containing sales or business offices or the offices of a bank, doctor, dentist, physician, mortician, surgeon, optician,

attorney, real estate broker, insurance broker, accountant, tax consultant, Magisterial District Judge, teacher, architect, engineer, draftsman, artist and no other. No office building shall include a store or personal service shop for retail trade or with a service to the general public. Personal service shops include barbershops, beauty parlors, dry cleaners, tailors, decorators and similar uses. No sales of merchandise or goods shall be permitted in the service office building. Eating facilities and personal service shops such as barbershops are permitted as accessory uses when designed or located to serve the occupants of an office building(s) or an apartment building(s). Such facilities shall not have storefronts or store windows and shall not be located and designed to attract the trade of persons other than the occupants or clients of the office building(s) or apartment building(s) if located within such buildings. All signs related to such eating or service facilities shall satisfy the criteria for the district within which they are located. Where a separate building is located on the same premises or an adjoining property to office building(s) or apartment building(s), personal service shops are permitted by special exception upon demonstration that the personal service shop will serve the needs of these residents and will not be detrimental to the neighborhood within which it is located.

**SETBACK LINES** — See also the definition for "yards." The setback is that part of the front side or rear yard measured from the right-of-way line within which construction of any improvement is prohibited unless specifically permitted by provisions of this chapter. This definition incorporates by reference the specific definitions of "yards" set forth in this section.

**SIGN** — Any surface, fabric, device or display which is viewed from the exterior of a building and intended to advertise the business within and/or its goods and services and which bears lettered, pictorial or sculptured matter, including forms shaped to resemble any human, animal or product, designed to convey information visually and which is exposed to public view. For the purposes of this chapter, the term "sign" shall include all structural members. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered to be a single sign. Ordinary window displays of goods and services which are not signs as defined herein are excluded from the measurements contained in this chapter. Included within the definition of "sign" are the following types of signs. Notwithstanding anything set forth above, ordinary window displays of goods and services may not constitute a sign as determined by the Zoning Officer. **[Amended 4-9-1984 by Ord. No. 1984-1]**

- (1) **BANNER** — Any sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind. Flags of any government shall not be considered banners for the purpose of this chapter except when displayed in connection with commercial promotions.
- (2) **BILLBOARD SIGN** — A non-point-of-sale sign which advertises a business, organization, event, person, place or thing, unless such sign is more specifically defined herein.

- (3) CHANGEABLE COPY SIGN — A sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or the surface of the sign.
- (4) CONSTRUCTION SIGN — Any sign giving the name or names of principal contractors, architects and lending institutions responsible for construction on the site where the sign is placed, together with other information included thereon.
- (5) DIRECT PUBLIC ENTRANCE — The direct access to a premises from grade level exterior to a building without transversing corridors, halls, stairwells, elevators or the like.
- (6) DIRECTORY SIGN — A sign on which the names or locations of occupants or the use of a building is given. This shall include office buildings and church directories.
- (7) FREESTANDING SIGN — Any portable sign or sign structure not securely attached to the ground or to any other structure.
- (8) GROUND AND/OR POLE SIGN — Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.
- (9) ILLUMINATED SIGN — Any sign illuminated in any manner by an artificial light source.
- (10) INTEGRAL SIGN — Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials mounted on the face of a building.
- (11) MARQUEE SIGN — Any sign attached to and made a part of a marquee. A "marquee" is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.
- (12) NONCONFORMING SIGN — Any sign which does not conform to the regulations of this chapter.
- (13) OFFICIAL SIGN — Any sign installed or maintained by the Commonwealth of Pennsylvania, County of Delaware, or the Township of Newtown or mandated by statutes or ordinance.
- (14) POINT-OF-SALE SIGN — Any sign which carries only the name of the firm, major enterprises or products offered for sale on the premises where the sign is located, or a combination of these things.
- (15) PROJECTING SIGN — Any sign, other than a wall sign, affixed to any building or wall whose leading edge extends beyond such building or wall.
- (16) REAL ESTATE SIGN — Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.

- (17) ROOF SIGN — Any sign erected or constructed wholly upon and over the roof of any building and supported on the roof structure.
- (18) SNIPE SIGN — Any sign of any material whatsoever that is attached in any way to a utility pole, tree or any object located or situated on public property.
- (19) TRAILER SIGN — Any sign mounted on a vehicle and used for advertising or promotional purposes, such as a trailer normally licensed by the Commonwealth of Pennsylvania.
- (20) WALL SIGN — Any sign painted on or attached to and erected parallel to the face of or erected and confined within the limits of the outside wall of any building and supported by such wall or building and which displays only one advertising surface.
- (21) SIGN AREA — That area enclosed by continuous straight lines connecting the extreme points of edges of a sign. The area shall be determined using the largest sign area or silhouette visible at any one time from any one point. This area does not include the main supporting sign structure, but all other ornamental attachments, inner connecting links, etc., which are not a part of the main supports of the sign are to be included in determining sign area. In addition, sign area shall be determined in accordance with the following:
- (a) Freestanding or attached. The area includes all lettering, wording and accompanying design and symbols, together with the background, whether open or enclosed, on which they are displayed. This includes the spaces between the sections of a paneled sign. The area does not include minimal supporting framework or bracing, but it does include any decorative structure.
  - (b) Painted upon or applied to a building. The area includes all lettering, wording and accompanying designs or symbols, together with any background of a different color than the natural or primary color of the building.
  - (c) Individual letters or figures. When attached or painted on a surface, a building, canopy, awning, wall or window, the area is that of the smallest rectangle or other geometric shape that encompasses all of the letters and symbols.

SINGLE AND SEPARATE OWNERSHIP — The ownership of a lot by one or more persons, partnerships or corporations, which ownership is separate and distinct from that of any abutting or adjoining lot. A lot is a tax parcel as distinguished from the common use of the term "lot" in many deeds. Where two or more tax parcels are used as one lot, these tax parcels cease to exist as single and separate lots. The single usage is determined based on the character of usage, and such factors as placement of structures in relation to property lines are to be considered in addition to the placement of supporting accessory building and amenities. For example, a house that straddles a property line loses the separation of the parcels. Similarly, a garage or pool placed on a parcel separate from but adjoining another parcel where the principal building is located nullifies the separateness of the parcels.



**SKILLED NURSING FACILITY** — A facility which provides for personal health care in a continuing care retirement community and is licensed to provide nursing care by the Commonwealth of Pennsylvania.[**Added 8-12-2013 by Ord. No. 2013-04**]

**SPECIAL EXCEPTION** — An authorization granted by the Zoning Hearing Board in instances where provision therefor is specifically made by the terms of this chapter.

**SPECIAL FLOOD HAZARD AREA (SFHA)** — An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A or AE.[**Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03**]

**SPECIAL FLOODPLAIN AREA** — An area where one-hundred-year flood elevations have been identified, but no floodway has been delineated. Also referred to as AE Area without floodway by the FIS and FIRM.[**Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03**]

**START OF CONSTRUCTION** — Unless otherwise specified by the Uniform Construction Code, and including substantial improvement and other proposed new development, the date a building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit and shall be completed within 12 months after the date of issuance of the permit unless a time extension is granted, in writing, by the Zoning Officer. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a 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 lot. 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.[**Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03**]

**STORY** — That part of a building comprised between a floor and the floor or roof next above. See also the definition for "basement."

**STREET LINE** — The dividing line between a lot and a street or a proposed street on which the lot abuts (right-of-way line).

**STREET RIGHT-OF-WAY** — A street opened or available to the general public, excluding, however, private drives and private roads with restricted access to authorized persons/entities, employees or business invitees. See also the definition of "cartway." Also, notwithstanding any provision of this definition, public use other than for specific Township needs does not extend beyond the actual cartway of the street in question.[**Added 9-8-1997 by Ord. No. 1997-7**]

**STRUCTURE** — Any man-made object or facility having an ascertainable

stationary location on or in land or water, whether or not affixed to the land. A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. **[Amended 10-15-2013 by Ord. No. 2013-08; 9-2-2015 by Ord. No. 2015-03]**

**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; and as otherwise defined by the Pennsylvania Municipalities Planning Code. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**SUBSTANTIAL ADDITIONS TO MANUFACTURED HOME PARK** — Any repair, reconstruction, or improvement of an existing manufactured home park or manufactured home subdivision, where such repair, reconstruction, or improvement of the streets, utilities, and pads will equal or exceed 50% of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement was started. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**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 50% or more of the structure's market value before the damage occurred. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the structure's market value before the start of construction of the improvement. This term includes structures which have incurred substantial damage or repetitive loss 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. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**TOWNHOUSE or ROW HOUSE** — A single-family dwelling unit, one or more stories in height, attached to one or more dwellings by one or more party walls. **[Amended 1-28-1980 by Ord. No. 1980-1]**

**TRACT** — An area of land comprised of a single parcel or multiple parcels which are either in single ownership or, in the case of multiple ownership, subject to an agreement of all owners that development will be governed by and will be completed in accordance with a unified land development plan. A tract may contain parcels that are separated by public or private street rights-of-way. **[Added 8-12-2013 by Ord. No. 2013-06; amended 10-28-2013 by Ord. No. 2013-11]**

**UNIFORM CONSTRUCTION CODE (UCC)** — The Pennsylvania statewide building code first adopted by the Pennsylvania General Assembly in 1999 under

the Pennsylvania Construction Code Act, as amended, and applicable to construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry, and applicable to residential and commercial buildings. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**VIOLATION** — The failure of a structure or other development to be fully compliant with the Township'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. **[Added 10-15-2013 by Ord. No. 2013-08; amended 9-2-2015 by Ord. No. 2015-03]**

**YARDS** — See also the definition of "setback."

- (1) **FRONT YARD** — The required open space between the street line of any street on which a lot abuts and the nearest point of any structure on the lot, exclusive of cornices, eaves and gutters; chimneys and bay windows projecting not over 18 inches; balconies projecting not over 30 inches; and porches, steps and ramps projecting not over 42 inches. A corner lot shall contain two front yards. Fences, unless otherwise permitted by provisions of this chapter, are not permitted in the front yards of a residential property but may be constructed to the front edge of the building.
- (2) **SIDE YARD** — The required open space extending from the side lot line, other than a street line, to the nearest structure on the lot, exclusive of cornices, eaves and gutters; chimneys and bay windows projecting not over 18 inches; balconies projecting not over 30 inches; porches not exceeding 36 inches; and steps and ramps projecting not over 42 inches. Residential garages or other accessory buildings which are not an integral structural part of a main building must satisfy the requirements of § 172-103.
- (3) **REAR YARD** — The required open space extending from the rear lot line, other than a street line, to the nearest structure on the lot, exclusive of cornices, eaves and gutters; chimneys and bay windows projecting not over 18 inches; balconies projecting not over 30 inches; porches not exceeding 36 inches; and steps and ramps projecting not over 42 inches. Residential garages or other accessory buildings which are not an integral part of a main building must satisfy the requirements of § 172-103. A corner lot shall contain one rear yard. **[Amended 1-23-1989 by Ord. No. 1989-1]**

**ZONING ORDINANCE** — Ordinance No. 1959-2, passed March 30, 1959, as amended, which is codified as Chapter 172 of this Code. See also the effective date of this chapter, which is February 4, 1938.

- B. Definitions contained in Chapter 148, Subdivision and Land Development, including figures contained at the end of Chapter 148, shall also apply to provisions in this chapter. **[Amended 6-9-1986 by Ord. No. 1986-9]**



ARTICLE II  
**General Provisions**

**§ 172-3. Purpose.**

This chapter is enacted for the following purposes: to promote the health, safety, morals and general welfare of the inhabitants of the Township by lessening congestion in the streets; securing safety from fire, panic and other dangers, including but not limited to negative environmental impacts; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, parks and public requirements; conserving the value of buildings; and encouraging the most appropriate use of land, including but not limited to adequate recreational facilities and green or open space, for concentrations of population.

**§ 172-4. Community development objectives. [Amended 11-12-1984 by Ord. No. 1984-12]**

This chapter is intended to foster the general development of the Township in accordance with the Newtown Township Comprehensive Plan, as amended, which is hereby adopted by reference and is made a part of this article as it relates to community facilities and services, transportation, land use, historic resources and intergovernmental cooperation.

**§ 172-5. Intent.**

It is hereby declared to be the intent of the Board of Supervisors that this chapter is not intended to repeal the original Zoning Ordinance No. 1 of 1938 or any of its supplements or amendments, but is intended to be an amendment or supplement thereto, revising the same in the form stated in this chapter, and that it is further intended that the continuity of the original Zoning Ordinance No. 1 of 1938, from its effective date of February 4, 1938, remain in full force and effect.

**§ 172-6. Interpretation; conflicting provisions.**

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort, convenience and general welfare. It is not intended by this chapter to interfere with or abrogate or annul the Township Building Code or Uniform Construction Code,<sup>4</sup> as applicable, or any rules, regulations or permits previously adopted or issued thereunder and not in conflict with any of the provisions of this chapter. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance or regulation, including but not limited to the Codified Ordinances of the Township, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, ordinance or regulation shall be controlling.

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4. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.



ARTICLE III  
**Zoning Hearing Board**

**§ 172-7. Appointment; composition. [Amended 1-4-1982 by Ord. No. 1982-1]**

The Board of Supervisors shall appoint the Zoning Hearing Board, consisting of five members and alternate member(s), as provided by law.

**§ 172-8. Powers. [Amended 11-14-1994 by Ord. No. 1994-4]**

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

- (1) Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to 53 P.S. §§ 10609.1 and 10916.1(a)(2).
- (2) 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. Where the ordinance appealed from is the initial Zoning Ordinance of the municipality and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
- (3) 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 desist order or the registration or refusal to register any nonconforming use, structure or lot.
- (4) Appeals from a determination by a Municipal Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
- (5) Applications for variances from the terms of this chapter and flood hazard ordinance or such provisions within a land use ordinance, pursuant to 53 P.S. § 10910.2.
- (6) Applications for special exceptions under this chapter or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to 53 P.S. § 10912.1.
- (7) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter.
- (8) Appeals from the Zoning Officer's determination under 53 P.S. § 10916.2.
- (9) Appeals from the determination of the Zoning Officer or Municipal Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Article V or VII of the Pennsylvania Municipalities Planning Code.<sup>5</sup>

- B. The governing body or, except as to Subsection B(3), (4) and (5), the planning agency, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) All applications for approvals of planned residential developments under Article VII, pursuant to the provisions of 53 P.S. § 10702.
  - (2) All applications pursuant to 53 P.S. § 10508 for approval of subdivisions or land developments under Article V. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by a planning agency rather than the governing body shall vest exclusive jurisdiction in the planning agency in lieu of the governing body for purposes of the provisions of this subsection.
  - (3) Applications for conditional use under the express provisions of this chapter, pursuant to 53 P.S. § 10603(c)(2).
  - (4) Applications for curative amendments to this chapter, pursuant to 53 P.S. §§ 10609.1 and 10916.1(a)(2).
  - (5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in 53 P.S. § 10609. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this subsection shall be deemed to enlarge or diminish existing law with reference to appeals to court.
  - (6) Appeals from the determination of the Zoning Officer or the Municipal Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to application for land development under Articles V and VII of the Pennsylvania Municipalities Planning Code.<sup>6</sup> Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Municipal Engineer shall be to the Zoning Hearing Board pursuant to Subsection A(9). Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the planning agency, all appeals from determinations under this subsection shall be to the planning agency, and all appeals from the decision of the planning agency shall be to court.
  - (7) Applications for a special encroachment permit pursuant to 53 P.S. § 10405 and applications for a permit pursuant to 53 P.S. § 10406.

**§ 172-9. Authority to make rules. [Amended 11-14-1994 by Ord. No. 1994-4]**

The Zoning Hearing Board shall make rules, consistent with Township ordinances or laws of the commonwealth, as to the manner of filing appeals or applications for special exceptions or for variances from the terms of this chapter.

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5. Editor's Note: See 53 P.S. § 10101 et seq.

6. Editor's Note: See 53 P.S. § 10101 et seq.



**§ 172-10. Meetings.**

Meetings of the Zoning Hearing Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicate such facts, and shall keep records of its examinations and of the official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

**§ 172-11. Appeals. [Amended 11-14-1994 by Ord. No. 1994-4]**

Appeals and applications to the Zoning Hearing Board may be taken by any person aggrieved by a decision hereunder in the manner and within the time limits specified by the Pennsylvania Municipalities Planning Code<sup>7</sup> and regulations of the Zoning Hearing Board.

**§ 172-12. Public hearings; notice. [Amended 11-14-1994 by Ord. No. 1994-4]**

- A. Upon the filing with the Zoning Hearing Board of an appeal or of an application for special exception or for variance from the terms of this chapter, the Board shall fix a reasonable time and place for a public hearing to be held within 60 days of the docketing of the application by the Township thereon and shall give public notice thereof, as well as due notice to the parties in interest, and shall decide the same within 45 days of the last hearing. Any party may appear at the public hearing in person or by attorney or authorized representative. The notice of public hearing shall state the location of the building or lot and the general nature of the question involved and shall be given as follows:
- (1) By publishing a notice thereof once a week for two successive weeks in a newspaper of general circulation in the Township.
  - (2) By serving a notice thereof on the Township Secretary and on the Board of Supervisors.
  - (3) By serving a notice thereof upon the owner, if his residence in the Township is known, and upon the tenant or occupier of every house on the same street within 200 feet of the lot or building in question and of every house not on the same street within 100 feet of such lot or building, provided that failure to give notice required by this section shall not invalidate any action taken by the Zoning Hearing Board.
- B. The applicant shall cause notice of said hearing to be conspicuously posted on the affected property at least one week prior to the hearing. Failure to post notice as required shall result in the postponement of the hearing until such requirement is met. In the event of a postponement of the hearing, the applicant shall pay the same fees for the postponed hearing as for a continuance. Proof of posting shall satisfy this requirement.

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7. Editor's Note: See 53 P.S. § 10101 et seq.

- C. All parties, including party protestants, are entitled to the notice of the decision of the Zoning Hearing Board. Notice may be verbal in the case where the application is approved or denied; however, where findings of fact and conclusions of law are made, all parties shall receive copies of said written decision. Further, any appeal taken by any party, including party protestants, shall entitle all parties, including party protestants, to notice of the appeal to be given by the party filing said appeal.

**§ 172-13. Special exceptions. [Amended 9-8-1980 by Ord. No. 1980-14]**

- A. Where an application for a special exception is made, the applicant shall have the burden of showing that the proposed use is appropriate and in harmony with the general purpose and intent of this chapter. Specifically, the applicant shall show the following:
- (1) That his application falls within the provision of this chapter which accords the applicant the right to seek a special exception.
  - (2) That the use is not prejudicial to the character of the immediate vicinity and will not have a detrimental effect on neighboring properties.
  - (3) That the use is suitable for the property in question and is designed, constructed, operated and maintained to be in harmony with and appropriate in appearance with the existing or intended character of the immediate vicinity.
  - (4) That water, sewage, stormwater drainage, fire and police protection are or can be provided for the use.
  - (5) That the use is physically suitable for the site, and there are not topographical, soil, geologic, drainage or environmental features which would cause the proposed development to adversely affect the health, safety and welfare of the neighboring property or the Township.
  - (6) That the use is consistent with the statement of community development objectives of the Township Planning Study, adopted December 31, 1971, as amended and/or supplemented, including the revised Comprehensive Plan of December 27, 2001.
- B. In all cases, the applicant's burden of proof shall include the duty of presenting credible evidence sufficient to persuade the Zoning Hearing Board that the applicant has satisfied the criteria set forth in § 172-13A and B and that the proposal is not contrary to the public interest.
- C. General standards. In determining whether the allowance of the special exception is contrary to the public interest, the Zoning Hearing Board shall consider whether the application, if granted, will: **[Amended 9-8-1980 by Ord. No. 1980-14]**
- (1) Substantially increase traffic congestion on streets to such a high degree of probability that it will adversely affect the health, safety and welfare of the community;
  - (2) Increase the danger of fire or panic or otherwise endanger the public safety;

- (3) Overcrowd the land or create an undue congestion of population;
  - (4) Impair stormwater management or cause soil erosion;
  - (5) Impair an adequate supply of light and air to adjacent property;
  - (6) Be consistent with the character of the surrounding neighborhood;
  - (7) Be detrimental to other properties in the area;
  - (8) Affect the character of the immediate neighborhood by failing to conserve the values of existing buildings and to encourage the most appropriate use of the land;
  - (9) Adversely affect the community development objectives as set forth in this chapter;
  - (10) Adversely affect off-street parking;
  - (11) Substantially burden water, sewers, groundwater, schools, parks and other public facilities; and/or
  - (12) Otherwise adversely affect the public health, safety, morals or public welfare.
- D. Specific standards. The following are specific physical requirements governing the granting of special exceptions:
- (1) Nonprofit clubs or lodges in residential districts shall be permitted only under the following limitations:
    - (a) Where the club or organization proposes the operation of a swimming pool, it shall either own or have available for its use a tract of land in one piece of not less than 10 acres devoted and committed exclusively for swimming pool purposes.
    - (b) The Zoning Hearing Board shall determine whether or not appropriate arrangements can be made for the following items and, if so, shall impose conditions and restrictions with respect to:
      - [1] Location of the pool and buildings, such as a clubhouse or change or pump house on the tract.
      - [2] Hours of operation.
      - [3] Off-street parking facilities.
      - [4] Lighting.
      - [5] Amplification system.
      - [6] Landscaping.
      - [7] Sanitary and safety regulations and noise control.
      - [8] Allied activities.

- [9] Number of members.
  - [10] Drainage regulations.
  - [11] Regulations governing water supply.
  - [12] Operation of the pool, including requirements for lifeguards, watchmen or supervisors.
  - [13] Such other regulations as may be determined by the Board.
- (2) A golf course may be permitted on a tract of land of not less than 100 acres for an eighteen-hole course and not less than 50 acres for a nine-hole course when all of such land is devoted and committed exclusively for golf purposes. The Board, in granting an exception, shall require appropriate conditions and provisions with respect to:
- (a) Location of the golf course on the tract, as well as the location of a clubhouse and parking facilities.
  - (b) Hours of operation.
  - (c) Off-street parking facilities.
  - (d) Outside lighting.
  - (e) Outside amplification system.
  - (f) Allied activities.
  - (g) Number of members.
  - (h) Drainage regulations.
  - (i) Such other regulations as may be determined by the Board.
- (3) Nonprofit clubs conducting activities other than swimming pools and golf courses shall be required to provide adequate off-street parking for members and guests of the club and shall submit to the Board a plan showing the proposed operation of the club and the construction and location of the building to be used for the purposes of the club, including parking facilities, and, if the Board is satisfied that the club may be operated in a residential community without being detrimental thereto, an exception may be granted for the use of the property or building by such nonprofit club. **[Amended 9-8-1980 by Ord. No. 1980-17]**
- (4) Professional offices in residence districts shall: **[Amended 9-8-1980 by Ord. No. 1980-16]**
- (a) Not exceed 20% of the gross floor area of the building.
  - (b) Be contained within the principal dwelling of the professional.
  - (c) Not employ more than two persons, other than the resident occupant of the property.

- (d) Provide adequate off-street parking for both employees and clients.
- (e) Provide landscape buffering for abutting residential uses.
- (f) Provide signage in accordance with Article XXII of this chapter.

**§ 172-14. Table of special exceptions.**

The following are references to specific special exceptions as provided for in this chapter:

<b>District or Subject</b>	<b>Section</b>	<b>Description</b>
R-1, R-1A, R-2 and R-3 Residence Districts	§ 172-29A(1)(c)	Nonprofit club
	§ 172-29A(1)(b)	Nonprofit school, church, religious or philanthropic use, excluding residential clientele
	§ 172-29A(1)(g)[1]	Multistory garage as an accessory use
R-1 Residence District	§ 172-29A(1)(g)[2]	Professional office as an accessory use
R-1, R-1A, R-2 and R-3	§ 172-29A(1)(g)[3]	No-impact home-based business
R-4 and R-4A Residence Districts	§§ 172-37C(4) and 172-44A	Professional office as an accessory use
A-O Apartment Office District	§ 172-58C	Recreational use as an accessory use
	§ 172-59G	Building frontage, length, depth and attachment angle
	§ 172-60G	Mixed use of apartments and service offices
C-1 Commercial District	§ 172-70G	Building used as a restaurant, cafe, catering establishment or for food cooking or dispensing for off-premises consumption
	§ 172-70L	Building used as a public garage, motor vehicle service station, sales agency, repair shop or battery service station
	§ 172-70M	All accessory uses
C-2 Commercial District	§ 172-74F	Building used as a restaurant, cafe or catering establishment

<b>District or Subject</b>	<b>Section</b>	<b>Description</b>
	§ 172-74I	Motor vehicle repair shop and/or outdoor garden center as accessory to retail store
	§ 172-74K	All accessory uses
	§ 172-74L	Outdoor or unenclosed uses
Setbacks	§ 172-107	If setbacks are greater than minimum in any district or less than 20 feet in commercial districts
R-1, R-2, and R-3 Residence and SU-1 and SU-2 Special Use Districts	§ 172-111	Building conversion into two-family or multifamily dwelling
Signs	§ 172-127B	Nonconforming signs
Outdoor lighting	§ 172-129A	Height increase over 25 feet for areas over 50,000 square feet
Prior off-street parking	Appendix A <sup>8</sup>	Minimum spaces required (but may not in fact be possible)
Nonconforming uses	§ 172-141B	Extension of nonconforming use
	§ 172-141C	Changes to nonconforming use of building or land

### § 172-15. Variances.

A variance is a deviation from the use permitted in a zoning district or the dimensional requirements in a zoning district for the uses permitted therein. In order to establish the right to a variance, the applicant must satisfy the following:

A. Proof required for the grant of a variance:

- (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 property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
- (2) That, because of such physical circumstances or conditions, there is no possibility the property can be developed in strict conformity with the provisions of this chapter, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

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8. Editor's Note: Appendix A is included at the end of this chapter.

- (3) That such unnecessary hardship has not been created by the applicant.
  - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  - (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation and use.
- B. Standards of proof. The criteria required to establish the right to a variance must demonstrate that there is a hardship related to the property itself and not the personal circumstances of the owner, lessee or other party with standing to make application or appeal under the Municipalities Planning Code.<sup>9</sup>
- C. Special provisions related to historic buildings. These provisions are being adopted for the following reasons:
- (1) To promote the general welfare by protecting the integrity of the historic resources of Newtown Township.
  - (2) To mitigate the negative effects of proposed changes on historic resources.
  - (3) To encourage the continued use of historic resources and facilitate their appropriate reuse.
  - (4) To discourage the unnecessary demolition of historic resources.

**§ 172-16. Expiration of special exceptions or variances; extensions.**

Unless extended by the Zoning Hearing Board or otherwise specified by the Board, a special exception or a variance shall expire if the applicant fails to obtain a building permit within the following time frames and provisions:

- A. A residential approval will be valid for a period of six months. An applicant may obtain a six-month extension by requesting such an extension from the Zoning Hearing Board, in writing, in sufficient time for that to be considered at the zoning hearing immediately prior to the expiration of the original approval. A residential extension may be granted by the Board for an additional six-month period. Subsequently, any additional request for an extension must be justified by the applicant specifically as it relates to any changed circumstances that might affect the health, safety and welfare of the surrounding neighborhood. If the Board determines that an additional extension should be granted, it may do so for an additional period of six months only.
- B. The Zoning Hearing Board may grant a nonresidential applicant relief from this chapter for an initial period of one year or more, up to a maximum of two years, when, in the Board's opinion, the applicant will require additional time to obtain a building permit because of the scope or complexity of the proposed project. Such approvals may be extended for an additional time period up to a maximum of two

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9. Editor's Note: See 53 P.S. § 10101 et seq.

years upon a showing of a good faith effort to pursue the required approvals and where there are no changed circumstances that would cause the Board to deny the application were it being considered for the first time.

- C. The procedure for the grant of extensions for nonresidential applications shall be that notification is provided to the Township and the neighboring property owners who would have received mail notification prior to the initial hearing, provided that failure to give notice required by this section shall not invalidate the action taken by the Zoning Hearing Board.
- D. Such applications shall be approved unless circumstances have changed. If opposition is registered by the Township or other eligible parties, the Board shall conduct a hearing to determine if changed circumstances have affected the health, safety and welfare of the surrounding neighborhood. If such circumstances are found, the request may be denied, and a new application for relief must be filed.
- E. All special exceptions and variances granted for residential properties shall expire six months from the date of the entry of the original decision unless extended by the Board. All nonresidential special exceptions and variances are void at the end of the initial period granted in the order from the date of the entry of the original decision unless extended by the Board. In the absence of a specific period, all nonresidential special exceptions and variances are void one year from the date of entry of the original decision.

**§ 172-17. Appeals to court.**

The Township or any person or persons jointly or severally aggrieved by any decision of the Zoning Hearing Board may appeal to the Court of Common Pleas by petition, duly verified, setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days after the filing of the decision in the office of the Board, such date (filing date) to be one day after the date the decision was mailed to the Township.



ARTICLE IV  
**Conditional Uses**

**§ 172-18. Requirements for approval. [Amended 5-14-1984 by Ord. No. 1984-2]**

- A. The Board of Supervisors may permit a conditional use when the standards and criteria set forth below are considered and when the procedures set forth below are followed.
- B. Application for conditional use approval shall be subject to and comply with the land development and subdivision ordinances contained in Chapter 148, Subdivision and Land Development, of this Code. In addition, trees and other green areas shall also be shown on the plans.

**§ 172-19. Approval procedure.**

- A. Planning Commission review. In reviewing an application for approval of any preliminary or final plans for a proposed conditional use, the Planning Commission shall consider the following factors:
  - (1) All provisions contained in § 172-89A(1)(a) through (p), which relate to conditional uses.
  - (2) All provisions of § 172-13 related to special exceptions.
  - (3) Whether the proposed conditional use complies with all sections of this article, all zoning provisions applicable to the districts within which the conditional use will lie and the provisions of the land development and subdivision standards of the Township.
- B. Planning Commission recommendation. On the basis of the above review, the Planning Commission shall make a recommendation to the Board of Supervisors as to whether the application and plans should be approved, approved subject to conditions or rejected. The Board of Supervisors shall consider but shall not be bound by the recommendation of the Planning Commission.
- C. Board of Supervisors. In reviewing an application for approval of preliminary or final plans for a conditional use, the Board of Supervisors shall consider the following factors:
  - (1) The recommendations of the Planning Commission.
  - (2) The factors set forth in Subsection A hereof.
  - (3) Each of the following criteria shall be satisfied:
    - (a) All provisions contained in § 172-89C(1) through (10).
    - (b) All provisions of this article.
- D. Board of Supervisors dispositions. On the basis of the above review, the Board of Supervisors shall either approve, approve subject to conditions or reject the application. **[Amended 5-14-1984 by Ord. No. 1984-2]**

**§ 172-20. Other applicable provisions. [Amended 1-13-1986 by Ord. No. 1986-3]**

The following provisions relating to special use districts shall also apply to all conditional uses: §§ 172-19D and 172-93 through 172-96.

**§ 172-21. Additional regulations for residence districts. [Amended 11-11-1985 by Ord. No. 1985-13]**

Conditional uses within residence districts shall comply with the following additional regulations:

- A. Application requirements. The applicant, as part of his conditional use application, shall include the following information as set forth in Subsection A(1) through (4) below:
- (1) Proposed use program: a description of all proposed uses and activities associated with the applicant's conditional use request, including:
    - (a) Program objectives and program experience of the applicant.
    - (b) Types of activities associated with the proposed conditional use.
    - (c) Numbers of persons for which the facility will be designed and is expected to accommodate at any one time, average day, and peak hour and day, by the following categories of residents: staff, volunteers and visitors. Information shall also be provided, if applicable, on the proposed occurrences of employee work shifts.
  - (2) Site plan and proposed improvements: a description of the applicant's property and all proposed improvements, including:
    - (a) Existing property conditions with respect to property configuration, existing uses, topography, soils, drainage and vegetation, as well as conditions on adjoining properties with respect to existing uses and the extent to which the applicant's property is currently visible to those uses.
    - (b) Locations, sizes and uses of all proposed buildings and other facilities, including illustrative architectural plans of such improvements.
    - (c) The locations and sizes of all proposed streets, driveways, parking areas and loading and unloading areas. Proposed vehicular and pedestrian circulation patterns shall also be indicated.
    - (d) Types, locations and preliminary plans of proposed facilities for water supply, sewage collection and treatment, solid waste collection, emergency water supplies for fire suppression, utilities services, including aboveground and underground storage tanks and emergency power, and stormwater management.
    - (e) A plan showing facility changes and impact on public facilities, including roads, water and sewer systems, private water and sewer systems and health, safety and welfare of the surrounding area, which the applicant contemplates for a period of five years from commencing operation or

approval of application, whichever is later. Omission of this plan shall be deemed a waiver of any right to expansion of facilities under this article for a period of five years from the date of the application.

- (3) Operations plan: a description of the operational aspects of the proposed use, including:
    - (a) A listing of all mandatory federal, state and county operating, licensing and approval requirements for undertaking and maintaining the proposed conditional use, including the current status of the applicant with respect to their compliance, as well as approximate dates when such licenses and approvals are anticipated to be received.
    - (b) A listing of the positions and locations of persons responsible for operating the proposed conditional use during a normal twenty-four-hour period, as well as during emergencies.
    - (c) If residential clientele are anticipated to have either physical or mental limitations that would impair their mobility or judgment, an emergency evacuation plan.
    - (d) An administratively feasible means for the Township to verify that the applicant would comply with all statements contained in the application should such application be approved by the Township.
  - (4) Community impact assessment: a description of anticipated impacts of the proposed conditional use on the community and those measures proposed by the applicant to mitigate adverse impacts. Minimum requirements for such an assessment shall include:
    - (a) An assessment of site disturbances, including but not necessarily limited to vegetation removal, earth movement and alteration of natural drainage, and the impacts of such actions on the surrounding neighborhood.
    - (b) An assessment of the traffic, noise and visual impacts of the applicant's proposed improvements and activities on the surrounding area, taking into account average and peak activity conditions occurring during daylight and nighttime hours. The traffic impact assessment shall include a report of current and projected traffic counts and computations for parking requirements, prepared by an individual with professional qualifications acceptable to Newtown Township.
    - (c) An assessment of impacts of the applicant's proposed sewage facilities and stormwater management systems.
- B. Standards and criteria for approval. In addition to those standards and criteria contained in §§ 172-19 and 172-20, the following standards and criteria shall be used by the Township in reviewing applications for conditional uses within residential districts:
- (1) Density. It is the intent of these regulations to allow only those conditional uses which would not adversely impact the residential areas in which they are located. Every conditional use granted under this section shall contain specific

provisions limiting the density of the proposed use. The Board of Supervisors, taking into consideration the impact and the degree of intrusion of a proposed use upon surrounding residential land uses, if the use is determined acceptable, shall establish maximum limits for the following, as applicable:

- (a) The number of persons or families that may reside on the property.
  - (b) The number of clients and/or recipients of the services, including school students.
  - (c) The number of employees and volunteers engaged during any twenty-four-hour period and during any one shift.
  - (d) The number of motor vehicles and parking spaces permitted.
- (2) Frontage, area and bulk standards. The following standards shall apply to all conditional uses in residential districts:
- (a) Lot area and ownership. Every lot shall meet the minimum area and dimension standards of the residence district in which it is located. The tract of land on which each permitted use is conducted shall be held in single ownership and shall be operated under unified contract or management.
  - (b) Frontage on a public street. Every lot shall meet the minimum road frontage requirements of the residence district in which it is located. Such frontage shall be on a through street, as opposed to a cul-de-sac, except in the case of an enlargement to a special exception granted by the Zoning Hearing Board prior to the adoption of this section.
  - (c) Coverage. No more than 15% of the total area for each lot for which a conditional use is proposed shall be occupied by buildings, and no more than 40% of the lot shall be occupied by a combination of buildings, parking areas and all other impervious surfaces.
  - (d) Setbacks. Minimum setback standards contained in § 172-20 for all conditional uses shall be waived for such uses in residence districts. Applicable minimum setbacks shall be those specified for the residence district in which the proposed conditional use is located. No parking shall be permitted within any setback area required for a conditional use in a residence district unless specifically approved to limit disturbance to adjacent properties.
  - (e) Height. No building shall include more than three floor levels, and the height of any building shall not exceed 35 feet when measured from the lowest point of grade at the building.
- (3) Driveways and off-street parking. Where possible, as determined by the Township, vehicle access shall be provided by two or more driveways or streets, and, where such access points are from one street, they will be located at least 500 feet apart. These standards are intended to facilitate efficient and safe traffic movement and provide for more than one point of ingress and egress during times of emergencies. All parking requirements of the proposed

use must be met by off-street parking areas. No on-street parking shall be permitted.

- (4) Water and sewage facilities. The property and the proposed uses thereon shall be served by public water or a private water system capable of supplying adequate domestic needs and fire-suppression needs, as determined by the Township, using current NFPA Life Safety Code 101 and other NFPA standards. Sanitary sewage systems shall be controlled or operated by the Township or the Township Sewer Authority.
- (5) Accessory buildings. The provisions of § 172-103 shall not apply to conditional uses in residence districts.

C. Contingent approval.

- (1) Any approval of a conditional use by the Board of Supervisors is contingent upon the applicant receiving and maintaining all necessary federal, state and county licenses and approvals for constructing and operating all proposed improvements and uses, as outlined in the application requirements of Subsection A(3)(a) hereof.
- (2) Failure of the applicant to comply with Subsection A hereof shall also constitute a violation of this chapter in accordance with the provisions of § 172-25.

**§ 172-22. Existing special exceptions now deemed conditional uses. [Amended 11-11-1985 by Ord. No. 1985-13]**

To the extent permitted by law, all uses, requirements and conditions which were authorized by special exception prior to the date of this chapter pursuant to § 172-29A(1)(b) and (c), prior to its amendment, and herein described as conditional uses in § 172-29A shall be deemed conditional uses under this article for purposes of amendments, modifications, expansions or other matters.

**§ 172-23. Request for relief from mandatory provisions. [Amended 1-13-1986 by Ord. No. 1986-4]**

- A. If a mandatory provision under these regulations is shown by the applicant, to the satisfaction of the majority of the Board of Supervisors, to be unreasonable and to cause undue hardship as it applies to his application, the Board of Supervisors may grant relief to such applicant from such mandatory provisions so that substantial justice may be done and the public interest secured, provided that such variation will not have the effect of nullifying the intent and purpose of these regulations. The Board of Supervisors may require other conditions to be imposed in their place.
- B. Where an applicant petitions for relief from one or more of the mandatory provisions of these regulations, the Board of Supervisors, as part of a public hearing, shall consider the request in conjunction with the overall application and shall vote on the specific relief requested separately from the decision concerning the total application. Such a vote shall take place only after the question has been advertised in the same manner as required for a petition to the Zoning Hearing Board under this chapter and the Municipalities Planning Code.<sup>10</sup>

**§ 172-24. Table of conditional uses. [Amended 9-10-2018 by Ord. No. 2018-05]**

The following are references to specific conditional uses as provided for in this chapter, the Floodplain Conservation District and the Slope Conservation District:

<b>District</b>	<b>Section</b>	<b>Description</b>
R-1, R-1A, R-2 and R-3	§ 172-29A(1)(b)	Nonprofit school, church, religious or philanthropic use, when including residential clientele
	§ 172-29A(1)(c)	Nonprofit club, when including residential clientele
SU-1	§ 172-88B	Scientific research laboratories, offices, R-5 uses, historic structures on sites, golf courses or accessory uses, including cafeterias
SU-2	§ 172-99B	SU-1 uses, nurseries and greenhouses, new car sales, golf courses and recreational uses, convalescent and nursing homes, service office buildings, schools, dormitories, church, religious or philanthropic uses or restaurants, if food consumed on premises
All districts except A-O, A and C-1	§§ 172-145 and 172-148	Heliports landing between 12:00 midnight and 6:00 a.m.
Slope conservation	§ 134-7	Conservation and recreation, cultivation and agriculture, sealed water supply wells, accessory uses or road or access driveways
Floodplain	§ 91-7 <sup>11</sup>	Sanitary and storm sewers, outpost and pumping stations, aboveground utility lines, drains, culverts and bridges, grading or degrading, paved roads, drives and parking lots, impounding basins or similar structures
R-1, R-1A, R2 and R-3	§ 172-29A(2), Article XXD	Cluster Development Community Overlay District

**§ 172-25. Violations and penalties. [Amended 5-14-1984 by Ord. No. 1984-2; 11-11-1985 by Ord. No. 1985-13]**

All violations of the provisions of conditional use permits issued pursuant to this

10. Editor's Note: See 53 P.S. § 10101 et seq.

11. Editor's Note: Former Ch. 91, Flood Damage Prevention, adopted 8-11-1980 by Ord. No. 1980-12, as amended, was repealed 9-9-2002 by Ord. No. 2002-5. See now Art. XXB, Flood Hazard District, of this chapter.

article shall be deemed to be violations of this chapter for purposes of the enforcement provisions of Article XXXI.





ARTICLE V  
**Districts and Zoning Map**

**§ 172-26. Enumeration of districts. [Amended 1-28-1980 by Ord. No. 1980-1; 1-28-1980 by Ord. No. 1980-2; 1-28-1980 by Ord. No. 1980-5; 11-23-1981 by Ord. No. 1981-6; 1-10-1983 by Ord. No. 1983-1]**

For the purpose of this chapter, Newtown Township is hereby divided into 15 classes of districts, which shall be designated as follows:

R-1	Residence District
R-1A	Residence District
R-2	Residence District
R-3	Residence District
R-4	Residence District
R-4A	Residence District
R-5	Residence District
A	Apartment District
A-O	Apartment Office District
O	Office District
C-1	Commercial District
C-2	Commercial District
I	Light Industrial District [Amended 11-14-1994 by Ord. No. 1994-4]
SU-1	Special Use District
SU-2	Special Use District
CCRC	Continuing Care Retirement Community District [Added 8-12-2013 by Ord. No. 2013-04]

**§ 172-27. Zoning Map.**

The boundaries of the districts shall be as shown on the map attached to and made a part of this chapter, which map shall be known as the "Zoning Map of Newtown Township." The map and all notations, references and dates shown thereon are hereby incorporated by reference into this chapter and shall be as much a part of this chapter as if all were fully described herein.<sup>12</sup>

**§ 172-28. District boundaries.**

- A. The boundaries between districts are, unless otherwise indicated, either the center lines of streets or other rights-of-way or such lines extended or lines parallel or perpendicular thereto.
- B. When a district boundary line divides a lot held in single and separate ownership at

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<sup>12</sup> Editor's Note: The Zoning Map is on file in the Township offices.

the time of the adoption of this chapter, the regulations as to the use in the less-restricted district shall extend over the portion of the lot in the more-restricted district a distance of not more than 50 feet beyond the district boundary line, provided that, in the case of a lot other than a corner lot, the regulations as to the use in the less-restricted district may extend a distance more than 50 feet beyond the district boundary line when authorized as a special exception by the Zoning Hearing.

ARTICLE VI  
**R-1 Residence Districts**

**§ 172-29. Use regulations; lot and area requirements.**

In R-1 Residence Districts, there are numerous regulations and definitions within this chapter that will also apply, including but not limited to such things as corner lots, accessory buildings, swimming pools, fences and many others. The requirements of this chapter and all other rules and regulations incorporated herein apply to each of the zoning districts. Please review the definitions and Table of Contents<sup>13</sup> to investigate any other potential application of this chapter to your specific issue. In addition to these other requirements, the following regulations apply to this zoning district:

A. Permitted uses.

- (1) A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other:
  - (a) Single-family detached dwelling.
  - (b) Public school, parochial school, nonprofit school, church, religious use or philanthropic use when authorized as a special exception, when residential clientele are included, only if determined by the Board of Supervisors, in its sole and unconditional discretion, to be a harmonious and compatible use, and when authorized as a conditional use. "Residential clientele," for purposes of this section, means persons using the facility for overnight occupancy, other than staff members.
  - (c) Nonprofit club when authorized as a special exception, when residential clientele are included, only if determined by the Board of Supervisors, in its sole and unconditional discretion, to be a harmonious and compatible use, and when authorized as a conditional use. The operation of a club principally as a business is prohibited. "Residential clientele," for purposes of this section, means persons using the facility for overnight occupancy, other than staff members. **[Amended 11-11-1985 by Ord. No. 1985-13]**
  - (d) Tilling of soil.
  - (e) Municipal building and municipal use.
  - (f) <sup>14</sup>Accessory use on the same lot with and customarily incidental to any of the foregoing permitted uses and not seriously detrimental to a residential neighborhood. The term "accessory use" does not include a business use but includes:

[1] One-story garages, provided that an additional story may be added when authorized as a special exception. See also § 172-103.

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13. Editor's Note: See the scheme at the beginning of this chapter.

14. Editor's Note: Former Subsection A(1)(f), Cluster development communities, was repealed 9-10-2018 by Ord. No. 2018-05. This ordinance also redesignated former Subsection A(1)(g) as Subsection A(1)(f).

- [2] Professional offices when authorized as a special exception. See § 172-14. **[Amended 9-8-1980 by Ord. No. 1980-16]**
  - [3] Other no-impact home occupations permitted by special exception in accordance with the provisions of § 172-101.
  - [4] Parking in accordance with Article XXIV, provided that no private driveway or off-street parking area shall be used for the storage or parking of any commercial vehicle, except in such cases when construction or other work is being done on the premises or the parking or storage is of a temporary nature. For the purpose of this section, "storage or parking" and "nontemporary nature" shall be defined as the leaving of such vehicle or truck unattended for a period in excess of two hours. **[Added 11-25-1996 by Ord. No. 1996-2]**
  - [5] Accessory buildings in accordance with § 172-103. A building or use which satisfies the definition of "accessory building" or "accessory use" may not be a principal use on a lot. Where an owner or applicant owns or controls adjoining parcels and wishes to place an accessory building on the separate parcel, this may only be done by consolidating the said parcels within a deed so that the accessory use or building is in fact accessory to the principal use on the consolidated lot and not a principal use on a separate tax folio.
  - [6] Signs, subject to the provisions of Article XXII.
  - [7] Domestic and other animals.
    - [a] Cats, dogs, birds and other domesticated animals may be kept in any residential district, except that all such animals must be kept on the premises in a fenced space unless on a leash.
    - [b] All horses, livestock and poultry may be kept so long as suitable shelter is provided in a fenced space and so long as the shelter is no less than 50 feet from any street line or property line. Horses may be kept in a ratio of one horse to every two acres so long as an adequate stable is provided and the space wherein the horse(s) are kept is fenced and the shelter is no closer than 50 feet from any street line or property line.
  - (2) Cluster development communities shall be permitted with conditional use approval of the Board of Supervisors pursuant to the provisions and requirements of Article XXD, Cluster Development Community Overlay District. **[Added 8-14-1995 by Ord. No. 1995-6; 9-10-2018 by Ord. No. 2018-05]**
  - (3) Conditional uses proposed shall be processed pursuant to Article IV. **[Amended 11-11-1985 by Ord. No. 1985-13]**
- B. Frontage and area regulations. **[Amended 1-7-1991 by Ord. No. 1991-1]**
- (1) Lot area and frontage.

- (a) A lot area of not less than 60,000 square feet shall be provided for every building hereafter erected or used, in whole or in part, as a dwelling. Such lot shall have a frontage of at least 175 feet.
  - (b) Whenever the Board of Supervisors, after a public hearing for which notice of the time and place of the hearing has been given by posting at the Township Municipal Building and by publishing notice once each week for two successive weeks in a newspaper of general circulation in the Township, finds that the grade of the ground, its terrain or its shape is such that lots cannot be developed without creating an undue hardship, the Board of Supervisors may reduce the lot frontages and the square foot requirements, provided that the lot frontages are not less than 150 feet and that the lots in the tract of ground under subdivision average not less than 60,000 square feet. **[Amended 11-14-1994 by Ord. No. 1994-4]**
  - (c) See also §§ 172-107, 172-110, 172-112 and 172-103F for properties in excess of three acres.
- (2) Contiguous buildable lot area. The minimum contiguous lot area shall consist of not less than 30,000 square feet.
  - (3) Building area. The building area shall not exceed 15% of the lot area.
  - (4) Total impervious surface shall not exceed 25% of lot area.
  - (5) Front yard. There shall be a front yard on each street on which a lot abuts, which shall be not less than 75 feet in depth.
  - (6) Side yards. There shall be two side yards which shall be not less than 85 feet in aggregate width, and neither of which shall be less than 40 feet in width. See also § 172-107.
  - (7) Rear yard. There shall be a rear yard on each lot which shall not be less than 50 feet in depth.
  - (8) Driveways and/or parking spaces shall be no closer than five feet from any property line.
  - (9) Building height shall be no more than 45 feet, as measured in accordance with Article I, § 172-2, Definitions. **[Amended 5-24-2010 by Ord. No. 2010-03]**
- C. Regulations for nonresidential uses in residential districts. **[Added 9-11-2000 by Ord. No. 2000-4]**
- (1) General regulations.
    - (a) A fifty-foot special or primary buffer shall be installed between any proposed nonresidential use and a residential use or zoning district. The buffer shall conform to the requirements of § 104-14D of Chapter 104, Natural Features and Landscaping, of the Code of the Township of Newtown.
    - (b) The maximum impervious area permitted is 50% of the lot area, exclusive of the road rights-of-way.

- (2) Parking lot paving setback.
  - (a) There shall be no parking or paving permitted in the required front yard except to provide an access drive to the site.
  - (b) There shall be no parking or paving permitted from the lot line to 1/2 the distance to the nearest building in the required side or rear yard.<sup>15</sup>

**§ 172-30. Nonseverability of certain sections. [Amended 11-11-1985 by Ord. No. 1985-13]**

It is the intent of this section that § 172-29A(1)(b) and (c), (2) and (3) and §§ 172-21 and 172-22 shall not be severable, and therefore, if any of § 172-29A(1)(b) and (c), (2) and (3) shall be determined to be illegal by virtue of the discretion vested in the Board of Supervisors or for any other reason, then uses defined as "conditional uses" herein shall not be permitted uses in residence zones. In such event, the rights of any then-existing such uses shall be defined by the laws applicable to nonconforming uses.

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15. Editor's Note: Former Subsection D, Cluster housing option, which immediately followed this subsection, was repealed 9-10-2018 by Ord. No. 2018-05.

ARTICLE VII  
**R-1A Residence Districts**

**§ 172-31. Use regulations; lot and area requirements.**

In R-1A Residence Districts, there are numerous regulations and definitions within this chapter that will apply, including but not limited to such things as corner lots, accessory buildings, swimming pools, fences and many others. The requirements of this chapter and all other rules and regulations incorporated herein apply to each of the zoning districts. Please review the definitions and Table of Contents<sup>16</sup> to investigate any other potential application of this chapter to your specific issue. In addition to these other requirements, the following regulations apply to this zoning district:

- A. Permitted uses. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other:
- (1) Any use permitted in R-1 Residence Districts.
  - (2) The provisions of § 172-29A(1), (2) and (3) also apply.
- B. Frontage and area regulations. **[Amended 1-7-1991 by Ord. No. 1991-1]**
- (1) Lot area and frontage. A lot area of not less than 45,000 square feet shall be provided for every building hereafter erected or used, in whole or in part, as a dwelling. Such lot shall have a frontage of at least 150 feet. See also §§ 172-107, 172-110 and 172-112.
  - (2) Contiguous buildable lot area. The minimum contiguous lot area shall consist of not less than 22,500 square feet.
  - (3) Building area. The building area shall not exceed 15% of the lot area.
  - (4) Impervious surface shall not exceed 25% of lot area.
  - (5) Front yard. There shall be a front yard on each street on which a lot abuts which shall be not less than 75 feet in depth.
  - (6) Side yard. There shall be two side yards which shall be not less than 60 feet in aggregate width, and neither of which shall be less than 25 feet in width. See also §§ 172-107 and 172-109.
  - (7) Rear yard. There shall be a rear yard on each lot which shall not be less than 50 feet in depth.
  - (8) Driveways and/or parking spaces shall be no closer than five feet from any property line.
  - (9) Building height shall be no more than 45 feet, as measured in accordance with Article I, § 172-2, Definitions. **[Amended 5-24-2010 by Ord. No. 2010-03]**
- C. Regulations for nonresidential uses in residential districts. **[Added 9-11-2000 by Ord. No. 2000-4]**

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16. Editor's Note: See the scheme at the beginning of this chapter.

- (1) General regulations.
  - (a) A fifty-foot special or primary buffer shall be installed between any proposed nonresidential use and a residential use or zoning district. The buffer shall conform to the requirements of § 104-14D of Chapter 104, Natural Features and Landscaping, of the Code of the Township of Newtown.
  - (b) The maximum impervious area permitted is 50% of the lot area, exclusive of the road rights-of-way.
- (2) Parking lot paving setback.
  - (a) There shall be no parking or paving permitted in the required front yard except to provide an access drive to the site.
  - (b) There shall be no parking or paving permitted from the lot line to 1/2 the distance to the nearest building in the required side or rear yard.

**§ 172-32. Exceptions.**

In R-1A Residence Districts, a building may be erected or altered on any lot held on November 5, 1961, in single and separate ownership which is not of the required minimum area or frontage or is of such unusual dimensions that the owner would have difficulty in providing the required open spaces specified in the R-1A Residence District and on lots heretofore subdivided by a plan approved under Chapter 148, Subdivision and Land Development.



ARTICLE VIII  
**R-2 Residence Districts**

**§ 172-33. Use regulations; lot and area requirements.**

In R-2 Residence Districts, there are numerous regulations and definitions within this chapter that will apply, including but not limited to such things as corner lots, accessory buildings, swimming pools, fences and many others. The requirements of this chapter and all other rules and regulations incorporated herein apply to each of the zoning districts. Please review the definitions and Table of Contents<sup>17</sup> to investigate any other potential application of this chapter to your specific issue. In addition to these other requirements, the following regulations apply to this zoning district:

- A. Permitted uses. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other:
- (1) Any use permitted in R-1 Residence Districts.
  - (2) The open space option, in accordance with Articles IV and XXA of this chapter. **[Added 8-14-1995 by Ord. No. 1995-6]**
  - (3) The provisions of § 172-29A(1), (2) and (3) also apply.
- B. Frontage and area regulations. **[Amended 1-7-1991 by Ord. No. 1991-1]**
- (1) Lot area and frontage. A lot area of not less than 25,000 square feet shall be provided for every building hereafter erected or used, in whole or in part, as a dwelling. Such lot shall have a frontage of at least 125 feet. See also §§ 172-107, 172-110 and 172-112.
  - (2) Contiguous buildable lot area. The minimum contiguous lot area shall consist of not less than 12,500 feet.
  - (3) Building area. The building area shall not exceed 15% of the lot area.
  - (4) Impervious surface shall not exceed 30%.
  - (5) Front yard. There shall be a front yard on each street on which a lot abuts which shall be not less than 60 feet in depth.
  - (6) Side yards. There shall be two side yards which shall be not less than 45 feet in aggregate width, and neither of which shall be less than 20 feet width. See also §§ 172-107 and 172-109.
  - (7) Rear yard. There shall be a rear yard on each lot which shall be not less than 40 feet in depth.
  - (8) Driveways and/or parking spaces shall be no closer than five feet from any property line.
  - (9) Building height shall be no more than 45 feet, as measured in accordance with Article I, § 172-2, Definitions. **[Amended 5-24-2010 by Ord. No. 2010-03]**

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17. Editor's Note: See the scheme at the beginning of this chapter.

- C. Regulations for nonresidential uses in residential districts. **[Added 9-11-2000 by Ord. No. 2000-4]**
- (1) General regulations.
    - (a) A fifty-foot special or primary buffer shall be installed between any proposed nonresidential use and a residential use or zoning district. The buffer shall conform to the requirements of § 104-14D of Chapter 104, Natural Features and Landscaping, of the Code of the Township of Newtown.
    - (b) The maximum impervious area permitted is 50% of the lot area, exclusive of the road rights-of-way.
  - (2) Parking lot paving setback.
    - (a) There shall be no parking or paving permitted in the required front yard except to provide an access drive to the site.
    - (b) There shall be no parking or paving permitted from the lot line to 1/2 the distance to the nearest building in the required side or rear yard.

ARTICLE IX  
**R-3 Residence Districts**

**§ 172-34. Use regulations; lot and area requirements.**

In R-3 Residence Districts, there are numerous regulations and definitions within this chapter that will apply, including but not limited to such things as corner lots, accessory buildings, swimming pools, fences and many others. The requirements of this chapter and all other rules and regulations incorporated herein apply to each of the zoning districts. Please review the definitions and Table of Contents<sup>18</sup> to investigate any other potential application of this chapter to your specific issue. In addition to these other requirements, the following regulations apply to this zoning district:

- A. Permitted uses. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other:
- (1) Any use permitted in R-2 Residence Districts.
  - (2) The open space option, in accordance with Articles IV and XXA of this chapter. **[Added 8-14-1995 by Ord. No. 1995-6]**
  - (3) The provisions of § 172-29A(1), (2) and (3) also apply.
- B. Frontage and area regulations. **[Amended 1-7-1991 by Ord. No. 1991-1]**
- (1) Lot area and frontage. A lot area of not less than 12,000 square feet shall be provided for every building hereafter erected or used, in whole or in part, as a dwelling. Such lot shall have a frontage of at least 80 feet. See also §§ 172-107, 172-110 and 172-112.
  - (2) Contiguous buildable lot area. The minimum contiguous lot area shall consist of not less than 6,000 square feet.
  - (3) Building area. Building area shall not exceed 20% of the lot area.
  - (4) Impervious surface shall not exceed 40%.
  - (5) Front yard. There shall be a front yard on each street on which a lot abuts which shall be not less than 45 feet in depth. See also §§ 172-107, 172-110 and 172-112.
  - (6) Side yard. There shall be two side yards which shall not be less than 35 feet in aggregate width, and neither of which shall be less than 15 feet in width. See also §§ 172-107 and 172-109.
  - (7) Rear yard. There shall be a rear yard on each lot which shall not be less than 25 feet in depth.
  - (8) Driveways and/or parking spaces shall be no closer than five feet from any property line.
  - (9) Building height shall be no more than 35 feet, as measured in accordance with

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18. Editor's Note: See the scheme at the beginning of this chapter.

Article I, § 172-2, Definitions, and shall be constructed not to exceed 2 1/2 stories because of density in the R-3 District. **[Added 5-24-2010 by Ord. No. 2010-03]**

- C. Regulations for nonresidential uses in residential districts. **[Added 9-11-2000 by Ord. No. 2000-4]**
- (1) General regulations.
    - (a) A fifty-foot special or primary buffer shall be installed between any proposed nonresidential use and a residential use or zoning district. The buffer shall conform to the requirements of § 104-14D of Chapter 104, Natural Features and Landscaping, of the Code of the Township of Newtown.
    - (b) The maximum impervious area permitted is 50% of the lot area, exclusive of the road rights-of-way.
  - (2) Parking lot paving setback.
    - (a) There shall be no parking or paving permitted in the required front yard except to provide an access drive to the site.
    - (b) There shall be no parking or paving permitted from the lot line to 1/2 the distance to the nearest building in the required side or rear yard.
- D. An existing building may be used as a cellular communications facility by conditional use.
- (1) Purposes. Purposes shall be as follows:
    - (a) To further accommodate the need for cellular communications antennas while regulating their location in the Township.
    - (b) To minimize adverse visual effects of cellular communications antennas through proper design, citing and vegetative screening for equipment shelters.
    - (c) To encourage the joint use of any new cellular communications facility so as to reduce the number of such facilities needed in the future.
    - (d) To protect the safety and welfare of residents of Newtown Township.
  - (2) Use regulations.
    - (a) A wireless communications facility is permitted on an existing building by conditional use in an R-3 Residence District, subject to the restrictions set forth in this chapter.
    - (b) In addition to the notice requirements for a conditional use hearing provided in Chapter 172, Article IV, the Board of Supervisors shall also mail a notice of the conditional use hearing, at the applicant's expense, to all property owners within 500 feet of the proposed antenna structure, provided that failure to receive notice required by this subsection shall

not invalidate any action taken by the Board.

- (c) Business offices, maintenance depots, and vehicle storage buildings are prohibited from the site of a wireless communications facility, except for accompanying equipment shelters needed for the operation of the cellular communications facility.
- (3) Additional standards of approval of conditional use.
- (a) The wireless communications company is required to demonstrate, using technological evidence, that the proposed height of the antenna is the minimum height necessary to fill a gap in service.
  - (b) Antenna height. Communications antennas attached to an existing building shall be permitted to exceed the height of the existing building roofline by no more than 20 feet.
  - (c) The applicant shall demonstrate that the proposed antenna is structurally sound.
  - (d) Any applicant proposing communications antennas to be mounted on a building shall submit evidence from a Pennsylvania-registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building, considering wind and other loads associated with the antennas location.
  - (e) Any applicant proposing communications antennas to be mounted on a building shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review by the Township for compliance with the Newtown Township Building Code<sup>19</sup> and other applicable laws.
  - (f) Wireless communications facilities shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. The applicant shall submit an annual report to the Township confirming that the applicant's antenna facility is operating within the FCC guidelines.
  - (g) Communications antennas shall not cause radio frequency interference with other communications facilities located in the Township that are regulated by the FCC.
- (4) Landscaping. Landscaping shall be required to screen as much as possible of any equipment storage facility in order to soften the appearance of any equipment storage facility. The Township may permit any combination of existing vegetation, topography, walls, decorative fences, or other features, instead of landscaping, if they achieve the same degree of screening as the required landscaping. When an antenna is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required. However, existing vegetation on and around the site shall be

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19. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.

preserved to the greatest extent possible.

- (5) The wireless communications company must demonstrate that it is licensed by the Federal Communications Commission to operate the wireless communications facility for which application is sought and must provide the Township annually with documentation that it continues to be so licensed. The wireless communications company shall submit, upon application, a copy of its current Federal Communications Commission license, the name, address and emergency telephone number for the operator of the communications support structure and a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the specific wireless communications facility for which the application is filed.
- (6) A full site plan shall be required for all wireless communications facilities, showing the antenna, antenna support structure, building, landscaping and all other requirements for Chapter 148, Subdivision and Land Development.
- (7) When proposing to mount a wireless communications facility on a building, the applicant shall submit evidence of agreements and/or easements necessary to provide access to the building on which the antennas are to be mounted so that installation and maintenance of the facility can be accomplished.
- (8) All antennas shall not exceed 20 feet in height and seven inches in diameter.
- (9) Building-mounted cellular communications antennas shall not be located on any pole or any building used as a single-family dwelling, two-family dwelling, multifamily dwelling, buildings used as active primary and secondary educational facilities at the time of adoption of this chapter or any accessory building.
- (10) All other types of cellular communications facilities are prohibited except antennas mounted on buildings as aforesaid described, and such buildings shall not include structures, the primary purpose of which is to enhance the structures or place the communications facilities on them.

ARTICLE X  
**R-4 Residence Districts**  
[Added 1-28-1980 by Ord. No. 1980-1]

**§ 172-35. Applicability.**

In R-4 Residence Districts, the regulations contained in this article shall apply.

**§ 172-36. Purpose.**

R-4 Residence Districts are designed to make special provisions for townhouses and row house residential housing developments in appropriate land areas.

**§ 172-37. Permitted uses.**

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

- A. Detached single-family dwellings.
- B. Townhouses or row houses.
- C. Accessory uses designed for use of the residents of an R-4 Residence District shall be permitted as follows:
  - (1) Accessory recreational uses, such as tennis courts, swimming pools, tot-lots or sauna baths, or other recreational uses or facilities used with and customarily incidental to the foregoing permitted uses and not seriously detrimental to a residential neighborhood.
  - (2) Management offices, for sale or rental, superintendent or maintenance offices and facilities.
  - (3) Attached or one-story detached private garages.
  - (4) Professional offices when authorized as a special exception.
- D. Signs, subject to the provisions of Article XXII.

**§ 172-38. Frontage and area regulations.**

- A. Land shall be developed in accordance with the Township subdivision and land development procedures on a parcel of land of a minimum of 10 acres, hereinafter referred to as the "tract." The tract shall have a frontage along a street that permits public access. A maximum of four dwelling units per acre shall be permitted when averaged over the net area of the entire tract, herein defined to exclude all public street rights-of-way.
- B. The following regulations shall apply:
  - (1) Each dwelling unit lot shall be developed as part of a multibuilding tract of at least 10 acres, with structural units containing not more than six dwelling units arranged in harmonious groupings, with building coverages not to exceed 15%

of the net area of the tract. The paved area, exclusive of the area covered by building and allowed accessory uses, shall not exceed 30% of the net area of the tract.

- (2) Buildings shall be set back from streets and property lines of the tract by 100 feet where abutting R-1, R-1A, R-2 and R-3 Residence Districts and 75 feet in all other cases.
- (3) Setback requirements.
  - (a) No building shall be closer than 10 feet to any parking area or cartway, excluding driveways to a garage held for the sole use of any dwelling unit, except where preservation of natural features is dictated when authorized as part of an overall land development plan. Dwelling units may be constructed in clusters; provided, however, that each cluster or attached group of dwelling units shall be separated from any other cluster or attached group as follows:
    - [1] At blank walls: 30 feet.
    - [2] At walls with windows: 50 feet.
  - (b) Where a dwelling unit cluster faces upon an inner court, the minimum dimensions of the court shall be 60 feet by 60 feet.
- (4) Each dwelling unit shall be separated from others by party walls extending to the roof.
- (5) Each dwelling unit shall contain not less than 1,200 square feet of habitable floor space which shall be exclusive of any floor space contained in the cellar or basement and garage. The habitable floor space shall be that space which is included in the area within the walls of any dwelling unit which can be used principally and primarily for living quarters of one or more human beings.
- (6) Not less than 30% of all dwelling units within the development tract shall have a garage.
- (7) If, in accordance with Section 106 of the Pennsylvania Municipalities Planning Code<sup>20</sup> or any statute of similar import, the owner(s) and/or developer(s) offer(s) to dedicate any portion(s) of the tract to Newtown Township, and if the offer of dedication is accepted by Newtown Township, then, in such event or events, the owner(s) and/or developer(s) of the tract shall have the right to include the donated portion(s) of the tract as part of the overall tract for purposes of computing, where applicable, density, lot area, frontage requirements, building area, front, side and rear yards, building frontage depth, buffer area and total lot area coverage.

**§ 172-39. Height regulations. [Amended 9-11-2000 by Ord. No. 2000-4]**

No building shall exceed three stories, including the basement, or, alternatively, 35 feet in height, as measured in accordance with the definition of "building height" in this

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20. Editor's Note: See 53 P.S. § 10106.



chapter.

**§ 172-40. Tract ownership; division.**

Except as hereinabove set forth in § 172-38B(7), all land in the tract, together with any improvements thereon, shall remain, exclusively and in perpetuity, in single or undivided common ownership for the benefit of the dwelling unit owner or owners, including an owner or owners of condominium units, except that the tract may be divided, in whole or in part, into separate lots for the conveyance and transfer of individual dwelling unit lots; provided, however, that, in such event, all other land in the tract, together with any improvements thereon, shall remain, exclusively and in perpetuity, in single or undivided common ownership for the benefit of the dwelling unit owner or owners, including an owner or owners of condominium units.

**§ 172-41. Common open space.**

- A. Not less than 40% of the tract area shall be designated in the subdivision or land development plan as common open space.
- B. Common open space shall be land that is appropriate and in suitable condition for recreation, park sites, woodland conservation, floodplains, tennis courts, swimming pools, tot-lots or a similar recreation or open space purpose.
- C. Common open space shall be contiguous to the development and be reasonable and safely accessible from the dwelling units.
- D. Consideration shall be given to take advantage of physical characteristics of the site and to place common open space within easy access and view of dwelling units while at the same time preserving and enhancing natural features. Areas set aside for common open space shall contain no structure other than a structure related to recreation.
- E. Common open space, within the meaning of this article, shall consist of a parcel or parcels of land or an area of water or streams or a combination of land and water or streams within the tract designed and intended for the use or enjoyment of residents of the development as accessory recreation uses. Common open space shall not include cartways, off-street parking areas, and areas set aside for public or private utilities or facilities or improvements which are not accessory recreation uses.
- F. A planted area, not less than 25 feet in width, of grass, lawn, shrubbery, evergreens and trees, consistent with the preservation of natural features such as floodplains or steep slopes, shall be placed and continuously maintained in a proper and attractive manner along the perimeter of the tract, exclusive of cartway crossings. All plantings shall be installed so as not to inhibit a clear line of sight at the intersections of vehicles and pedestrian circulation. Planting arrangements shall be submitted to and approved by the Newtown Township Planning Commission.

**§ 172-42. Design and development of tract.**

Every reasonable effort shall be made in connection with each tract to avoid excessive earth moving, undue tree clearance and destruction of natural features. The following priorities, when applicable and practical, shall be used in designing and developing the

tract:

- A. Preservation of lakes, streams and wooded and steep slope areas.
- B. The development plan for the tract shall specify the means for protecting trees and other natural features during and after construction.
- C. The location and preservation of trees and other natural features must be given first consideration in planning common open space, location of dwellings, walks, paved areas and finished grade levels.
- D. Landscaping shall be regarded as essential to every development plan. Not only must natural features, trees and slopes of the site be preserved to the utmost extent possible, but careful attention must be given to landscaping of parking areas and to provide trees along cartways.
- E. Seeding, sodding and other planting shall be applied to disturbed areas, including steep slopes, to preserve and enhance the appearance of open space.
- F. Street and other lighting shall not shine directly into habitable dwelling windows located inside or outside of the tract.
- G. The tract shall be serviced with public water and fire hydrants.
- H. The tract shall be serviced with public sanitary sewer facilities.
- I. The tract shall be constructed in accordance with an overall plan and shall be designed as a single architectural theme.

**§ 172-43. Common lands.**

- A. Land development plans and documents shall describe the plan for ownership and maintenance of common lands.
- B. The cost of maintenance of common lands and all costs of operating and using all facilities within the tract shall be paid only by the residents and/or owners of the tract.
- C. The Board of Supervisors may require easements and/or deed restrictions covering all or portions of the common lands.
- D. The Board of Supervisors may require the applicant to provide for and establish an organization similar to that required by the Unit Property Act of July 3, 1963, P.L. 196,<sup>21</sup> or statutes of a similar nature or import, including supplements and amendments thereto, and require that such organization and/or dwelling unit owners shall hold undivided interests in the common lands and shall not convey, transfer, dispose of or otherwise alienate the common lands from the tract. In determining whether the organization described in the plan is adequate, the Board of Supervisors shall consider the type and structure of the organization from the standpoint of its capacity to raise revenue, meet obligations and properly maintain facilities.

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21. Editor's Note: The Unit Property Act was repealed 7-2-1980 by P.L. 286, No. 82. See now 68 Pa.C.S.A. § 3101 et seq.

- E. In the event that the common lands, in the judgment of the Board of Supervisors, are permitted to deteriorate or are not maintained in reasonable condition in accordance with the approved plan, the ordinances of the Township of Newtown and/or applicable statutes of the Commonwealth of Pennsylvania, whether the same are now in force or hereafter effective, the Township shall have the option of taking whatever steps are afforded by law to require compliance therewith and/or to enter upon the common lands and properly maintain the same, and, in the latter event, prior to entering upon the property, the Board of Supervisors shall give notice of the condition complained of to the tract owner(s) and afford the latter a period of not less than 30 days to remedy and correct the same. The cost of such proceedings and/or maintenance by the Township shall be assessed ratably against the properties within the development tract which have a right of enjoyment of the common lands and shall become a lien upon such properties upon filing thereof as required by law.



ARTICLE XI  
**R-4A Residence Districts**  
[Added 11-23-1981 by Ord. No. 1981-6]

**§ 172-44. Use regulations.**

In R-4A Residence Districts, the following regulations shall apply:

- A. Permitted uses. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other:
  - (1) Any use permitted in an R-4 Residence District.

**§ 172-45. Density requirements; setbacks.**

All regulations of this chapter which apply to an R-4 Residence District shall also apply for this district, with the exception that:

- A. A maximum of 2.25 dwelling units per acre shall be permitted when averaged over the net area of the entire tract, herein defined to exclude all public street rights-of-way.
- B. Buildings shall be set back from all streets and property lines of the tract by 75 feet.



ARTICLE XII  
**R-5 Residence Districts**  
**[Added 1-28-1980 by Ord. No. 1980-2]**

**§ 172-46. Applicability.**

In R-5 Residence Districts, the regulations contained in this article shall apply.

**§ 172-47. Purpose.**

R-5 Residence Districts shall be designed to make special provisions for housing for retired and elderly people, utilizing housing types suited to their needs on adequate land areas, with appropriate specialized accessory facilities to make such developments especially desirable to the retired and elderly, consistent with reasonable and appropriate land use regulations.

**§ 172-48. Permitted uses.**

A building or buildings may be erected or used and a lot may be used or occupied for the following purposes and no other:

- A. Housing for the elderly utilizing apartment house buildings and/or townhouses or row houses and/or single-family detached dwelling units.
- B. Signs, subject to the provisions of Article XXII.
- C. Only the following accessory uses are permitted under the conditions specified. Unless indicated otherwise, no accessory use is permitted within a rear yard, side yard, front yard or courtyard as required herein:
  - (1) Parking areas, private garages and minor garages.
  - (2) Maintenance garages, so that all storage for other than passenger vehicles shall be structurally enclosed.
  - (3) Laundry, provided it is for the exclusive use of the residents of the site.
  - (4) Laundry drying areas, provided they are screened from adjoining property and public view by walls, fences or hedges.
  - (5) Recreation facilities and eating facilities, provided that they are for the exclusive use of the residents of the site and their guests.
  - (6) Medical care facilities, including intermediate skill care facilities for the exclusive use of residents of the site, so long as the number of beds provided for such care does not exceed one bed for each four beds provided under Subsection A hereof. **[Amended 9-24-1984 by Ord. No. 1984-10]**
  - (7) Swimming pools, tennis courts and other similar recreational uses and patios or terraces for the exclusive use for the residents of the site and their guests.
  - (8) Refuse collection centers accessible to the street system, provided that they are screened from adjoining property and from public view by walls, fences or

hedges.

(9) Management offices.

(10) Any other uses that are similar to those set forth above in this subsection and that are customarily incidental to and related to housing for the elderly, subject to the approval of the Board of Supervisors.<sup>22</sup>

**§ 172-49. Frontage, area and height regulations.**

- A. Lot area and frontage. Where a lot is to be used for housing for the elderly, there shall be a street frontage of not less than 50 feet, a minimum lot area of 10 acres and a maximum of 10 dwelling units per acre.
- B. Building area. Not more than 20% of each lot shall be occupied by buildings, and not more than 40% of the lot shall be covered by impervious surfaces and buildings.
- C. Front yard. There shall be a front yard on each street upon which the lot abuts, the depth of which shall be at least 75 feet where abutting an R-1, R-1A, R-2 and R-3 Residence District and 50 feet where abutting all other districts. The front yard area shall be planted with trees, shrubbery and ground cover for screening in accordance with an overall landscape plan approved by the Newtown Township Planning Commission and shall be maintained continuously in a neat and attractive manner by the property owner, with existing trees and grading preserved insofar as possible.
- D. Height regulations. **[Amended 9-11-2000 by Ord. No. 2000-4]**
- (1) The height of any building shall not exceed three floors or 45 feet, and the height of any building shall not exceed the distance from adjacent property lines as determined below:
- (a) The difference in elevation between the top of any element of the building and the elevation at the property line shall not exceed the horizontal distance from the property line to the building element. This requirement shall be met for all points along the property line and for all elements of the building.
- (2) The height of the building shall be measured in accordance with the definition of "building height" contained in this chapter.
- E. Side and rear yards. For each building, there shall be separate side and rear yards, neither of which shall be less than 50 feet. Further, in the case of a group of buildings, there shall be not less than 50 feet between buildings at any point where walls contain windows, excluding enclosed walkways. In all other cases, there shall be no less than 30 feet between buildings.
- F. Buffer area. There shall be a buffer area along each property line, the depth of which shall be at least 20 feet measured from the property line. The buffer area may be included in any front, side or rear yard areas required under the provisions of this article. The buffer area shall be planted with trees, shrubbery and ground cover for

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22. Editor's Note: Former Subsection D, regarding private, profit-making and charitable uses, which immediately followed, was repealed 8-12-2019 by Ord. No. 2019-02.



screening in accordance with an overall landscape plan approved by the Newtown Township Planning Commission and shall be maintained continuously in a neat and attractive manner by the property owner. Existing trees and grades are to be preserved insofar as possible.

- G. Building frontage, depth or length. The greatest dimension in frontage, length or depth of the building section erected, altered or used under this article, excluding covered walkways, enclosed corridors and bridges, shall not exceed 150 feet. However, the Board of Supervisors, upon recommendation of the Newtown Township Planning Commission, may, in connection with any land development application, approve buildings with greater dimensions if it determines that such buildings are architecturally pleasing and suitable for housing elderly people and avoid monotony and excessive bulk.

**§ 172-50. General regulations.**

- A. No part of any front yard shall be used for off-street parking purposes.
- B. There shall be no outside storage of any kind.
- C. A separate toilet room and bathing facilities shall be provided for each dwelling unit.
- D. All driveways and off-street parking facilities shall be paved.
- E. All facilities shall be designed and constructed for use by the handicapped and elderly. Site design and traffic circulation design shall allow for the safe movement of handicapped and elderly people.
- F. Each development shall be serviced with public water and fire hydrants.
- G. The development shall be serviced with public sanitary sewer facilities.
- H. All utility services in the development shall be underground, and any aboveground equipment shall be screened by landscaping.
- I. The development shall be constructed in accordance with an overall plan and shall be designed as a single architectural theme with appropriate common landscaping. All buildings shall be arranged in a group or groups, and mechanical and site utility equipment projecting from buildings shall be screened from public view.
- J. In addition to requirements contained within the Township Building Code<sup>23</sup> and other Township and state requirements, the following safety provisions shall be provided:
  - (1) Ramps or elevators shall be provided for access to all areas to be utilized by residents. Elevators shall be designed for handling litters.
  - (2) Nonskid floors shall be provided.
  - (3) Doors of sufficient width to accommodate wheelchairs into all rooms shall be provided.

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23. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.

- (4) Where cooking facilities are provided, they shall be electric.
- (5) In at least 50% of all dwelling units, showers in place of tubs shall be provided.
- (6) Electrical outlets shall be at least 24 inches above the floor.
- (7) Grab bars around bathroom tubs and around toilets shall be provided.
- (8) Handle-type spigots and door knobs shall be provided.
- (9) Emergency signals which ring at a central location shall be provided.

**§ 172-51. Pedestrian circulation. [Amended 9-24-1984 by Ord. No. 1984-10]**

Pedestrian circulation shall be provided as follows:

- A. Exterior walks. Concrete walks not less than six feet in width shall be constructed to Township standards along all public streets by which the site is bounded, except that the Board of Supervisors, as part of a land development application, may reduce the width to that required by other provisions of Township ordinances if it is demonstrated by the applicant that such a requirement is unnecessary.
- B. Interior walks. Concrete walks not less than six feet in width shall provide convenient and safe pedestrian access from all building entrances to other buildings and to accessory recreation areas, including laundry facilities, parking compounds, carports or garages, and to sidewalks adjacent to public streets, provided that, upon demonstration by the applicant, as part of a land development application, that such a requirement is unnecessary, the Board of Supervisors may reduce the width at specific locations to not less than four feet in width.
- C. Where interior walks cross vehicle areas, such as parking compounds or driveways, the walkway shall be continued uninterrupted across the vehicular area in such a way that it is permanently and readily distinguishable therefrom. In addition, other appropriate means, such as signs, curbing, wheel blocks, differentiation in elevation and other similar devices, shall be used to lessen the likelihood of any parked vehicles encroaching on such walks.

ARTICLE XIII  
**A Apartment Districts**

**§ 172-52. Applicability.**

In A Apartment Districts, the regulations contained in this article shall apply.

**§ 172-53. Permitted uses.**

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

- A. Apartment house building.
- B. Only the following accessory uses are permitted under the condition specified. Unless indicated otherwise, no accessory use is permitted within a rear yard, side yard, front yard or courtyard as required herein:
  - (1) Parking areas and private garages in conformance with § 172-56.
  - (2) Storage garages so that all storage for other than passenger vehicles shall be structurally enclosed.
  - (3) Living accommodations for watchmen and caretakers employed upon the premises, provided that any such accessory living accommodation shall be located within an apartment house.
  - (4) Laundry, provided that it is for the exclusive use of residents of the site.
  - (5) Laundry drying areas, provided that they are screened from adjoining property and public view by a wall, fence or hedge.
  - (6) Recreation building, eating or medical care facility, provided that it is for the exclusive use of residents of the site and their guests.
  - (7) Swimming pools and patios or terraces are permitted, provided that safety and sanitary standards, as specified by the Board of Supervisors, are maintained.
  - (8) Refuse collection centers accessible to the street system, provided they are screened from the adjoining property and public view by a wall, fence or hedge.
  - (9) Any other uses that are similar to those set forth in this subsection and that are customarily incidental to an apartment house, subject to the approval of the Board of Supervisors.

**§ 172-54. Frontage, area and height regulations.**

- A. Lot area and frontage. The following lot areas shall be provided: Where a lot is to be used for an apartment house building or for a group of apartment house buildings, there shall be a street frontage of not less than 150 feet on a major highway (West Chester Pike and Newtown Street Road, where it is known as "State Route 252," only), a minimum lot area of two acres and a maximum of 12 living or family units per acre where public sewerage is available. If public sewerage is not

available, the maximum shall be seven living or family units per acre. In locations where there is no available connection to an operating municipal sewage treatment plant, one or more on-site sewage treatment plants shall be provided, excluding septic tanks and cesspools, subject to the approval of the Board of Supervisors and the requirements of the Sanitary Water Board and/or the Department of Health of the Commonwealth of Pennsylvania.

- B. Building area. Not more than 20% of each lot shall be occupied by apartment house buildings.
- C. Front yard. There shall be a front yard on each street of which the lot abuts, the depth of which shall be at least 75 feet. The area shall be planted with trees, shrubbery and ground cover for screening in accordance with an overall landscape plan approved by the Planning Commission and shall be maintained continually in a neat and attractive manner by the property owner, with existing trees and grades preserved insofar as possible.
- D. Height regulations. The height of an apartment house building shall not exceed 55 feet, and the height of a building shall not exceed the distance from the adjacent property line as determined as follows: The difference in elevation between the top of any element of a building and the elevation at the property line shall not exceed the horizontal distance from the property line to the building element. This requirement shall be met for all points along the property line and for all elements of the building.
- E. Side yards. For each building there shall be two separate side yards, neither of which shall be less than 50 feet. Further, in the case of a group of apartment house buildings, there shall be not less than 50 feet between buildings at any point.
- F. Rear yards. There shall be a rear yard, the depth of which shall be at least 40 feet.
- G. Buffer area. There shall be a buffer area along each lot boundary line, the depth of which shall be at least 20 feet measured from the lot boundary line. The buffer area may be included in any front, side or rear yard areas required under the provisions of this article. The buffer area shall be planted with trees, shrubbery and ground cover for screening in accordance with an overall landscape plan approved by the Planning Commission and shall be maintained continually in a neat and attractive manner by the property owner. There shall be an immediate dense screen of evergreen trees at a minimum height of six feet in the buffer area of the lot, placed so as to give maximum protection to the residential area against light, noise, dust, visual or other similar nuisances or disturbances and continuously maintained in a neat and attractive manner by the property owner. No certificate of occupancy shall be issued until the Zoning Officer or his or her designee is satisfied that the requirements of this provision have been met. Should the planting of trees not be feasible at the time a certificate of occupancy is sought, a bond or other acceptable security will be required to guarantee the planting. There shall be erected in areas on or adjacent to side and rear of property lines a fence of the type and height approved by the Planning Commission. Existing trees and grades are to be preserved insofar as possible. **[Amended 11-14-1994 by Ord. No. 1994-4]**
- H. Building frontage, depth or length. The greatest dimension in frontage, length or depth of a building section erected, altered or used under this article shall not

exceed 150 feet, and not more than three such sections may be attached to each other, and sections so attached shall be at an angle of 90° under the requirements of this Subsection H hereof.

**§ 172-55. Off-street parking regulations. [Amended 10-9-1978 by Ord. No. 1978-9]**

Off-street parking facilities shall be provided in accordance with Article XXIV. A parking plan, including exterior lighting and suitable buffer area within the parking area, shall be presented to and approved by the Planning Commission.

**§ 172-56. General regulations.**

- A. No part of any front yard shall be used for off-street parking purposes, unless the area used for such purposes is beyond 75 feet from the street and the Planning Commission approves such use.
- B. There shall not be outside storage of any kind.
- C. A separate toilet room and facilities shall be provided for each separate apartment or housekeeping unit.
- D. All driveways and off-street parking facilities shall be in accordance with Township standards.
- E. All exterior lighting shall be properly shielded from traffic on any public right-of-way and from any residential district.



ARTICLE XIV  
A-O Apartment Office Districts

**§ 172-57. Applicability.**

In A-O Apartment Office Districts, the regulations contained in this article shall apply.

**§ 172-58. Permitted uses. [Added 11-19-2011 by Ord. No. 2011-04;<sup>24</sup> amended 3-26-2012 by Ord. No. 2012-02;<sup>25</sup> 10-28-2013 by Ord. No. 2013-11]**

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

- A. Multifamily dwellings.
- B. Service office building.
- C. Townhouses.
- D. Two-family dwellings.
- E. Accessory uses on the same lot with and customarily incidental to the foregoing permitted uses. The term "accessory use" does not include a business, but may include a recreational use when authorized as a special exception by the Zoning Hearing Board, when using, as standards and guides generally, the requirements of this chapter, and specifically, the requirements of this article.

**§ 172-59. Frontage, area and height regulations. [Added 11-19-2011 by Ord. No. 2011-04;<sup>26</sup> amended 3-26-2012 by Ord. No. 2012-02;<sup>27</sup> 10-28-2013 by Ord. No. 2013-11]**

- A. Tract area and frontage. The following tract areas shall be provided:
  - (1) In locations where there is no access to an operating municipal sewage treatment plant, one or more on-site sewage treatment systems must be provided, subject to the approval of the Board of Supervisors and the requirements of the Sanitary Water Board and/or Department of Health of the Commonwealth of Pennsylvania.
  - (2) Where a tract will contain a multifamily dwelling building or a group of multifamily dwelling buildings, there shall be a street frontage of not less than 150 feet on a major highway or a secondary road, having a minimum tract area of two acres and a maximum of 12 living or family units per gross acre.
  - (3) Where a tract will contain townhouses, the overall tract shall have a minimum lot area of two acres and a maximum density of 10 dwelling units per gross acre. Each individual townhouse shall have a minimum front yard of 20 feet from the right-of-way along which the townhouse fronts. If the townhouse

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24. Editor's Note: This ordinance provided that it would become effective on 3-15-2012.

25. Editor's Note: This ordinance provided that it would become effective on 3-15-2012.

26. Editor's Note: This ordinance provided that it would become effective on 3-15-2012.

27. Editor's Note: This ordinance provided that it would become effective on 3-15-2012.

fronts on a major highway, arterial or collector street, then such townhouse shall have a minimum front yard of 40 feet except that all buildings shall be set back a minimum distance of 200 feet from the current right-of-way of both Route 252 north of Winding Way and along Goshen Road, but in no case shall a building be set back less than 100 feet from any property outside of the tract zoned R1 or R2. Driveways and parking are permitted in the foregoing setback. If there is no right-of-way, each townhouse building shall be set back a minimum of 20 feet to the edge of an adjacent sidewalk or, if there is no sidewalk, then to the edge of the adjacent curb.

- (4) The height of a townhouse shall not exceed 35 feet or three stories, whichever is more. The height of a two-family dwelling building shall not exceed 3 1/2 stories or 45 feet, whichever is greater. The height of a multifamily building shall be no more than five stories or 65 feet, whichever is greater.
  - (5) Where a tract will contain two-family dwellings, the overall tract shall have a minimum lot area of two acres and a maximum density of 12 units per gross acre. For each individual two-family dwelling, there shall be a minimum building width of 20 feet.
  - (6) Where an overall tract is used for a mixed residential development consisting of townhouses, two-family dwellings and/or multifamily dwellings, the maximum density for the overall development shall be 12 dwelling units per gross acre, regardless of other density provisions contained herein.
- B. Building area. Not more than 25% of the overall tract shall be occupied by multifamily dwelling buildings; townhouse buildings in the aggregate may occupy not more than 25% of the overall tract; and an office building may occupy up to 40% of the overall tract.
- C. Impervious coverage. Maximum impervious coverage shall not exceed 50% of the overall tract.
- D. Side yards. Whether there is one or more separate buildings, there shall be two separate side yards measured from the perimeter of the overall tract boundary lines, neither of which shall be less than 40 feet for multifamily dwelling buildings, 20 feet for townhouse and two-family dwelling buildings or less than 30 feet for office buildings. However, in case of a group of multifamily dwelling buildings, there shall not be less than 50 feet between buildings at any point. When located at the end of a row of townhouses, there shall be a minimum side yard of five feet. Each group or row of attached townhouses and/or two-family dwelling buildings shall have a minimum separation distance of 20 feet from another group or row of attached townhouses and/or two-family dwelling buildings.
- E. Rear yards. With respect to the overall tract, there shall be a rear yard measured from the perimeter of the overall tract rear boundary line, the depth of which shall be at least 30 feet. Each townhouse and two-family dwelling shall have a minimum rear yard of 20 feet, which may include:
- (1) Attached decks or patios having a maximum width of 10 feet from the rear wall of the townhouse or two-family dwelling building;



- (2) Vehicular parking spaces; and/or
  - (3) Retaining walls.
- F. Building frontage, depth or length. The greatest dimension in frontage, length or depth of a building erected, altered or used under this article shall not exceed 220 feet, and not more than three such buildings may be attached to each other, and buildings so attached shall be at an angle of 90° under the requirements of this subsection, but may be altered or changed upon application by way of special exception to the Zoning Hearing Board.
- G. Buffer area. There shall be a buffer area along each tract boundary line, the depth of which shall be at least 15 feet measured from the tract boundary line. The buffer area may be included in any tract setback, front, side or rear yard areas required under the provisions of this section. The buffer area shall be planted with trees, shrubbery and ground cover for screening in accordance with an overall landscape plan approved by the Planning Commission and shall be maintained continually in a neat and attractive manner by the property owner. As applied to townhouses and two-family dwelling buildings, the required buffer area shall apply only to the overall tract boundaries.
- H. Total office lot area coverage. Not more than 70% of each tract shall be used for the construction of service office buildings, office parking facilities and/or other commercial improvements of any nature so that not less than 30% of the tract area shall remain as open space.

**§ 172-60. General regulations.**

- A. Except for townhouse lots, no part of any front yard is to be used for garage, storage or off-street parking purposes. [Amended 3-26-2012 by Ord. No. 2012-02<sup>28</sup>]
- B. There is to be no outside storage of any kind.
- C. A separate toilet room and facilities are to be provided for each separate apartment or housekeeping unit.
- D. In service office buildings, there is to be at least one separate toilet room and facilities on each floor for men, at least one separate toilet room and facilities on each floor for women and in no case fewer than two separate toilet rooms and facilities for each 10 users, tenants and occupiers.
- E. Each apartment house building or service office building shall have a service driveway of at least 12 feet in width, as well as a service entrance not in the front of the building.
- F. All driveways and off-street parking facilities shall be hard-surfaced.
- G. The Zoning Hearing Board may, as a special exception, permit the use of a building containing both apartments and service offices, using, as standards and guides generally, the requirements of this chapter and, specifically, the requirements of this article.

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28. Editor's Note: This ordinance provided that it would become effective on 3-12-2012.

**§ 172-61. Pedestrian circulation.**

Pedestrian circulation shall be provided as follows:

- A. Exterior walks. Concrete sidewalks, not less than four feet in width, shall be constructed to Township standards along all public streets by which the site is bounded. In townhouse developments, concrete sidewalks not less than four feet in width shall be provided along a minimum of one side of all streets, regardless of whether the streets are public or private. **[Amended 3-26-2012 by Ord. No. 2012-02<sup>29</sup>]**
- B. Interior walks. Concrete walks, not less than four feet in width, shall provide convenient and safe pedestrian access from all apartment and office entrances to other apartment and office entrances and to accessory recreation areas, laundry facilities, parking compounds, carports or garages and to the sidewalks along bounding public streets.
  - (1) Such interior walks may be surfaced with brick or flagstone.
  - (2) Where interior walks cross vehicular areas, such as parking compounds or driveways, the walkway shall be continued uninterrupted across the vehicular area in such a way that it is permanently and readily distinguishable therefrom. In addition, other appropriate means, such as signs, curbing, wheel blocks, difference in elevation, etc., shall be used to lessen the likelihood of any parked vehicle encroaching on such walk.

**§ 172-62. Vehicular circulation.**

Vehicular circulation shall be provided as follows:

- A. Interior drives. Hard-surfaced driveways of concrete or bituminous concrete shall provide vehicular access from the public street to all buildings, parking spaces, carports and garages.
- B. Off-street parking and loading.
  - (1) Multifamily dwellings shall have not less than 1.75 garage spaces or paved off-street parking spaces for each unit. **[Amended 10-9-1978 by Ord. No. 1978-9; 10-28-2013 by Ord. No. 2013-11]**
  - (2) Service office buildings shall have one parking or garage space for each 200 square feet of gross floor area, including basement floor area, but in no event fewer than three parking or garage spaces for each separate office, such spaces to be 200 square feet.
  - (3) Where angle parking spaces front toward a walk, building or usable open space area, curbing or firmly anchored wheel block devices shall be provided not less than six feet from the far edge of the walk, six feet from the wall of the building or three feet from the near edge of the usable open space area.
  - (4) The boundary lines between all adjacent parking spaces shall be embedded or

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29. Editor's Note: This ordinance provided that it would become effective on 3-12-2012.

marked upon the pavement in a conspicuous and durable manner.

- (5) Areas of adequate size and number for loading and unloading of delivery trucks, moving vans and other vehicles and for the servicing of refuse collection, fuel and other services shall be provided, so arranged that they may be used without blockage or interference with the use of driveways or automobile parking facilities.
- (6) No part of any required front yard is to be used for parking or loading.
- (7) In addition to the above, parking facilities shall be provided in accordance with Article XXIV. **[Amended 10-9-1978 by Ord. No. 1978-9]**

**§ 172-63. Usable open space.**

Not less than 10% of the lot area shall be devoted to usable open space for the benefit of residents if the lot is used for construction of apartment house buildings. Such usable open space shall be provided in accordance with the following standards:

- A. Usable open space requirements may be met in one or several areas within the lot boundaries.
- B. Usable open space may be developed for any of the following uses, or a combination thereof:
  - (1) Active recreation facilities for any age group.
  - (2) Outdoor cooking areas.
  - (3) Landscaped lawn or garden areas.
  - (4) Other similar outdoor living activities.
- C. The following shall not be eligible for meeting usable open space requirements:
  - (1) Vehicular or pedestrian circulation areas, including parking.
  - (2) Required front yards.
  - (3) Buffer areas.



ARTICLE XV  
**O Office Districts**

**§ 172-64. Applicability.**

In O Office Districts, the regulations contained in this article shall apply.

**§ 172-65. Permitted uses.**

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

- A. Service office building.
- B. Accessory uses on the same lot with and customarily incidental to a service office building, subject to the approval of the Board of Supervisors.

**§ 172-66. Frontage, area and height regulations.**

- A. Lot area and frontage. The following lot areas shall be provided: For each office building, there shall be a street frontage of not less than 75 feet and a minimum lot area of 35,000 square feet.
- B. Height regulations. The height of an office building shall not exceed 55 feet, exclusive of basement, and the height of a building shall not exceed the distance from the adjacent property line as determined as follows: The difference in elevation between the top of any element of a building and the elevation at the property line shall not exceed the horizontal distance from the property lines to the building element. This requirement shall be met for all points along the property line and for all elements of the building.
- C. Side yards. For each building, there shall be two separate side yards, neither of which shall be less than 30 feet. Further, in the case of a group of office buildings, there shall be not less than 30 feet between buildings at any point.
- D. Rear yards. There shall be a rear yard, the depth of which shall be at least 40 feet.
- E. Building frontage, depth or length. The greatest dimension in frontage, length or depth of a building section erected, altered or used under this article shall not exceed 150 feet, and not more than three such sections may be attached to each other, and sections so attached shall be at an angle of 90° under the requirements of this Subsection E.
- F. Total lot area coverage. Not more than 70% of each lot used for the construction of service office buildings shall be occupied by buildings, parking areas, parking facilities and/or improvements of any nature, such that not less than 30% of the lot area shall remain as green area. **[Amended 8-10-1987 by Ord. No. 1987-10]**
- G. Front yard. There shall be a front yard on each street on which the lot abuts, the depth of which shall be at least 40 feet. The area shall be planted with trees, shrubbery and ground cover for screening in accordance with an overall landscape plan approved by the Planning Commission and shall be maintained continually in a neat and attractive manner by the property owner, with existing trees and grades

preserved insofar as possible.

- H. Buffer area. There shall be a buffer area along the district boundary line within the Office District when adjacent to residential areas, the depth of which shall be at least 20 feet measured from the district boundary line. The buffer area may be included in any front, side or rear yard areas required under the provisions of this article. The buffer area shall be used for no other purpose other than planting and screening. The buffer area shall be planted with trees, shrubbery and ground cover for screening in accordance with an overall landscape plan approved by the Planning Commission and shall be maintained continually in a neat and attractive manner by the property owner. There shall be an immediate dense screen of evergreen trees at a minimum height of six feet in the buffer area of the lot, placed so as to give maximum protection to the residential area against light, noise, dust, visual or other similar nuisances or disturbances and continuously maintained in a neat and attractive manner by the property owner. No certificate of occupancy shall be issued until the Zoning Officer or his or her designee is satisfied that the requirements of this provision have been met. Should the planting of trees not be feasible at the time a certificate of occupancy is sought, a bond or other acceptable security shall be required to guarantee the planting. There shall be erected in areas on or adjacent to side and rear of property lines a fence of the type and height approved by the Planning Commission. Existing trees and grades are to be preserved insofar as possible. **[Amended 11-14-1994 by Ord. No. 1994-4]**

#### **§ 172-67. Parking regulations.**

Service office buildings shall have one parking or garage space for each 200 square feet of gross floor area, including basement floor area, but in no event fewer than three parking or garage spaces for each separate office, such parking spaces to be a minimum of 200 square feet in area. A parking plan, including exterior lighting and suitable buffer areas within the parking area, shall be presented to and approved by the Planning Commission.

#### **§ 172-68. General regulations.**

- A. No part of any front yard shall be used for garage, storage or off-street parking purposes, unless the area used for such purposes is beyond 40 feet from the street and the Planning Commission approves such use.
- B. There shall not be outside storage of any kind.
- C. All driveways and off-street parking facilities shall be in accordance with Township standards.
- D. All exterior lighting shall be properly shielded from traffic on any public right-of-way and from any residential district.

ARTICLE XVI  
**C-1 Commercial Districts**

**§ 172-69. Applicability.**

In C-1 Commercial Districts, the regulations contained in this article shall apply.

**§ 172-70. Permitted uses.**

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

- A. Retail store.
- B. Personal service shop, tailor, barber, beauty shop, shoe repair, dressmaking shop and other personal service shop or store.
- C. Bank and other similar institutions.
- D. Offices.
- E. Club. **[Amended 9-8-1980 by Ord. No. 1980-17]**
- F. Places of amusement, recreation or assembly, when authorized as a special exception. **[Amended 4-12-1982 by Ord. No. 1982-2]**
- G. Restaurant, cafe, catering establishments and establishments where food is cooked and dispensed for off-premises consumption, where authorized as a special exception. Establishments dispensing or serving food for consumption on the premises outdoors or in cars or vehicles parked on the premises, including drive-in food stands, shall not be considered as restaurants, cafes, catering establishments or establishments dispensing food for off-premises consumption and are not permitted in this zoning district.
- H. Confectionery, retail bakery.
- I. Mortuary.
- J. Plumber, electrician, paperhanger and similar occupations.
- K. Residential or nonresidential parking lot or public parking facility.
- L. Public garage, motor vehicle service station, car wash, motor vehicle sales agency, motor vehicle repair shop and battery service station, when authorized as a special exception. **[Amended 9-8-1980 by Ord. No. 1980-15]**
- M. Accessory uses on the same lot with and customarily incidental to any of the above permitted uses and not seriously detrimental to the neighborhood when authorized as a special exception.
- N. The uses permitted by right and the uses permitted by special exception shall not include adult entertainment uses, as defined in this chapter. **[Added 1-6-1997 by Ord. No. 1997-1]**

- O. Residential restrictions. After May 19, 1973, single-family dwellings, two-family dwellings, multifamily dwellings and apartments shall not be permitted to be erected or used in the commercial districts of the Township, except by special exception of the Zoning Hearing Board.

**§ 172-71. Area regulations.**

- A. Front yard. There shall be a front yard on each street on which a lot abuts which shall not be less than 20 feet in depth.
- B. Building area. The building area shall not exceed 70% of the lot area.
- C. Rear yard. There shall be a rear yard on each lot which shall be not less than 15 feet in depth.
- D. Height regulations. No buildings shall exceed three stories, excluding basement, or 45 feet in height.
- E. Loading and unloading space. All buildings shall be provided with adequate off-street loading and unloading spaces located on other than the streets upon which the lot abuts.
- F. Parking space. Parking spaces shall comply with the numerous regulations established in Article XXIV.
- G. Minimum lot area. No building permit shall be issued in commercial districts with on-lot sewage disposal unless the minimum area of the lot for each family unit or for each store or for each combination of store and family unit in the building to be erected is 6,000 square feet.



ARTICLE XVII  
**C-2 Commercial Districts**  
**[Amended 6-23-2008 by Ord. No. 2008-2]**

**§ 172-72. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**C-2 COMMERCIAL DISTRICT** — A district designed to contain multifacility structures used for retail and commercial sales and services, hotels, motels, cultural entertainment, recreational purposes and a lifestyle village, as hereinafter limited, fronting on West Chester Pike.

**LIFESTYLE VILLAGE** — An integrated and comprehensively designed development consisting of any combination of three or more of the uses permitted to be developed on the same tract, intended to be pedestrian-oriented and to promote a mix of commercial development with community interaction and cultural activities.

**§ 172-73. Purpose.**

The C-2 Commercial District contemplates the establishment of a well-planned and integrated shopping center, hotel, motel and business district and lifestyle village designed to:

- A. Foster the development of a group or groups of property-related businesses and compatible facilities comprising a single architectural scheme with appropriate landscaping.
- B. Foster the development of the aforesaid in accordance with comprehensive design requirements relating, inter alia, to access and related traffic considerations, land use and coverage thereof, building placement, highway protection, off-street parking, buffering, landscaping and screening.
- C. Foster the development of the aforesaid in accordance with the purposes set forth in §§ 172-3 and 172-4 and, by virtue of the physical size of such development, as well as the extent, concentration and duration of activities anticipated on and adjacent thereto, foster the design and operation thereof consistent with:
  - (1) The Comprehensive Plan of the Township of Newtown.
  - (2) The promotion of the health, safety, morals and general welfare of the facility patrons and tenants, adjoining property owners and the residents of the Township at large.
  - (3) The preservation of the physical, social, cultural and economic environment of the community.
  - (4) The management of the community's natural resources, utility services, movement of pedestrian and vehicle traffic and the municipal services of the Township of Newtown, including but not limited to police and fire protection.

**§ 172-74. Permitted uses.**

An integrated building system and supporting facilities may be created, occupied or used for the following purposes and no other purpose:

- A. Retail store.
- B. Retail service shop or custom shop; other personal service shop or store, such as a barbershop, beauty, bakery, confectionery, ice cream or similar shop; custom tailoring, dressmaking, millinery or similar shop; and shoe, clock, watch, jewelry, radio, television, household appliance or similar repair shop; and laundry, dry-cleaning or clothes-pressing shops (provided that the equipment and materials to be employed will not involve danger from fire or explosion and that use will not detract from the predominant character of the development); provided, however, that:
  - (1) Any processing activity, other than a singular artisan demonstrating a given processing activity, shall be not less than 15 feet from the front of the unit in which the activity is conducted, and the same shall be screened from view by a wall or partition from the front portion of the unit used by customers.
  - (2) Any article made or services provided shall be sold at retail from the premises.
  - (3) The area devoted to processing shall not be greater than the retail sales of the same store.
- C. Library, veterans' memorial and community buildings or rooms for civic, religious and/or charitable purposes.
- D. Bank and similar institutions.
- E. Offices.
- F. Restaurant, cafe and catering establishments, including outdoor seating and service areas when authorized as a conditional use.
- G. Medical and/or dental clinics.
- H. Indoor theater, cultural center, radio or television studios.
- I. Outdoor garden centers as an accessory use to and in conjunction with a retail store.
- J. Hotel or motel.
- K. Lifestyle village.
- L. Accessory use on the same lot and customarily incidental to any of the above permitted uses and not detrimental to the neighborhood. Accessory uses may include storage within a completely enclosed building in conjunction with a permitted use.

**§ 172-75. Lot and building requirements for uses other than lifestyle village.**

- A. Provisions relating solely to nonmotel, nonhotel and nonoffice/clinic uses.

- (1) Lot area. The minimum development lot shall be not less than 30 contiguous acres of land.

B. Provisions relating solely to motel/hotel uses.

- (1) Lot area. The minimum development lot shall be not less than five contiguous acres of land.
- (2) Number of rental units. The number of rental units shall not exceed 22 rental units per acre, and, further provided, the maximum number of rental units on the development lot, regardless of its size and acreage content, shall not exceed 250 rental units.

C. Provisions relating to all uses.

- (1) Lot width. The minimum width of each development lot shall have not less than 300 feet of frontage on a major highway, as defined in § 172-2.
- (2) Green area. Not less than 15% of the gross land area of the development lot shall be devoted to green area, excluding green area required under § 172-135 ("green area" being defined herein to include any areas not covered by buildings, garden center areas, structures or by paved streets or parking areas), and the same shall be planted with grass, shrubs or trees.
- (3) Building area. Not more than 25% of the gross land area of the development lot shall be covered by buildings and/or garden center areas.
- (4) Building setback. All buildings shall be set back according to the following table:

	<b>Motels, Hotels, Office Buildings, Medical and/or Dental Clinics</b>	<b>Drive-In Banks</b>	<b>All Other Buildings</b>
	<b>(feet)</b>	<b>(feet)</b>	<b>(feet)</b>
From four-lane highway rights-of-way	125	75	150
From all other street rights-of-way	100	75	150
From property lines of single-family residential uses	150	150	150
From all other property lines	75	75	75

- (5) Building height. No building shall be more than four stories (excluding basement) or 45 feet in height, whichever is less.

- (6) Public access. Public access to all units shall be directly to the out-of-doors and not through any common indoor accessway or promenade or mall; provided, however, that this provision shall not apply to the uses hereinabove set forth in Subsections E, G and J of § 172-74.

**§ 172-75.1. Tract and building requirements for lifestyle village.**

- A. Minimum gross tract area: 50 acres.
- B. Minimum tract width: 2,000 feet.
- C. Maximum building area: 20% of the tract.
- D. Minimum building setback from West Chester Pike: 150 feet.
- E. Minimum building setback from other adjacent streets: 20 feet.
- F. Minimum green area of the tract, exclusive of green area of parking areas: 25%.
- G. Minimum green area in parking areas: 15%.
- H. Maximum building height: four stories (excluding basement) or 45 feet.
- I. Minimum planted buffer from street right-of-way: 10 feet.

**§ 172-76. Traffic and pedestrian circulation.**

The following shall be required in each C-2 Commercial District development:

- A. Entranceways and exitways, including deceleration and acceleration lanes providing access to and from the development, shall be sufficient in number and length to safely and conveniently accommodate the flow of traffic to and from the site, as approved by the Board of Supervisors and the Pennsylvania Department of Transportation, where applicable.
- B. Internal site circulation shall be provided for vehicle access to all buildings and facilities, shall be part of a closed-circuit system enabling continuous flow of traffic and shall be of sufficient width and turning radii to allow access without entrapment of emergency vehicles.
- C. Parking shall not be permitted on interior streets, except in a lifestyle village use.
- D. Interior streets shall be separated from all parking, loading or service areas used by motor vehicles by the use of buffer strips or other effective and suitable barriers against unchanneled motor vehicle ingress or egress, except in a lifestyle village use.
- E. The minimum cartway width of interior streets shall be predicated upon the requirements of traffic volume, flow and rate set by the traffic analysis. For each lane of traffic flow, a width of 12 feet shall be required. In no case shall the minimum width of internal streets be less than 24 feet for two-way and 18 feet for one-way traffic flow.
- F. Appropriate signs and street markings for warning and use regulations of

pedestrians and vehicles shall be erected and maintained.

- G. Areas for loading and unloading of delivery trucks and other vehicles and for refuse collection, fuel and other service vehicles shall be provided and shall be adequate in size and shall be so arranged that they may be used without blocking or interfering with the use of access roads or lanes and automobile parking spaces. All loading areas shall be shielded by a planting screen in accordance with § 172-77B and/or by screen walls, berms or fencing, when approved by the Board of Supervisors.
- H. Loading facilities, excepting those for underground storage of liquids such as fuel oil, shall be designed to maintain all off-loading and on-loading operations within the building structure, so that no materials are stored above ground outside of the building.
- I. Pedestrian crosswalks and sidewalks shall be required at any location where the Board of Supervisors shall determine they are necessary for public safety or convenience. Crosswalks shall have minimum rights-of-way of 10 feet abutting the street curbline. Sidewalks shall have a minimum paved walk of five feet in width.
- J. Internal pedestrian circulation may be provided for by natural walks, aggregate, wood chips or bituminous materials where pedestrian traffic is light or the landscaping theme is enhanced by such installation, subject to the approval of the Board of Supervisors.

**§ 172-77. Landscaping and screening requirements for other than lifestyle village.**

Landscaping and screening within each C-2 Commercial District development shall meet the following requirements:

- A. A planted area, no less than 25 feet in width, of grass, lawn, shrubbery, evergreens and trees shall be placed and continuously maintained in a proper and attractive manner along the perimeter of the property, exclusive of driveway crossings. All plantings shall be installed so as not to inhibit clear sight at intersections of vehicle and pedestrian circulation. The width of the strip shall be increased to no less than 50 feet and be provided with high- and low-level screening along any part of the property line that is in common with a residential zone. In this case, the buffer shall be fenced from the adjoining property, except that the Board of Supervisors may, upon application, permit exceptions to this requirement relating to fences.
- B. Screening for the purpose of providing a visual barrier shall be composed of plants and trees arranged to form both a low-level and a high-level screen. The high-level screen shall be composed of evergreen trees at least five feet in height. Such trees shall be planted in two parallel rows, eight feet apart. The rows shall be offset and shall be planted with trees spaced at intervals of not more than eight feet. The low-level screen may be any plant materials approved by the Newtown Township Planning Commission. Plants shall be not less than two feet in height and spaced at intervals of not more than five feet.
- C. Trees shall not be destroyed, unless necessary for the construction of the proposed buildings and improvements, and adequate tree planting shall be completed by the owner, developer or builder. Street trees shall be a minimum of 40 feet and a

maximum of 50 feet apart. The trunks of the trees shall not be less than two to 2 1/2 inches in diameter and 3 1/2 feet in height at time of planting.

- D. The owner, developer or builder shall preserve or incorporate natural features, such as woods, streams, floodplains and open space areas, which add to the overall cohesive development of the C-2 Commercial District and adjacent districts.
- E. Any area not used for buildings, structures, paved areas or screening shall be planted with an all-season ground cover and other landscaping materials in accordance with the landscaping and screening plan. Existing vegetative materials shall be preserved wherever practical.

#### **§ 172-77.1. Landscaping and screening requirements for lifestyle village.**

Landscaping and screening requirements for a lifestyle village use shall meet the following requirements:

- A. A planted area, no less than 10 feet in width, of grass, lawn, shrubbery, evergreens and trees shall be placed and continuously maintained in a proper and attractive manner along the perimeter of the tract, exclusive of driveway crossings. All plantings shall be installed so as not to inhibit clear sight at intersections of vehicle and pedestrian circulation.
- B. Screening for the purpose of providing a visual barrier from parking shall be composed of plants and trees arranged to form a low-level screen. The low-level screen may be any plant materials approved by the Newtown Township Board of Supervisors after recommendations of the Planning Commission. Plants shall be not less than two feet in height and spaced at intervals of not more than five feet.
- C. Trees shall not be destroyed, unless necessary for the construction of the proposed buildings and improvements, and adequate tree planting shall be completed by the owner, developer or builder.
- D. The owner, developer or builder shall preserve or incorporate natural features, such as wetlands, woods, streams, floodplains and open space areas, which shall add to the overall environment of the lifestyle village.
- E. Any area not used for buildings, structures, paved areas or screening shall be planted with an all-season ground cover and other landscaping materials in accordance with the landscaping and screening plan. Existing vegetative materials shall be preserved wherever practical.

#### **§ 172-77.2. Parking requirements for lifestyle village.**

In the event of any conflict between the requirements of § 172-132E or any other provisions, the following parking requirements for a lifestyle village use shall supersede, govern and control:

- A. For all retail, commercial, office and other permitted uses, other than a hotel and cultural center, four parking spaces shall be required for each 1,000 square feet of gross leasable area.
- B. For a hotel, a minimum of one parking space shall be provided for each rental room

or suite.

- C. For a cultural center, a minimum of one parking space shall be provided for every 10 seats in an assembly or performance area and four parking spaces per 1,000 square feet of gross floor area for areas other than an assembly or performance area.

**§ 172-77.3. Signage requirements for lifestyle village.**

In the event of any conflict between the requirements of § 172-123 or any other provisions, the following signage requirements for a lifestyle village tract shall supersede, govern and control:

- A. Freestanding lifestyle village identification signs shall be permitted, subject to the following regulations:
- (1) One lifestyle identification sign shall be permitted at each entrance of the lifestyle village tract.
  - (2) The maximum surface display area of any one face of the sign shall not exceed 100 square feet.
  - (3) The maximum height shall not exceed 30 feet.
- B. Freestanding signs for individual buildings or tenants or multiple tenants. Freestanding signs identifying individual buildings, individual tenants or multiple tenants shall be permitted, subject to the following regulations:
- (1) One freestanding sign shall be permitted for each entrance of the lifestyle village tract.
  - (2) The maximum surface display area of any one face of the sign shall not exceed 50 square feet, unless there are three or more occupants, in which case 75 square feet shall be permitted.
  - (3) The maximum height shall not exceed 20 feet.
- C. Wall signs. Signs mounted on the walls or facades of a building shall be permitted, provided that the following regulations are met:
- (1) The total area of all wall signs may not exceed 1 1/2 square feet of a sign area per linear foot of wall, including windows, doors and cornices.
  - (2) Wall-mounted signs shall be installed parallel to the supporting wall and project no more than 18 inches from the face of such wall and shall not extend above the roofline of such building.
- D. Under-canopy signs. Under-canopy signs, not to exceed 10 square feet in aggregate sign area per tenancy or occupancy, shall be permitted.
- E. Directory signs. At each entrance to the lifestyle village tract, signs for the direction of traffic to or identification of individual buildings or tenants within the development shall be permitted, provided that the following regulations are met:
- (1) The maximum surface display area of each sign shall not exceed 40 square feet

on any one face.

- (2) The maximum height shall not exceed 12 feet.
  - (3) Each sign shall be set back a minimum of five feet from the right-of-way line of any public or private drive or collector, measured from the vertical plane established by the leading edge of the sign. In no event shall the sign be installed in a sight triangle necessary for the clear view of traffic.
  - (4) Any directory sign may identify only the development's subarea name, building name and/or tenants.
- F. Traffic control directional signs. Signs for the directional control of vehicular traffic shall be permitted, provided that the area of each sign shall not exceed four square feet in size. Except for street signs approved for use on public streets, no directional sign shall exceed three feet in height.
- G. Flags. Flags of the United States of America, the Commonwealth of Pennsylvania, Delaware County, Newtown Township and the corporate flags of the lifestyle village or its tenants shall be permitted, provided that the total number and location of such flags shall be subject to the review and approval of the Board of Supervisors.
- H. Such other signs or banners that may be approved by the Board of Supervisors shall be permitted.

#### **§ 172-78. General regulations.**

- A. The development shall be serviced with public water and fire hydrants.
- B. The development shall be serviced with public sanitary sewer facilities.
- C. All utility services in the center shall be underground.
- D. The development shall be constructed in accordance with an overall plan and shall be designed as a single architectural theme with appropriate common landscaping. All buildings shall be arranged in a group or groups; mechanical and site utility equipment projected from the buildings shall be screened from public view.
- E. There shall be facilities to handle, in adequate fashion, the flow of surface waters in a manner so that no undue burden of surface water drainage is imposed upon abutting streets, highways, properties and existing watercourses.
- F. Lighting standards shall not exceed 25 feet in height, and all luminaires shall be shielded to prevent flooding of adjacent properties.
- G. Noise from the facility at the property line adjoining residential zoning shall not exceed 40 decibels when measured at night with the facility unoccupied.

#### **§ 172-79. Site review.**

- A. In a C-2 Commercial District, any site development, including erection of any building, addition to any building, construction of streets or parking facilities or installation of sewers or utilities, requiring permits shall be permitted only after



plans have been submitted and approved in accordance with procedures for review of a subdivision.

- B. Drafting standards. Documents submitted for site review shall meet all drafting standards for a subdivision. In addition, the following will be required:
- (1) On landscaping and screening plans, the minimum scale shall be one inch equals 100 feet, and contours shall be shown at five-foot intervals; provided, however, that the same shall provide sufficient detail to clearly show such landscaping and screening.
  - (2) On maps and plans, a key map indicating portions of the total site or area covered by the map or plan.
  - (3) A key map locating the site under consideration with the region, the Township or an area within the Township, as may be appropriate to fully understand the subject presented.
- C. Submission of plans and drawings. In addition to the requirements of Chapter 148, Subdivision and Land Development, as amended, the proposed site development plan shall also comply with the provisions of this chapter. The plans and drawings may be submitted as separate exhibits or included in the basic plot or site plan. In either case, the following features shall be included:
- (1) Architectural plans for proposed developments shall show buildings, including elevations, fences, sidewalks, roads or other paved areas, parking and landscaping and screening. All buildings, streets, alleys, highways, streams and other topographical features within 150 feet of any boundary line shall be shown.
  - (2) An outdoor lighting plan, with a description or sketches of proposed standards and type of luminaires.
  - (3) A sign location plan.
  - (4) Engineering and architectural plans for the handling and disposal of stormwater, sewage and wastewater and the handling of other utilities and traffic flow.
  - (5) Landscaping plans for buffer areas and open areas shall show the general location, size and species of all existing trees over six inches in caliper, with designations as to those which are to be removed and those which are to remain. The plan shall also include the location, size and species of all proposed vegetative material.
- D. Submission and reports and statements. Supporting documents shall be submitted. Documentation shall include proposed solutions to deter, diminish or remove casual elements that adversely affect property and persons on adjacent property and within the Township as a whole. The documents shall include the following:
- (1) A legal description by metes and bounds of the area to be devoted to the C-2 Commercial District development site.

- (2) A general listing and description of the classes and uses to be conducted upon the site.
- (3) A traffic impact report giving traffic volume and flow as it currently exists and as it is expected to exist during and at completion of the development proposal upon the streets and highways of the Township and within the internal circulation system of the shopping center. The description of traffic volume and flow shall be in terms of average daily traffic for both the highways and the shopping center during their average hour and the peak a.m. and p.m. hours of trips. This report is to be presented at the time of zoning submission.
- (4) A physical environmental assessment and impact statement as required by federal, commonwealth and county law, as may be applicable, and presented at the time of zoning submission.
- (5) An assessment and impact statement concerning utilization of public facilities and services.
- (6) The owner, developer or builder shall prepare a solid waste management plan indicating estimated amounts of solid waste generated upon the site by character of waste and a system for the collection, storage and disposal of generated waste. The system shall prevent combustion, vermin infestation, generation of odors, release of toxic substances and wind dispersal of waste materials. The system shall also provide for the maintenance of litter and other site debris through periodic sweeping and the installation of trash and refuse containers for litter.
- (7) A statement of traffic-regulating devices required, including automatic signalization, signing and painting, and manpower requirements for direction and enforcement. The statement should generally describe the devices to be used, provisions for their maintenance and the considerations of aesthetics and good graphics designs. Also, a plan showing design and location of parking lot locator signs shall be submitted for approval.
- (8) A detailed cost estimate for execution of the approved landscaping plan. A performance bond or other surety approved by the Township Solicitor shall be filed with the Township. Such surety shall be in an amount equal to the cost of purchasing, planting, maintaining and replacing all vegetative materials for a period of two years.

#### **§ 172-80. Amendments to site plan.**

Where, from time to time, the owner, developer or builder of a C-2 Commercial District development, which has been approved under the provisions of this chapter, wishes to request an amendment to the plan, the following procedures shall be used:

- A. The applicant shall submit sufficient data and a plan insert showing the amendment to the previously approved plan to the Zoning Officer, who shall verify the accuracy of the documents submitted.
- B. The application and documents shall be submitted by the Zoning Officer to the Board of Supervisors, which shall determine whether the proposed amendment is

of sufficient substance to warrant extensive site review under the procedures of § 172-79 with respect to the amendment. Zoning fees established under §§ 172-153 and 172-126 shall apply in this instance.

- C. If the application is not of sufficient substance to warrant extensive review, the Board of Supervisors shall make a determination on the application and advise the Zoning Officer. **[Amended 11-14-1994 by Ord. No. 1994-4]**



## ARTICLE XVIII

**I Light Industrial District****[Amended 6-10-1974 by Ord. No. 1974-4; 11-14-1994 by Ord. No. 1994-4]****§ 172-81. Applicability.**

In I Light Industrial Districts, the regulations contained in this article shall apply.

**§ 172-82. Permitted uses.**

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

- A. Administrative offices, executive offices, professional offices, sales offices and offices for other similar uses. **[Amended 9-23-2002 by Ord. No. 2002-7]**
- B. Manufacturing, fabricating, assembling, packaging and/or processing of the following: scientific and precision instruments and controls, electronic components, computers, pharmaceutical and optical goods, metalized and coated plastic film, photographic reproduction, film and equipment, jewelry and timepieces, candy, cosmetics, dairy products, drugs and perfume.
- C. Cinema, radio and television productions.
- D. Newspaper, job printing or bookbinding establishment.
- E. Distribution plants, parcel delivery, cold storage plants and bottling plants.
- F. Electric transforming substations, microwave towers or other similar service uses. **[Amended 11-25-1996 by Ord. No. 1996-4]**
- G. Laboratories, experimental manufacturing and research.
- H. Accessory uses incidental to any of the above permitted uses, not detrimental to the neighborhood, including a cafeteria and other similar services operated by or for the employer for the exclusive use of its employees and business visitors.
- I. Public or commercial parking.
- J. Uses approved by the Board of Supervisors of the same general character as any of the above, subject to conditional use approval.
- K. Conditional uses, subject to the provisions of §§ 172-88, 172-89 and 172-90. **[Added 1-6-1997 by Ord. No. 1997-1]**
  - (1) Adult entertainment uses, which uses shall not be permitted in any other zoning district in Newtown Township, are as follows:
    - (a) Adult arcades.
    - (b) Adult bookstores, adult novelty stores or adult video stores.
    - (c) Adult cabarets.

- (d) Adult motion-picture theaters.
  - (e) Adult theaters.
  - (f) Escort agencies.
  - (g) Nude model studios.
  - (h) Sexual encounter centers, to include, but not be limited to, massage parlors.
- (2) As used herein in Subsection K(1), the following words shall have the meanings herein indicated:

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

**ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE** —

- (a) A commercial establishment which, as its principal purpose, offers for sale or rental, for any form of consideration, any one or more of the following:
  - [1] Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
  - [2] Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
- (b) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT CABARET** — A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- (a) Persons who appear in a state of nudity or seminudity;

- (b) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (c) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT MOTION-PICTURE THEATER** — A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT THEATER** — A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or seminudity, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

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

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

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

**ESTABLISHMENT** — Includes any of the following:

- (a) The opening or commencement of any sexually oriented business as a new business;
- (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (c) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (d) The relocation of any sexually oriented business.

**NUDE MODEL STUDIO** — Any place where a person who appears seminude, in a state of nudity or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. "Nude model studio" shall not include a proprietary school licensed by the State of Pennsylvania or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are

transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:

- (a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing.
- (b) Where, in order to participate in a class, a student must enroll at least three days in advance of the class.
- (c) Where no more than one nude or seminude model is on the premises at any one time.

**NUDITY or A STATE OF NUDITY** — The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernible turgid state.

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

**SEMINUDE or SEMINUDE CONDITION** — The state of dress in which clothing partially or opaquely covers specified anatomical areas.

**SEXUAL ENCOUNTER CENTER** — A business or commercial enterprise that, as one of its principal business purposes, offers, for any form of consideration:

- (a) Physical contact in the form of massage, wrestling or tumbling between persons of the opposite sex; or
- (b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminudity.

**SEXUALLY ORIENTED BUSINESS** — An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

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

**SPECIFIED SEXUAL ACTIVITIES** — Any of the following:

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



**SUBSTANTIAL ENLARGEMENT** — The increase in floor area occupied by a sexually oriented business by more than 25%, as the floor areas exist at the date of passage of this chapter.

(3) The following special conditions for adult entertainment uses shall apply:

(a) Objectives.

[1] Because adult entertainment uses tend to bring with them secondary concerns that impact the health, safety and general welfare concerns of Newtown Township, the Township desires to restrict or limit the location where such uses can locate.

[2] The Township does not intend to affect or suppress any activities protected by the First Amendment of the United States Constitution, but instead address these secondary effects. Neither is it the intent nor effect of these chapter provisions to condone or legitimize the distribution of obscene material.

[3] Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Board of Supervisors and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 426 U.S. 50 (1976), and *Northend Cinema, Inc. v. Seattle*, 585 P.2d 1153 (Wash. 1978); and on studies in other communities, including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Saint Paul, Minnesota; Manatee County, Florida; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; and Beaumont, Texas; and also on findings found in the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), the Board of Supervisors finds the following:

[a] Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that may go uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

[b] Certain employees of sexually oriented businesses defined in this section as "adult theaters" and "cabarets" engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.

[c] Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos or live sex shows, as defined in this section as "adult bookstores," "adult novelty shops," "adult video stores," "adult motion-picture theaters" or "adult arcades."

- [d] Offering and providing such space encourages such activities, which creates unhealthy conditions.
- [e] Persons frequent certain adult theaters, adult arcades and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- [f] At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infections (AIDS), genital herpes, hepatitis B, Non B amebiasis, salmonella infections and shigella infections.
- [g] Since 1981, and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982; 2,200 in 1983; 4,600 in 1984; 8,555 in 1985; and 353,448 through December 31, 1992.
- [h] As of May 1, 1995, there have been 13, 559 reported cases of AIDS in the State of Pennsylvania.
- [i] Since 1981, and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Delaware County, Pennsylvania.
- [j] The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 336,123 cases reported in 1982 and 45,200 through November of 1990.
- [k] The number of cases of gonorrhea in the United States reported annually remains at a high level, with over 500,000 cases being reported in 1990.
- [l] The Surgeon General of the United States, in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components and from an infected mother to her newborn.
- [m] According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- [n] Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- [o] Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where

persons view adult-oriented films.

[p] The findings noted in Subsection K(3)(a)[3][a] through [o] above raise substantial governmental concerns.

[4] The purpose of these conditional use provisions is to minimize, where conditions permit, the secondary concerns, which include difficulties for law enforcement, municipal maintenance, trash, deleterious effects on business and residential property values, increased crime, particularly corruption of the morals of minors, and prostitution, and encourage residents and businesses to move elsewhere.

(b) Yard and area regulations.

[1] In addition to the yard and area regulations applicable to all uses permitted pursuant to the provisions of Article XVIII, no adult entertainment use shall be located:

[a] Within 1,000 feet of the following:

[i] A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

[ii] A public or private educational facility, including, but not limited to, child day-care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, continuation schools, special education schools, junior colleges and universities. "School" includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

[iii] A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the Commonwealth of Pennsylvania.

[iv] Any other adult entertainment use.

[b] Within 800 feet of a boundary of a residential district, as defined in this chapter.

[c] Within 500 feet of the following:

[i] A public park or recreational area which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the Township which is under the control, operation or management of the

Township park and recreation authorities or other similar land within the Township which is under the control, operation or management of private parties and open and available for use by the general public.

[ii] An entertainment business which is oriented primarily towards children and family entertainment.

[d] Within 400 feet of the right-of-way line of U.S. Route 3 (West Chester Pike) or Pennsylvania Highway Route 252.

[2] For the purpose of Subsection K(3)(b), Yard and area regulations, of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a use listed in Subsection K(3)(b), Yard and area regulations. Presence of a municipal, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(c) Data. Sufficient additional data shall be submitted to enable the Planning Commission and the Board of Supervisors to determine that the requirements of this chapter and other ordinances of the Township relevant to the proposed use have been fulfilled, and that the owners and operators of proposed adult entertainment facilities demonstrate a desire and ability to comply with the ordinances of the Township and to prevent their establishments from being used for any illegal activities.

L. Billboards may be erected in the Light Industrial District of the Township as a principal use of the property only. [See also § 172-123A(8).]

### § 172-83. Area regulations.

- A. Front yard, rear yard and side yards. Front, side and rear yards shall be a minimum of 150 feet from any residential zoning district and 50 feet from any property line or street right-of-way line.
- B. Lot coverage. The building area shall not exceed 40% of the lot area, and the total of building area plus paved area shall not exceed 65% of the lot area.
- C. Height regulations. No building shall exceed 45 feet in height.
- D. Loading and unloading space. All buildings shall be provided with adequate off-street loading and unloading spaces located on other than the streets on which the lot abuts.
- E. Parking spaces. Parking spaces shall comply with the requirements established in this article and shall be sufficient to ensure that all parking related to the activities of the business shall be contained upon the lot.
- F. Minimum lot area. The minimum lot area for any use shall be two acres.

- G. Buffer area. Along any part of the property line that is common with a lot in a residence district, there shall be a buffer area, a minimum of 50 feet wide, parallel with the property line. This buffer area shall be fenced from the adjoining property.

**§ 172-84. Plan and permit requirements. [Amended 6-24-1991 by Ord. No. 1991-4]**

- A. Applications for any land development or subdivision plan in an I Light Industrial District shall include but not be limited to the following, in addition to any and all requirements set forth in Chapter 148, Subdivision and Land Development:
- (1) A plot plan of the lot showing the location of all present and proposed buildings, drives, parking lots, waste disposal facilities and other construction features on the lot and all buildings, streets, alleys, highways, streams and other significant topographical features within 200 feet of the lot lines.
  - (2) All requirements for a land development and/or subdivision shall be followed in accordance with Chapter 148, Subdivision and Land Development. In the case of a land development, architectural plans for any proposed building and/or addition shall be filed.
  - (3) In the case of a land development where there is to be owner occupancy or a known tenant, a detailed description of the industrial operations proposed, in sufficient detail to identify and quantify the impact of the proposal on the ecology and environment, including but not limited to traffic congestion, noise, glare, air pollution, odors, water pollution, smoke, fire and safety hazards, waste generation and disposal. Engineering and architectural plans shall be included, showing the proposed resolution of all environmental problems resulting from the proposed use.
  - (4) Engineering and architectural plans for the handling and disposal of stormwater, sewage and industrial waste. Plans shall also include a description of facilities to handle and properly dispose of recyclable materials as required by the Commonwealth of Pennsylvania and Township ordinance.
  - (5) The proposed number of shifts and days to be worked and the maximum number of employees on each shift, if available at the time of application.
  - (6) The applicant shall, among other things, comply with Article XXIII of this chapter and Chapter 104, Natural Features and Landscaping.
- B. All applications for building permits for fit-out work and certificates of occupancy shall be accompanied by a use permit application, which shall contain a description of proposed industrial uses and operations and their impacts, with particular consideration given to adjoining properties. The use permit application shall contain sufficient information to enable the Township Manager to assess the applicant's compliance with this chapter, Chapter 148, Subdivision and Land Development, and the following standards:
- (1) Any operation producing intense glare or heat shall be performed within a completely enclosed building so that no operation will produce heat or glare beyond the property line of the lot on which the operation is located.

- (2) All uses shall be so operated so that all noise, odors and vibrations associated with such uses are not perceptible, without instruments, at any point beyond the lot on which those uses are located.
  - (3) All raw materials and products associated with any industrial or related use shall be stored indoors.
  - (4) Off-street loading and unloading spaces on which the lot abuts are adequate for the proposed use.
- C. The Township Manager may obtain consultation from one or more consultants in making a determination of the applicant's compliance with the general performance standards of Subsection B. The costs of such consultation shall be borne by the applicant, provided that such costs are reasonable and the applicant provides written consent to the Township prior to incurring such costs. In such circumstances, no building permit or certificate of occupancy shall be issued prior to the applicant's reimbursement to the Township for such consultation costs.

**§ 172-85. Appeals. [Added 6-24-1991 by Ord. No. 1991-4]**

In the event that the Township Manager or his representative does not render a decision within 10 working days of the receipt of a complete description of the proposed use or that the Township Manager's decision is that the use is not permitted by this chapter and/or does not meet the standards set forth in § 172-84B, the applicant shall have the right to appeal the decision directly to the Board of Supervisors by filing written appeal with the Township. The Board of Supervisors shall hear and render a decision on the appeal at the next scheduled meeting of the Board of Supervisors, provided that the appeal is filed at least five business days prior thereto. In the event that the appeal is not filed within five business days of the next scheduled meeting, the Board of Supervisors may postpone consideration of the appeal until the second scheduled meeting after the filing of the appeal. The fees for such a hearing shall be established from time to time by resolution by the Board of Supervisors.

ARTICLE XIX  
**SU-1 Special Use Districts**  
**[Added 1-10-1983 by Ord. No. 1983-1]**

**§ 172-86. Purpose.**

The purpose of this article is to establish a zoning district which will act as a buffer zone between residential land uses and other more intense nonresidential land uses or to reflect historic or difficult geographic features of particular tracts, such as soil type, marsh areas, slopes and ravines, or a combination thereof.

**§ 172-87. Applicability.**

In SU-1 Special Use Districts, the regulations contained in this article shall apply.

**§ 172-88. Use regulations.**

- A. Uses as of right. Any use of a building or lot located in the SU-1 Special Use District which is in lawful existence on the effective date of the ordinance establishing such district (Ordinance No. 1983-1) and which, in the absence of this provision, would not be in conformity with the provisions of this article shall be permitted to continue as of right in, on or at such building or lot.
- B. Conditional use. A building may be erected, altered, occupied or used and a lot may be used or occupied for any of the following purposes, provided that such structure, erection, alteration, occupation or use is in conformity with a conditional use plan approved by the Board of Supervisors:
- (1) Scientific research laboratories, provided that there is no commercial production and no storage of any commodity or substance whatsoever at such laboratories, except for such storage as is necessary for the conduct of scientific research, and provided further that such laboratories do not emit odors, dust, fumes, smoke, heat or gas or discharge any uncontrolled liquid or solid wastes or cause vibrations, noise or glare which may be detrimental to the public health, safety, comfort, convenience or general welfare or which may cause damage to or unreasonably interfere with the use and enjoyment of public or private property.
  - (2) Offices.
    - (a) Offices for administrative, executive, governmental, professional, sales and/or similar uses and/or for the provision of medical and health care services on an outpatient basis only, provided that no commercial storage, exchange, sales or delivery of merchandise is conducted in or from such offices, and provided that: **[Amended 3-11-1985 by Ord. No. 1985-4; 3-26-2001 by Ord. No. 2001-1; 8-12-2013 by Ord. No. 2013-06]**

[1] Any building used or to be used for the purposes permitted by Subsection B(1) and (2) hereof which contains 4,000 net square feet or less of floor space shall be constructed solely for the use of or shall be used or occupied solely by a single business entity and/or

affiliates of such single business entity.

- [2] Any building used or to be used for the purposes permitted by Subsection B(1) and (2) hereof which contain more than 4,000 net square feet of floor space may be constructed for the use and occupancy by and may be used or occupied by more than one business entity.
- [3] Any offices which are used for the provision of outpatient medical and health care services shall not provide beds for recipients of such services except in connection with sleep study sessions.
- (b) As used in Subsection B(2)(a)[1] and [2] hereof, the term "business entity" means person, partnership, corporation, unincorporated association, joint venture, governmental agency, public or private foundation, education institution or similar organization. The term "affiliate" means a parent, subsidiary, division or affiliate of a corporation or any business entity having a similar relationship to a business entity which may use or occupy offices in an office building under this section.
- (3) Any use permitted in R-5 Residence Districts, provided that all provisions of Article XII are met to the extent that they are more restrictive than this article, in addition to the requirements of this article, except that § 172-49E shall supersede the provision in § 172-91C as it relates to the minimum distance between buildings used for purposes allowed in the R-5 Residence Districts.
- (4) Any use of an existing building, landmark or site which has been designated as historic by the federal government, the commonwealth or which is listed on the Historic Sites Map proposed by the Delaware County Planning Commission of December 1979 as part of a proposed Comprehensive Plan for Newtown, provided that such use is compatible with the historic nature of such building, landmark or site and will contribute to the preservation of such building, landmark or site.
- (5) Golf courses, if over 2,500 yards in length for a nine-hole course or if over 5,000 yards for an eighteen-hole course, provided that such courses are not illuminated for nighttime use.
- (6) Accessory uses in the same building or on the same lot with and customarily incidental to any of the uses permitted by Subsection B(1) through (5) hereof, provided that such accessory uses will not be detrimental to the public health, safety, comfort, convenience or general welfare or cause damage to or unreasonably interfere with the use or enjoyment of public or private property, and provided further that such accessory uses are approved in conjunction with approval, pursuant to §§ 172-89 and 172-90, of the uses described in Subsection B(1) through (5) hereof. Accessory uses permitted by this Subsection B(6) shall include, without limitation of the foregoing:
- (a) A cafeteria located within a building constructed for and/or used for the purposes described in Subsection B(1) and (2) hereof, provided that such cafeteria is operated by or on behalf of any employer or employers who use or occupy offices within such building, and provided further that any



such cafeteria is operated for the exclusive use of employers or business visitors of such employer or employers, and provided further that no more than 10% of the net floor space of any such building is used for cafeteria purposes.

- C. Adult entertainment uses. The uses permitted by right and the uses permitted as conditional uses shall not include adult entertainment uses, as defined in this zoning chapter. **[Added 1-6-1997 by Ord. No. 1997-1]**

**§ 172-89. Conditional use approval.**

A. Planning Commission review.

- (1) In reviewing an application for approval of any preliminary or final plans for a proposed conditional use permitted by § 172-88, the Planning Commission shall consider the following factors:
  - (a) Whether the proposed conditional use will have a detrimental effect on the health, safety, comfort, convenience, morals or general welfare of the public and, in particular, the residents in the immediate vicinity of the proposed conditional use.
  - (b) Whether the proposed conditional use and all structures, equipment or materials used therefor or therein are readily accessible to police and fire protection.
  - (c) Whether the proposed conditional use will be of such dimension, location and character as to be consistent with the scheme of development prescribed by the Township Comprehensive Plan.
  - (d) Whether the proposed conditional use will include traffic accessways which are adequate to provide safe ingress and egress to and from public streets and highways without undue congestion to or interference with normal traffic flow within the Township.
  - (e) Whether the proposed conditional use makes adequate provision for safe and efficient pedestrian and vehicular traffic circulation within the boundaries of the site of the proposed conditional use.
  - (f) Whether the site of the proposed conditional use will be adequately drained without adversely affecting adjoining properties, and whether all slopes and grade on the site will be adequately protected against erosion.
  - (g) Whether the proposed conditional use will unduly interfere with or adversely affect natural resources, such as streams, lakes, swamps, springs, wetlands, woodlands, slopes and grades, wildlife habitats and trees over eight inches in diameter measured three feet above the base of the trunk, which are located on the site of the proposed conditional use.
  - (h) Whether merchandise, goods, products, articles or equipment will be stored or displayed outside of a building or on a lot for which a conditional use is proposed, and whether such items will be stored or displayed inside a building for which a conditional use is proposed in a

manner which renders such items visible from beyond the property line of such use.

- (i) Whether the proposed conditional use will diminish the value of properties adjacent to or in the vicinity of the proposed conditional use.
  - (j) Whether the proposed conditional use is physically suited to the site of such proposed use in view of the topographical, soil, hydrogeological and environmental characteristics of such site.
  - (k) Whether the proposed conditional use will cause an unreasonable and substantial interference with the use and enjoyment of properties to or in the vicinity of the proposed use.
  - (l) Whether the proposed conditional use is compatible with the existing use of the immediate vicinity.
  - (m) Whether the proposed conditional use will result in an unreasonable density of population or overcrowding of the land.
  - (n) Whether the proposed conditional use will deprive adjacent properties of adequate light and air.
  - (o) Whether the proposed conditional use will substantially burden existing sewerage facilities, schools, parks, utilities and other public services.
  - (p) Whether the proposed conditional use complies with all sections of this article, particularly as related to land development and subdivision standards.
- (2) On the basis of this review, the Planning Commission shall make a recommendation to the Board of Supervisors as to whether the application and plans should be approved, approved subject to conditions or rejected. The Board of Supervisors shall consider but shall not be bound by the recommendations of the Commission.
- B. Factors for consideration by Board of Supervisors. In determining whether to approve, approve subject to conditions or reject an application for preliminary or final plans for a conditional use permitted by § 172-88, the Board of Supervisors shall consider the following factors:
- (1) The recommendations of the Planning Commission.
  - (2) The factors set forth in Subsection A hereof.
  - (3) Whether the criteria for approval set forth in Subsection C hereof have been satisfied.
- C. Criteria for approval by Board of Supervisors. The Board of Supervisors shall approve an application and plans for a conditional use permitted by § 172-88 only if it has determined that each of the following criteria are or will be satisfied:
- (1) The proposed conditional use will not have a detrimental effect on the health, safety, comfort, convenience, morals or general welfare of the public and, in

particular, residents in the immediate neighborhood.

- (2) The proposed conditional use and all structures, equipment or materials used therefor or therein shall be readily accessible to police and fire protection.
- (3) The proposed conditional use shall be of such dimension, location and character as to be compatible with existing uses in the neighborhood and the scheme of development set forth in §§ 172-3 and 172-4.
- (4) The proposed conditional use shall not create an increase in traffic of such character as to create a high probability of danger to the health and safety of the community.
- (5) The proposed conditional use shall not unduly interfere with or damage natural resources, such as streams, lakes, swamps, springs, wetlands, woodlands, slopes and grades, wildlife habitats and trees over eight inches in diameter measured three feet above the base of the trunk, which are located on or near the site of the proposed conditional use.
- (6) The proposed conditional use shall not involve the storage or display outside of a building or on a lot for which a conditional use is proposed of any merchandise, goods, products, articles or equipment, except for living plants and motor vehicles parked outside such building or on such lot in conformity with the requirements of Article XXIV.
- (7) The proposed conditional use shall not involve the storage or display inside a building of merchandise, goods, products, articles or equipment if such storage or display is visible from outside the building beyond the property lines of the site on which the conditional use is proposed to be located.
- (8) The proposed conditional use shall not cause a substantial decrease in the value of properties in the vicinity of the proposed use.
- (9) The proposed conditional use shall be physically suited to the land on which it is proposed to be located in view of the topography, hydrogeology, soil and other physical features of the land.
- (10) The proposed conditional use shall not create an unreasonable and substantial interference with the use and enjoyment of properties in the vicinity of the proposed use.

**§ 172-90. Compliance with land development legislation.**

Applications for special use approval shall be subject to and comply with Chapter 148, Subdivision and Land Development, of the Code of the Township of Newtown. In addition, location, dimensions and arrangements of all areas devoted to plantings, lawns, trees and other green areas shall also be shown on the plans.

**§ 172-91. Area regulations.**

- A. Lot area. Every lot shall have a lot area of three acres or more, and such lot shall be not less than 300 feet in width at the building line. The tract of land on which each permitted use is conducted shall be held in single ownership and shall be operated

under unified contract or management.

- B. Building area. No more than 30% of the total square footage of each tract for which a conditional use is proposed shall be occupied by buildings, and not more than 60% of the total square footage of each tract shall be occupied by a combination of buildings and parking areas. Where a lot held in single and separate ownership at the time this section is enacted is proposed to be subdivided into two lots, the buildings area and impervious area requirements contained herein shall apply to the tract as a whole and not to the individual lots hereinafter created, provided that: **[Amended 8-12-2013 by Ord. No. 2013-06]**
- (1) No more than two office buildings shall be located on a tract which contains 50 acres or less and is located adjacent to West Chester Pike and west of Medical Drive;
  - (2) No more than a total of 400,000 square feet of office space (exclusive of structured parking facilities) shall be located on a tract which contains 50 acres or less and is located adjacent to West Chester Pike and west of Medical Drive;
  - (3) Existing buildings may be demolished, reconstructed, expanded and/or adaptively reused for any of the uses permitted in the SU-1 Zoning District, provided that the new building or buildings shall not be permitted to exceed the total square footage of the demolished building or buildings. Impervious surface shall not be increased by more than 1%. Conditional use shall not be required for the demolition, reconstruction, expansion and/or adaptive reuse of existing buildings.
- C. Setback. All buildings shall be set back no less than 200 feet from all street rights-of-way against which the lot which is the site of the proposed conditional use abuts and no less than 100 feet from all other property lines or other buildings located on the lot, except that the Board of Supervisors may, upon individual application, reduce the setback to not less than 75 feet from all right-of-way lines against which the lot abuts where it is shown by the applicant that such reduction in setback is necessary due to the unusual slope, size or topography of the lot, except as follows: **[Amended 9-12-1983 by Ord. No. 1983-11; 9-8-1997 by Ord. No. 1997-9; 8-12-2013 by Ord. No. 2013-06]**
- (1) All buildings located adjacent to West Chester Pike and west of Medical Drive shall be set back a minimum distance of 200 feet from existing or proposed curblines of West Chester Pike. Required building setback areas from West Chester Pike shall be devoted to walkways, street trees, off-street parking, green areas, stormwater management, or a combination thereof. Limited driveway and road access through such setbacks shall be permitted. All buildings shall be set back a minimum distance of 10 feet from curblines of all other existing or proposed streets. Such setback areas shall be devoted to walkways, street trees, green areas, stormwater management facilities or a combination thereof. Limited driveway and road access through such setbacks shall be permitted. No off-street parking shall be permitted within 100 feet of West Chester Pike. No setbacks shall be required from interior lot lines abutting other lots within the SU-1 District.
  - (2) All one- or two-story buildings located between Winding Way and Medical

Office Drive shall be set back a minimum distance of 35 feet from existing or proposed curblines of West Chester Pike. All buildings greater than two stories located between Winding Way and Medical Office Drive shall be set back a minimum distance of 75 feet from existing or proposed curblines of West Chester Pike. Required building setback areas from West Chester Pike shall be devoted to walkways, street trees, off-street parking, green areas, stormwater management, or a combination thereof. Limited driveway and road access through such setbacks shall be permitted. All buildings shall be set back a minimum distance of 10 feet from curb lines of all other existing or proposed streets. Such setback areas shall be devoted to walkways, street trees, green areas, stormwater management facilities or a combination thereof. Limited driveway and road access through such setbacks shall be permitted. No off-street parking shall be permitted within 100 feet of West Chester Pike. No setbacks shall be required from interior lot lines abutting other lots within the SU-1 District.

- (3) Existing buildings which are demolished and reconstructed, expanded and/or adaptively reused shall be set back a minimum distance of 50 feet from adjacent properties, 300 feet from Goshen Road, and 10 feet from curblines of all other existing or proposed streets.
  - (4) Where, in conjunction with special use district development plan approval, an applicant donates land to abutting property owners, the applicant may, with the agreement of the Board of Supervisors, include some or all of the donated land as part of the setback from property lines other than street rights-of-way.
- D. Landscaping. Each lot on which a permitted conditional use is conducted shall be landscaped or otherwise screened by the use of trees, plantings or other means, in a manner which will ensure that the lot and conditional use conducted thereon will not detract from and shall adequately safeguard the residential character of adjacent districts.

**§ 172-92. Height regulations. [Amended 9-8-1997 by Ord. No. 1997-9; 8-12-2013 by Ord. No. 2013-06]**

No building shall have more than three stories, exclusive of basement, nor shall it exceed 45 feet in height, subject, however, to the following provisions:

- A. The height of a principal building may be increased from 45 feet in height to 50 feet in height, provided that the following conditions are satisfied:
  - (1) The building shall have no more than three stories, exclusive of basement;
  - (2) Every additional foot of height above 45 feet, but not to exceed 50 feet, shall require an additional ten-foot setback from all street rights-of-way; and
  - (3) The principal building shall be located at least 300 feet from any residential zoning district boundary.
- B. Buildings located adjacent to West Chester Pike and west of Winding Way shall be permitted to be five stories or 70 feet in height.

**§ 172-93. Buffer requirements.**

Along each side or rear property line of a lot which directly abuts a residence district of the Township or similar district in an adjoining municipality, a fence and a buffer planting strip of not less than 50 feet in width shall be provided. On the buffer planting strip, there shall be placed shrubbery, trees or other plantings sufficient to screen the lot and the conditional use conducted thereon from abutting residential districts and to ensure that the residential character of abutting districts is not adversely affected by such lot or any conditional use conducted thereon. Along each street line of the lot, a buffer strip of not less than 25 feet in width shall be provided, which shall be landscaped in the manner provided above and which may include sidewalks and accessways necessary or appropriate for the conditional use conducted on the lot.

**§ 172-94. Sewer and water service; utilities; solid waste.**

- A. A conditional use permitted under this article shall be served by public sanitary sewers and water. If public sanitary sewers are not available, such conditional use shall be serviced by an on-site sewage facility constructed to and operated in accordance with the Township standards.
- B. All utility lines servicing a conditional use permitted under this article shall be placed underground within the property lines of the lot on which the special use is located. All utility equipment, other than utility lines, located aboveground shall be screened by shrubbery, plantings or other landscaping.
- C. All trash, garbage, rubbish and debris of every kind generated by the special use shall be stored within a completely enclosed building in a fireproofed room and shall be collected and disposed of by private collectors, at no cost to the Township, as often as is reasonably necessary to preserve the public health, safety, comfort, convenience and general welfare. If dumpster-type containers are used, such containers shall be stored within a completely enclosed building.

**§ 172-95. Amendments to development plan.**

- A. Any SU Special Use District development plan which has been approved by the Board of Supervisors pursuant to §§ 172-89 and 172-90 may be amended by the owner, developer or builder in accordance with the following procedures:
  - (1) The person seeking an amendment to the plan ("applicant") shall submit to the Township an application for an amendment of a special use district plan, together with information describing the proposed amendment. The Zoning Officer shall verify the accuracy of all documents submitted by the applicant in conjunction with the application.
  - (2) The application and supporting documents shall be submitted to the Township. The Board of Supervisors shall determine whether the proposed amendment is of sufficient scope to warrant further site review under the procedures set forth in §§ 172-89 and 172-90. If it is determined that further site review is necessary, the Board of Supervisors shall decide whether to approve or deny the proposed amendment on the basis of such site review. The zoning fees established under Articles XXX and XXII shall apply in such cases.

- B. If it is determined that the proposed amendment is not of sufficient scope to warrant further site review, the Board of Supervisors shall decide on the basis of the application and supporting documents whether to approve or deny the proposed amendment. A zoning fee equal to that required to be paid for Planning Commission reviews shall be applied in such cases. In all cases, the Board of Supervisors shall advise the Zoning Officer of its decision.

**§ 172-96. Modifications of buildings and lots; change in use; abandonment.**

- A. No physical modification or extension of or change in use of a building or lot for which an SU Special Use District development plan has been approved shall be permitted, unless and until such plan has been amended to reflect such modification, extension or change pursuant to § 172-95.
- B. Physical modification or extension. Any physical modification or extension of a building used in a manner permitted as of right under § 172-88A may be made only after approval of such modification or extension by the Board of Supervisors pursuant to the procedures set forth in § 172-95A and B, except that, in such cases, the person seeking the modification or extension shall submit to the Zoning Officer an application for modification or extension of a use as of right in an SU-1 or SU-2 Special Use District. No modification or extension shall be approved unless it is determined that such modification or extension satisfies the requirements of § 172-89.
- C. Change in use. Any change in the use of a building or lot permitted as of right pursuant to § 172-88A shall be subject to the requirements of this article regarding conditional uses.
- D. Abandonment of use. If a use of a building or lot permitted as of right under § 172-88A is abandoned for more than one year, any subsequent use of such building or lot shall be subject to the requirements of this article regarding conditional uses.

**§ 172-97. Nonconforming lots.**

A building may be erected on any lot in the SU-1 Special Use District held in single and separate ownership on the effective date of the ordinance establishing this SU-1 Special Use District where such lot is not of the required minimum area or frontage or is of such unusual dimensions that the owner cannot reasonably provide the open spaces required by the provisions of this article, provided that such erection is approved by the Board of Supervisors after consideration of the factors set forth in § 172-89.

**§ 172-97.1. Off-street parking. [Added 8-12-2013 by Ord. No. 2013-06]**

- A. There shall be 3.5 parking spaces for every 1,000 square feet of gross floor area for all office uses permitted in the SU-1 District. The parking for all other permitted uses shall be in accordance with § 172-132 of this Zoning chapter.
- B. Off-street parking spaces shall be a minimum of nine feet by 18 feet. However, a minimum of 2% of the minimum number of parking spaces on the tract shall be a minimum of 10 feet by 18 feet.

- C. Required parking lot green area. Where parking areas, loading and unloading facilities and accompanying access from a street or driveway exceeds 3,000 square feet, a minimum of 10% of all paved areas shall be devoted to green areas, or 5% may be provided if the parking is substantially located to the rear of the buildings and it can be demonstrated that views of the parking lot from the public right-of-way are shielded by a combination of landscaping and/or berming. In such a case, there shall not be a requirement for green areas between rows of parking spaces. Green area requirements shall not be applicable in structured parking or multilevel parking facilities.



ARTICLE XX  
**SU-2 Special Use Districts**  
**[Added 1-10-1983 by Ord. No. 1983-1]**

**§ 172-98. Applicability.**

In SU-2 Special Use Districts, the regulations contained in this article shall apply.

**§ 172-99. Use regulations.**

- A. Uses as of right. Any use of a building or lot located in the SU-2 Special Use District which is in lawful existence on the effective date of the ordinance establishing such district (Ordinance No. 1983-1) and which, in the absence of this provision, would not be in conformity with the provisions of this article shall be permitted to continue as of right in, on or at such building or lot.
- B. Conditional use. A building may be erected, altered, occupied or used and a lot may be used or occupied for any of the following purposes, provided that such structure, erection, alteration, occupation or use is in conformity with a conditional use plan approved by the Board of Supervisors pursuant to the procedures described in §§ 172-89 and 172-90:
- (1) Any use permitted in SU-1 Special Use Districts.
  - (2) Nurseries and greenhouses.
  - (3) New car sales when conducted as part of a car manufacturer's franchise system, provided that the provisions of § 172-117 are met, and when located on a four-lane divided highway.
  - (4) Golf courses, golf driving ranges, playing fields, swimming clubs, public parks and similar recreational facilities.
  - (5) Convalescent homes, nursing homes or similar uses, provided that such homes comply with the current standards for an intermediate skill care facility established under the law of Pennsylvania, and provided further that such home consists of no more than 12,000 square feet of gross floor area per acre, and provided further that it conforms with § 172-48.
  - (6) Service office building.
    - (a) Any building used or to be used for the purposes permitted by this subsection which contains 8,000 net square feet or less of floor space shall be constructed solely for the use of or shall be used or occupied solely by a single business entity and/or affiliates of such single business entity.
    - (b) Any building used or to be used for the purposes permitted by this subsection which contains more than 8,000 net square feet of floor space may be constructed for the use of or occupancy by and may be used or occupied by more than one business entity, provided that each such business entity shall lease and use or occupy no less than 1,200 net square

feet of floor space in such building. **[Amended 3-11-1985 by Ord. No. 1985-4]**

- (7) Public schools, private or parochial schools, school dormitories, church, religious or philanthropic use.
  - (8) A restaurant, at which all food is prepared, served and sold exclusively for consumption by patrons while seated inside the building at counters or tables.
- C. Adult entertainment uses. The uses permitted by right and the uses permitted as conditional uses shall not include adult entertainment uses, as defined in this zoning chapter. **[Added 1-6-1997 by Ord. No. 1997-1]**

**§ 172-100. Applicability of other provisions; exceptions.**

All provisions and conditions of Article XIX (SU-1 Special Use Districts) shall likewise apply to uses permitted in Article XX (SU-2 Special Use Districts), except for:

- A. Section 172-88.
- B. Vehicle showrooms which are visible beyond the property lines of the site and outdoor display of automobiles, which shall be permitted when associated with a use under § 172-99B(3); § 172-89C(6) and (7) shall in all other respects apply in an SU-2 District.

ARTICLE XXA  
(Reserved)<sup>30</sup>

**§ 172-100.1. through § 172-100.11. (Reserved)**

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30. Editor's Note: Former Article XXA, Open Space Option, added 8-14-1995 by Ord. No. 1995-6, as amended, was repealed 9-10-2018 by Ord. No. 2018-05.



## ARTICLE XXB

**Flood Hazard District**

**[Added 9-9-2002 by Ord. No. 2002-6; amended 2-8-2010 by Ord. No. 2010-01;  
10-15-2013 by Ord. No. 2013-08; 9-2-2015 by Ord. No. 2015-03]**

**§ 172-100.12. Findings.**

- A. 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.
- B. Certain areas of Newtown Township are floodplain areas subject to periodic flooding from watercourses or inadequate drainage, wet soils or soils having a high-water table, which flooding results in loss of property, danger to life, damage to structures, injury to people, disruption of public and private activities and services, burdensome public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- C. Flood losses are caused by the cumulative effect of obstructions in floodplain areas causing increases in flood heights and velocities and the occupancy of floodplain areas by uses vulnerable to floods.
- D. Certain sections of Newtown Township are aquifer recharge areas which form the source of the underground water supply and are especially sensitive to pollution and contamination from inappropriate surface uses.
- E. Drainage areas, wet soils or soils having a high-water table and water courses located in Newtown Township are part of integrated drainage basins and as such, the construction or other alteration of land within the Township that increases runoff also increases the flood hazard to communities downstream.

**§ 172-100.13. Intent.**

- A. It is the purpose of this article to promote the public health, safety and general welfare and to minimize flood losses.
- B. The specific intent of this article is:
  - (1) To promote the general health, safety, and welfare of the community.
  - (2) To regulate or prevent the erection of buildings and other structures in areas unfit for development by reason of periodic flooding, unsanitary drainage conditions and related hazards.
  - (3) To protect public health and the environment by preventing pollution of surface and subsurface water supplies and providing surface area to absorb water for maintenance of the subsurface water supply.
  - (4) To protect public safety by managing the use of natural floodplains and valley flats which are subject to periodic flooding.

- (5) To prevent the increase in flood volume and rate of flow which results from covering floodplains with impervious surfaces and from impeding natural drainage channels.
  - (6) To provide areas for the deposition of sediment.
  - (7) To prevent added downstream damage from increased flood volume and rate of flow and to permit uses of the floodplain compatible with the preservation of natural conditions and the maintenance of the stream flow throughout the year.
  - (8) To minimize the financial burden imposed on individuals, businesses, governmental units, and the public in general.
  - (9) To promote responsible floodproofing measures within the Floodplain Management District.
  - (10) To encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
  - (11) To comply with federal and state floodplain management requirements.
- C. Designation of Floodplain Administrator. The Zoning Officer of the Township of Newtown is hereby designated and may be referred to herein as the Floodplain Administrator. The Assistant Township Manager, or other individual assigned in writing by the Floodplain Administrator, shall be the Alternate Floodplain Administrator and shall have all powers and responsibilities as the Floodplain Administrator when serving in that capacity.

**§ 172-100.14. Establishment and identification of district.**

- A. Overlay district.
- (1) The Floodplain Management District (FMD), also referred to herein as "Floodplain District", as defined and described by this article shall be deemed an overlay district where applicable on any zoning district now or hereafter delineated on the Township Zoning Map.
  - (2) Should the Floodplain Management District be declared inapplicable to any parcel of land by reason of action by the Zoning Officer, the Zoning Hearing Board, or any court of competent jurisdiction, the zoning applicable to such parcel shall be deemed to be the underlying district in which the parcel is located, without consideration of the Floodplain Management District.
  - (3) Should the zoning of any parcel or any part thereof over which the Floodplain Management District is located be changed through any legislative or administrative actions or judicial discretion, such change shall have no effect on the Floodplain Management District unless such change was made with respect to the Floodplain Management District.
  - (4) It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Newtown Township unless the proposed work has been

reviewed for compliance with the provisions of this article by the Zoning Officer and a permit issued.

- (5) A compliance review shall not be required for minor repairs to existing buildings or structures.

B. Establishment of boundaries. The Floodplain Management District is defined and established as those areas of the Township subject to flooding as defined in the following enumerated subsections, with the most extensive of those areas described in the following subsections determining the outermost boundary of the Floodplain Management District:

- (1) All lands designated by the soil map symbols and mapping unit names shown on maps contained in the Soil Survey Report of Chester and Delaware Counties issued by the Soil Conservation Service (i.e., the Natural Resources Conservation Service (NRCS)) United States Department of Agriculture, dated May 1963 or later revision, as follows:

<b>Map Symbol</b>	<b>Mapping Unit Name</b>
We	Wehadkee silt loam
Ch	Chewacla silt loam
WoA, WoB, WoC	Worsham silt loam

- (2) All areas which have flooded within the last 100 years, as recorded or indicated by written or other objective records, such as surveys by the United States Army Corps of Engineers.
- (3) All areas which, by hydrological stream profile analysis conducted by a registered professional engineer or geologist are calculated to be inundated during a nominal one-hundred-year-frequency flood. Such analysis shall be required prior to the issuance of any permits if, after consultation with the Township Planning Commission and Township Engineer, the Zoning Officer has reason to believe that the applicant's property, or a portion thereof, is in such close proximity to a floodplain area as to be subject to inundation by a one-hundred-year-frequency flood. If the analysis demonstrates that the property or a portion thereof will not be subject to inundation, such permits as are required shall be considered for approval, but shall not be issued unless and until the applicant has complied with all other applicable provisions of this article and with all other applicable ordinances and regulations.
- (4) All areas of Newtown Township classified as special flood hazard areas (SFHAs) as identified by the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated November 18, 2009, prepared for the Township and issued by the Federal Emergency Management Agency (FEMA), including all digital data developed as part of the Flood Insurance Study, or most recent revision thereof.
  - (a) The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Newtown Township and declared to be part of this Code.

- (b) These areas shall consist of the following specific areas:
- [1] FW (Floodway area): the areas identified as "floodway" in the AE Area by the FIS and FIRM. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the FIS.
  - [2] FF (flood-fringe area): the remaining portions of the one-hundred-year floodplain in those areas identified as an AE Area with or without identified or delineated floodplain by the FIS and FIRM. The basis for the outermost boundary of this area shall be the one-hundred-year-flood elevations as shown in the flood profiles contained in the FIS.
  - [3] FA (general floodplain area): the areas identified as A Area by the FIS and FIRM for which no one-hundred-year-flood elevations have been provided. When available, information from other federal, state and other acceptable sources shall be used to determine the one-hundred-year elevation, as well as a floodway area, if possible. When no other information is available, the one-hundred-year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question. 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, computation, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.
- (5) All areas containing hydric soils as determined by the following hydric soil boundary short procedure:
- (a) A landowner, upon executing an agreement with the Township Board of Supervisors, may submit detailed soil profiles and a report to the Township Engineer for purposes of determining hydric soil classification and the boundary of the Floodplain Management District.
  - (b) If the Township Engineer and the landowner agree that the site-specific information supplied by the landowner indicates an accurate classification of the soils, then the Township Board of Supervisors will accept the extent of hydric soil as the boundary of the Floodplain Management District if not in conflict with the floodplain area and the community-identified flood hazard areas.
- (6) All areas of Newtown Township classified as special flood hazard areas (SFHAs).
- (7) Community-identified flood hazard areas, which are those areas where the Township has identified local flood hazard or ponding areas based on



historical data and records, or has delineated and adopted on a Local Flood Hazard Map using best available topographic data and locally derived information such as flood of record, historic high water marks, soils or approximate study methodologies.

- (8) Areas not reflected above, but which may be subject to inundation. These areas shall be identified by field survey and by hydrologic and hydraulic calculation and shall be subject to the review and approval of the Township Engineer, who shall make the determination as to the outermost boundary. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or geologists, 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.

C. Boundary revision and disputes.

- (1) Studies used to establish the boundaries of the Floodplain Management District will be available in the Township Municipal Building for reference.
- (2) The boundaries of the Floodplain Management District may be revised or modified by the Board of Supervisors from time to time upon recommendation by the Township Engineer based upon detailed engineering studies or information provided by a qualified agency or person that documents the need for such revision. However, prior to any such change, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, the Township will notify FEMA of the changes by submitting technical or scientific data.
- (3) Whenever there is a difference between any map setting forth the Floodplain Management District or a portion thereof and the data contained in the studies, the data contained in the studies shall determine the boundary of the Floodplain Management District.
- (4) Should a dispute with respect to the boundaries of the Floodplain Management District arise, an initial determination of the boundaries shall be made by the Zoning Officer after review and comment on the boundary dispute by the Township Engineer.
- (5) Any party aggrieved by a decision of the Zoning Officer as to the boundaries of the Floodplain Management District may appeal the decision to the Zoning Hearing Board as provided by this chapter. The burden of proof in such an appeal shall be on the appellant.
- (6) Insofar as various natural conditions, including areas forming the Floodplain Management District, may change, such changes may be determined by detailed on-site survey techniques and hydrologic and hydraulic studies.
- (7) The Zoning Hearing Board shall determine whether a proposed use is within the Floodplain Management District upon appeal from a decision of the Zoning Officer.

- (8) The Zoning Hearing Board may consider the findings of a detailed on-site survey and hydrologic and hydraulic studies presented by the landowner and/or applicant, and other evidence presented by the landowner and/or applicant and other parties recognized by the Zoning Hearing Board who may support or oppose the decision of the Zoning Officer.
- (9) All changes to the boundaries of the Floodplain Management District are subject to the review and approval of the Federal Insurance Administrator.
- (10) An applicant shall pay all fees for processing applications and shall reimburse the Township for all professional fees and costs of reviews and reports prepared in reviewing a dispute of the Floodplain Management District boundary.

**§ 172-100.15. Use and activity within district.**

A. Permitted uses. The following uses shall be permitted in the Floodplain Management District provided disturbance to any existing woodlands and degradation of water quality are minimized to the greatest extent practicable, and subject to applicable elevation and floodproofing regulations:

- (1) Agriculture uses, excluding structures, such as farming, cultivation and harvesting of crops according to recognized soil conservation practices, which shall in no case cause alluvial deposits to build up in watercourses or cause undue erosion to the floodplain management.
- (2) Pasture and grazing land, excluding structures.
- (3) Outdoor plant nursery or orchard, excluding structures.
- (4) Forestry, lumbering and reforestation, according to recognized soil conservation practices, excluding storage and mill structures.
- (5) Recreation uses, such as a park, day camp, picnic grounds, tent camping, golf course, hiking and riding trails, hunting, fishing, and swimming areas, excluding buildings.
- (6) Game farm and fish hatchery, excluding buildings.
- (7) Wildlife sanctuary, woodland or nature preserves and arboretum, excluding structures.

B. Special exception uses. The following uses in the Floodplain Management District may be approved by special exception by the Zoning Hearing Board upon application, review and comment by the Township Planning Commission and the Township Engineer, and hearing before the Zoning Hearing Board:

- (1) As an area for front, side or rear yards and required lot area for any district, provided that such yards are not to be used for on-site sewage disposal systems or for non-wire fences or any other structure; however, no more than half of any required yard setback area on a lot may extend into the Floodplain Management District, and no more than 1/4 of the required minimum lot area for any lot may extend into the Floodplain Management District, provided that

no building or structure and no sanitary drainage field shall be placed within the Floodplain Management District.

- (a) Inclusion of Flood Management District land as part of lots in order to meet minimum lot area or yard requirements is contingent upon complying with the objectives and standards set forth in the specific intent of this article and with any other pertinent municipal regulation.
  - (b) If such compliance cannot be shown, the area within the Floodplain Management District shall not be considered for purposes of determining lot areas or yard requirements.
- (2) Roadways serving as corridor crossings, road and parking areas to serve other permitted uses in the Floodplain Management District, or roads where required by the regulations for any contiguous district.
  - (3) Utility transmission lines.
  - (4) Storm and sanitary sewers and sewage pumping stations.
  - (5) Sealed public water supply wells and water pipelines.
  - (6) Dams, bridges and culverts approved by the Commonwealth of Pennsylvania, Department of Environmental Protection, any other governmental agency having regulatory or advisory jurisdiction over the watershed in question.
  - (7) Grading, provided that the effect is not to substantially alter the effective cross-sectional profile of the stream basin, including the floodplain, at the point of the proposed use, provided that a detailed engineering study shall accompany any application for a special exception on this ground and must be approved by the Department of Environmental Protection, and any other governmental agency having regulatory or advisory jurisdiction.
- C. Prohibited uses. Any use or activity not specifically permitted herein or authorized as a special exception shall be prohibited within the Floodplain Management District.
- (1) The following uses and activities are specifically prohibited in the Floodplain Management District and no variance shall be granted because the uses and activities have been identified as being dangerous to human life or posing a special hazard in a floodplain:
    - (a) Public and private hospital and medical facilities.
    - (b) Public and private nursing homes, and continuing care retirement communities.
    - (c) Jails, penitentiaries, and detention centers.
    - (d) Mobile and manufactured home parks and subdivisions, and substantial improvements to such parks and subdivisions.
    - (e) Any wastewater facility not specifically permitted by the Newtown Township Wastewater Facilities Plan for operation in a floodplain.

- (f) The storage, manufacture, or use of any material, natural or otherwise, especially including, but not limited to, the following hazardous substances:
- [1] Acetone.
  - [2] Ammonia.
  - [3] Benzene.
  - [4] Calcium carbide.
  - [5] Carbon disulfide.
  - [6] Celluloid.
  - [7] Chlorine.
  - [8] Hydrochloric acid.
  - [9] Hydrocyanic acid.
  - [10] Magnesium.
  - [11] Nitric acid and oxides of nitrogen.
  - [12] Petroleum products (gasoline, fuel oil, etc.).
  - [13] Phosphorus.
  - [14] Potassium.
  - [15] Sodium.
  - [16] Sulphur and sulphur products.
  - [17] Pesticides (including insecticides, fungicides, and rodenticides).
  - [18] Radioactive substances, insofar as such substances are not otherwise regulated.
  - [19] Other uses as may be defined as "hazardous" by the Pennsylvania Department of Community and Economic Development or the Department of Environmental Protection.
- (g) Junkyard or storage yard.
- (h) Commercial or industrial lot for the exhibition of goods, such as automobiles or other products for sale or distribution.
- (i) Removal of site vegetation in any manner without a Township-approved plan for erosion and sedimentation control.
- (j) Any construction or development or construction that would cause any increase in the one-hundred-year base flood elevation within any floodway, as demonstrated through hydrologic and hydraulic analysis

performed in accordance with standard engineering practice.

- (k) Any construction or development that would be located within the area measured 50 feet landward from the top-of-bank of any watercourse.
- (2) The following uses are specifically prohibited in the Floodplain Management District although a variance may be granted by the Zoning Hearing Board for any of these uses in accordance with the requirements and provisions of this chapter and Pennsylvania law; and upon review and comment on the variance application by the Township Planning Commission and the Township Engineer.
  - (a) Construction, enlargement or expansion of all freestanding structures and buildings, with the exception of dams, bridges and culverts as approved by the Pennsylvania Department of Environmental Protection.
  - (b) The alteration or relocation of the course of flow of any watercourse, with the exception of stream channel improvements approved by the Pennsylvania Department of Environmental Protection.
    - [1] A variance may be granted by the Zoning Hearing Board to alter or relocate a watercourse after review and comment on the variance application by the Township Planning Commission and the Township Engineer, and the approval of the alteration or relocation by the Pennsylvania Department of Environmental Protection and any other governmental agency with applicable jurisdiction.
    - [2] All adjacent municipalities shall be notified prior to the alteration or relocation of a watercourse. Copies of such notification shall be sent to the Federal Emergency Management Agency. The flood-carrying capacity within the altered or relocated portion shall be maintained.
  - (c) Private water supply wells.
  - (d) Placement of fill, including the deposit of topsoil and the grading thereof; excavation of soil and rock; grading or regrading of land; and the construction of retaining walls. A variance application for such use shall be accompanied by a plan indicating the fill or material proposed to be deposited and how such fill or other materials will be protected against erosion by the use of riprap, vegetation or bulkheads.
  - (e) Encroachment upon any watercourse, with the exception of dams, bridges and culverts as approved by the Pennsylvania Department of Environmental Protection and the Zoning Hearing Board through special exception approval.
  - (f) Clearing of all existing vegetation, except where such clearing is necessary to prepare land for an approved use and where the effects of these actions are mitigated by the establishment of cover vegetation.
  - (g) Application of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards.

(h) Stormwater management facilities.

D. Existing and nonconforming structures and uses.

- (1) The provisions of this article 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 this article and the provisions of this chapter with respect to nonconforming uses shall apply.
- (2) Damaged existing structures. Structures located within the Floodplain Management District may be rebuilt if destroyed by fire or other catastrophe, provided that the reconstruction shall be in compliance with the floodproofing or elevation requirements of this article and, if located in the floodway, shall not result in an increase in the base flood elevation. If fill is used to raise the finished surface of the lowest floor two feet above the base flood elevation, the fill shall be placed as specified by this article.
- (3) Improvement and reconstruction of existing structures. The following provisions shall apply whenever any expansion, enlargement, or substantial improvement is made to an existing structure located within the Floodplain Management District, or an existing structure within the Floodplain Management District is reconstructed:
  - (a) Any modification, alteration, or improvement, of any kind to an existing structure, to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this article.
  - (b) No expansion, enlargement, substantial improvement, or reconstruction of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.
  - (c) No expansion, enlargement, substantial improvement, or reconstruction of an existing structure shall be allowed within any AE Area without floodway that would, together with all other existing and approved development, increase the BFE more than one foot at any point.
  - (d) No expansion, enlargement, substantial improvement, or reconstruction of an existing structure shall be undertaken in the direction of the nearest watercourse on the property.
  - (e) No expansion, enlargement, substantial improvement, or reconstruction of an existing structure shall be permitted unless two means of access are provided across the property to the existing structure, and an evacuation plan indicating alternate vehicular access and escape routes is prepared and submitted to the Township.
- (4) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this article must comply with all requirements that do not preclude the structure's continued designation as historic. Any variance from the requirements of this article will be the minimum necessary to preserve the historic character and design of the historic

structure.

- (5) Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this article.
- E. Horizontal floodplain buffer area. Uses and/or activity in the area adjacent to the Floodplain Management District shall be in accordance with the regulations and requirements of this article and the zoning districts in which that area exists. However, no building or structure of any nature, and no work such as permanent filling or excavation shall be permitted within a horizontal floodplain buffer area, established at two feet above the base flood elevation. The buffer may be part of any lot to meet lot area and yard requirements. Said buffer shall be noted on any plan as "horizontal floodplain buffer area."

**§ 172-100.16. Application for zoning permit, conditional use, or variance.**

A. Zoning permits.

- (1) In the Floodplain Management District, a zoning permit shall be required for any new or change of land use, including but not limited to construction or alteration of buildings and structures for which a building permit is required, subdivision and land development, streets and other paving, utilities, mining, dredging, filling, grading, excavating or drilling operations, and the storage of materials and equipment.
- (2) A zoning permit may be issued in the form of a building permit, use and occupancy permit, zoning certification, or other final approval as determined by the Zoning Officer.

B. Application for a zoning permit:

- (1) Application for a zoning permit shall be filed with the Zoning Officer, who shall make an initial determination with respect to the application and whether a variance or special exception is required.
- (2) If a variance or special exception is required, then the Zoning Officer will provide the applicant with a determination of the zoning relief required and advise the applicant that an application for a variance shall be forwarded to the Zoning Hearing Board, along with required studies or information and the findings of the Zoning Officer.
- (3) The Zoning Officer and Building Code Official shall review applications and may consult with the Township Engineer to determine if all other necessary governmental permits such as those required by state and federal laws have been obtained.

C. Content of application for a zoning permit.

- (1) Applications shall include five copies of all required information plus any other pertinent information as may be required by the Zoning Officer.
- (2) Applications shall be made on forms supplied by the Township and shall

contain the following:

- (a) Name and address of applicant.
  - (b) Name and address of owner of land on which proposed construction is to occur.
  - (c) Name and address of contractor.
  - (d) Site location including address.
  - (e) Listing of other permits or relief required.
  - (f) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before flood damage occurred as applicable.
- (3) If any proposed construction or development is located entirely or partially within the Floodplain Management District, applicants shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that:
- (a) The proposed use is consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable laws and regulations.
  - (b) Utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.
  - (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
  - (d) Structures will be anchored to prevent floatation, collapse, or lateral movement.
  - (e) Building materials are flood-resistant.
  - (f) Appropriate practices to minimize flood damage have been used.
  - (g) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.
- (4) Applications shall include a location map, using a scale no smaller than one inch being equal to 1,000 feet, identifying the location and surrounding area of the proposed work or use.
- (5) Applications shall include a plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 50 feet or less, showing the following:
- (a) North arrow, scale, and date.
  - (b) Topographic contour lines based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of one foot.



- (c) For all watercourses, the centerline and bottom of stream and top of bank elevations.
  - (d) The location of the finish floor elevation of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development, and including all property and lot lines including dimensions, and the size and the site expressed in acres or square feet.
  - (e) The location and elevation of all existing streets, drives, and other accessways, and the location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations.
  - (f) The location and elevation 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.
  - (g) The location and elevation of the Floodplain Management District boundaries, information and spot elevations concerning the base flood elevation, and information concerning the flow of water including direction and velocities.
  - (h) The location and elevation of all proposed buildings, structures, utilities, and any other improvements.
  - (i) Any other information which the Township considers necessary for adequate review of the application, including but not limited to site cross sections.
- (6) Applications shall include plans of all proposed buildings, structures and other improvements, drawn at a scale of one inch being equal to 50 feet or less 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 the Uniform Construction Code.
  - (d) Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate.
  - (e) For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor.
  - (f) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood elevation.

- (g) Detailed information concerning any proposed floodproofing measures.
  - (h) Cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths.
  - (i) Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades.
  - (j) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.
- (7) Applications shall include the following additional data and documentation:
- (a) When required by the Zoning Officer, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation; and detailed information concerning any proposed floodproofing measures and corresponding elevations.
  - (b) Documentation, certified by a registered professional engineer or geologist, to show that the cumulative effect of any proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation.
  - (c) Documentation, 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 elevation. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
  - (d) Detailed information needed to determine compliance with safeguards with respect to development which may endanger human life, including:
    - [1] The amount, location and purpose of any dangerous materials or substances 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 during a base flood.
    - [3] A statement certified by a registered professional engineer or geologist that 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 elevation, including a statement concerning the effects such pollution may have on human life.
    - [4] A statement certified by a registered professional engineer or geologist that contains a complete and accurate description of the effects the proposed development will have on base flood elevation

elevations and flows.

[5] A statement certified by a registered professional engineer that 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 elevations and flows.

[6] Where any excavation or grading is proposed, a plan to implement and maintain erosion and sedimentation control.

[7] 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.

(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 to implement and maintain erosion and sedimentation control.

(8) Applications shall be accompanied by the prescribed fee, payable to the Township.

D. Additional permit requirements for construction. In addition to the building permit application requirements normally required by the Township, the Township Building Code Official shall require the following specific information to be included as part of an application for a building permit in the Floodplain Management District:

(1) For structures to be elevated:

(a) A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.

(b) A determination of elevations of the existing grade, proposed finished grade and lowest floors certified by a registered professional engineer.

(c) Plans showing the method of elevating the proposed structure, including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the Building Code Official, these plans shall be prepared by a registered professional engineer or architect.

(d) Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to an elevation at least 1 1/2 feet above the base flood elevation at the building site.

(2) For structures to be floodproofed:

(a) Plans showing details of all floodproofing measures, prepared by a registered professional engineer and showing the size of the proposed

structure and its relation to the lot where it is to be constructed.

- (b) A determination of elevations of existing grades, proposed finished grades, lowest floors and floodproofing limits, certified by a registered professional engineer.
  - (c) A certificate prepared by a registered professional engineer who prepared the plans that the structure in question, together with attendant utility and sanitary facilities, is designated so that:
    - [1] Below an elevation two feet above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water.
    - [2] The structure will withstand the hydrostatic, hydrodynamic, buoyant, impact and other forces resulting from the flood depths, velocities, pressures and other factors associated with the base flood elevation.
- E. Special exception and variances. In addition to the information required for a zoning permit application, an application for special exception or a variance shall be accompanied by the following:
- (1) Detailed engineering studies indicating the effects on drainage and streams on all affected or adjacent properties as well as the subject property.
  - (2) An application for amending the boundaries of the Floodplain Management District if the boundaries will be affected by the proposed special exception or variance.
  - (3) A FEMA elevation certificate with a determination of elevations of the existing grade, proposed finished grade, base flood elevation and lowest floor (including basement) certified by a registered professional engineer.
  - (4) Applications shall be accompanied by the prescribed fee, payable to the Township.
- F. Other agency review.
- (1) Review by County Conservation District. A copy of all applications and plans for any proposed construction or development in the Floodplain Management District shall be submitted by the applicant to the County Conservation District for review and comment to the Zoning Officer prior to the issuance of a permit.
    - (a) The applicant shall provide the Zoning Officer with proof of submission to the County Conservation District.
    - (b) The comments and recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan of work or use.
  - (2) Review of application by others. The Zoning Officer may require an applicant to submit a copy of all plans and applications for any proposed construction or development in the Floodplain Management District to be any other

appropriate agencies and/or individuals (e.g., Planning Commission, Municipal Engineer, etc.) for review and comment.

- (a) The applicant shall provide the Zoning Officer with proof of submission to any other appropriate agencies and/or individuals.
- (b) The comments and recommendations of the reviewing agency or individual shall be considered by the Zoning Officer for possible incorporation into the proposed plan of work or use.

G. Changes.

- (1) After the issuance of a permit by the Zoning Officer, 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 Zoning Officer.
- (2) Requests for any such change shall be in writing, and shall be submitted by the applicant to Zoning Officer for consideration.

**§ 172-100.17. Standards for special exception or variance.**

- A. The Zoning Hearing Board may request the review and recommendations of the Township Engineer, Township Planning Commission, County Planning Commission, and/or the County Conservation District at least 30 days prior to a hearing on an application for special exception or variance with respect to a property in the Floodplain Management District.
- B. The Zoning Hearing Board shall exercise discretion in allowing only those uses which are substantially in accord with the stated intent of this chapter and article. An applicant shall demonstrate the following:
  - (1) The effect of the use shall not substantially alter the cross-section profile of the watercourse and floodplain at the location of the proposed use.
  - (2) Lands abutting the watercourse, both upstream and downstream, shall not be unreasonably adversely affected by the proposed use.
  - (3) The general welfare or public interest of Newtown Township or other municipalities in the same watershed shall not be adversely affected.
  - (4) With respect to variance applications, the strict enforcement of this article would create undue hardship by denying a reasonable use of an existing lot which is situated either wholly or partially in the Floodplain Management District.
- C. In any instance where the Zoning Hearing Board is required to consider a request for a special exception or variance from the provisions of this article, the Board shall, to the extent permitted by law, consider the following factors, where appropriate, to be established by the applicant, who shall have the burden of proving that the criteria and conditions can be satisfied:
  - (1) The danger to life and property due to increased flood heights or velocities

caused by encroachments. No variance or special exception shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one-hundred-year-flood elevation.

- (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to avoid causing disease, contamination and unsanitary conditions.
  - (4) The susceptibility of the proposed use to flood damage and the effect of such damage on the owner.
  - (5) The availability of alternative locations not subject to flooding for the proposed use.
  - (6) The compatibility of the proposed use with existing and foreseeable uses.
  - (7) The relationship of the proposed use to the comprehensive plans and floodplain management program for the area.
  - (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (9) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwater expected at the site.
  - (10) Such other factors which are relevant to the purposes of this article.
- D. An affirmative decision shall not be issued by the Zoning Hearing Board for an application within the designated floodway unless the effect of such proposed activity on flood heights is fully offset by accompanying stream improvements.
- E. The Zoning Hearing Board shall notify the applicant, in writing, that the issuance of a decision to allow construction of a structure below the base flood elevation will result in increased premium rates for flood insurance, and such construction below the base flood elevation increases risk to life and property.
- F. The Township shall maintain a record of all decisions and notifications, including jurisdiction for their issuance and the Township shall report such decisions to the appropriate agencies.
- G. Elevation and floodproofing of structures.
- (1) Any new structures permitted by special exception or variance shall be constructed and placed on the land so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the watercourse flow and base flood elevation. Such structures shall be elevated in accordance with the provisions contained in this article and the Uniform Construction Code.
  - (2) Any new structure permitted as a special exception or by variance shall be floodproofed in accordance with the provisions contained in this article and the Uniform Construction Code.

- (a) All new structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse or lateral movement.
- (b) All new structures shall be constructed so as to prevent the entrance of floodwaters into the water supply and waste treatment systems as well as other utility and facility systems. In addition, waste treatment systems shall be designed to minimize or eliminate discharges from the systems into the floodwaters.
- (3) Any additions to existing structures permitted as a special exception or by variance shall be elevated to the greatest extent possible according to the provisions contained in this article and the Uniform Construction Code. For nonresidential structures only, if any portion of said addition is not elevated above the BFE, said addition shall be floodproofed in accordance with the provisions contained in this article and the Uniform Construction Code. All residential additions must be so elevated.
- (4) Any new structure permitted as a special exception or by variance shall be provided with two means of access across the property to the structure, one of which shall serve as an alternate vehicle access outside of the Floodplain Management District.
- (5) For any new structure permitted as a special exception or by variance shall have filed with the Township and other appropriate disaster preparedness authorities an evacuation plan indicating alternate vehicular access to and escape routes from the structure.

**§ 172-100.18. Variance conditions.**

- A. If compliance with the elevation or floodproofing requirements stated in this article would result in an exceptional hardship for a prospective builder, developer or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirement. Relief issued shall conform to the following conditions:
  - (1) If granted, a variance shall involve only the least modification necessary to provide relief.
  - (2) In granting any variance, the Zoning Hearing Board shall attach reasonable conditions and safeguards necessary to protect the public health, safety, and welfare of the Township.
  - (3) Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
    - (a) The variance may result in increased premium rates for flood insurance.
    - (b) The variance may increase risks to life and property.
  - (4) In considering any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
    - (a) That there is good and sufficient cause for the variance, including:

- [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 property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
  - [2] That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - [3] That such unnecessary hardship has not been created by the applicant.
  - [4] That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (b) That failure to grant the variance would result in exceptional hardship to the applicant.
- (c) That the granting of the variance will:
- [1] Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense;
  - [2] Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- (5) A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted shall be submitted as required by FEMA.
- (6) Any new residential structure or substantial improvement of a residential structure which cannot be elevated to two feet above the base flood elevation shall be floodproofed as specified herein and in accordance with the requirements established for the W1-W2 classes by the Office of the Chief of Engineers, United States Army, Publication No. EP 1165 2 314, June 1972, as amended.
- (7) Any modification, alteration, reconstruction or improvement of any kind to an existing residential structure, to an extent or amount of less than 50% of its market value, which cannot be elevated or floodproofed to the base flood elevation shall be elevated to the maximum extent possible or floodproofed for the remaining height to the base flood elevation for the modified, altered,



reconstructed or improved portion.

- (8) Any new nonresidential structure or substantial improvement of a nonresidential structure which cannot be elevated or floodproofed to at least two feet above the base flood elevation shall be elevated to the maximum extent possible or floodproofed for the remaining height to at least two feet above the base flood elevation.
- (9) Any modification, alteration, reconstruction or improvement of any kind to an existing nonresidential structure, to an extent or amount of less than 50% of its market value, which cannot be elevated or floodproofed to at least two feet above the base flood elevation shall be elevated to the maximum extent possible and floodproofed for the remaining height to the base flood elevation.
- (10) Any new construction, development, uses or activities allowed by variance within the Floodplain Management District shall be undertaken in strict compliance with the provisions contained in the Township Code and any other applicable codes, ordinances and regulations. In addition, when such development is proposed within the area measured 50 feet landward from the top of bank of any watercourse, a permit shall be obtained from the Department of Environmental Protection.

**§ 172-100.19. Special use requirements.**

A. Alteration or relocation of watercourse.

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

B. Special requirements for manufactured homes.

- (1) Within the Floodplain Management District, manufactured homes shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- (2) Where permitted within the Floodplain Management District, manufactured homes, and any improvements thereto, shall be:
  - (a) Placed on a permanent foundation.
  - (b) Elevated so that the lowest floor of the manufactured home is at least two

feet above the base flood elevation.

- (c) Anchored to resist flotation, collapse, or lateral movement.
  - (3) Installation of manufactured homes shall be done in accordance with the manufacturer's installation instructions as provided by the manufacturer.
  - (4) All manufactured homes and any improvements thereto shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the following:
    - (a) Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations for units 50 feet or more in length, and one additional tie per side for units less than 50 feet in length.
    - (b) Frame ties shall be provided at each corner of the manufactured home, with five additional ties per side at intermediate locations for units 50 feet or more in length, and four additional ties per side for units less than 50 feet in length.
    - (c) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds and resisting a minimum wind velocity of 90 miles per hour.
  - (5) All manufactured homes and any improvements thereto shall be elevated in accordance with the following requirements:
    - (a) The stands or lots shall be elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at least two feet above the base flood elevation.
    - (b) Adequate surface drainage shall be provided.
    - (c) Adequate access for a hauler shall be provided.
    - (d) Where pilings are used for elevation, the lot shall be large enough to permit steps; piling foundations shall be placed in stable soil not more than 10 feet apart; reinforcement shall be provided for pilings that will extend for six feet or more above the ground level.
  - (6) An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the Township and other appropriate disaster preparedness authorities for manufactured home subdivisions.
  - (7) Placement of a manufactured home on a lot shall require a building permit.
- C. Special requirements for recreational vehicles.
- (1) Except for storage facilities for which a variance has been granted by the Zoning Hearing Board, recreational vehicles in the Floodplain Management District shall:
    - (a) Be on the site for fewer than 180 consecutive days; and

- (b) Be fully licensed and ready for highway use.

**§ 172-100.20. Design and construction standards.**

A. Placement of buildings and structures.

- (1) 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 floodwater.
- (2) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent floatation, collapse, or lateral movement.
- (3) Within the Floodplain Management District, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection.

B. Elevation and floodproofing requirements.

(1) Residential structures.

- (a) All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation.
- (b) Any modification, alteration, reconstruction or improvement of any kind to an existing residential structure to an extent or amount of less than 50% of its market value shall be elevated or floodproofed to the base flood elevation.
- (c) Existing residential structures located in a designated floodway shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying stream improvements.

(2) Nonresidential structures.

- (a) All new construction and substantial improvements of nonresidential structures shall have the lowest floor (including basement) elevated or floodproofed to at least two feet above the base flood elevation. The floodproofing measures shall ensure that the structure is watertight with walls substantially impermeable to the passage of water and has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. 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.
- (b) Any modification, alteration, reconstruction or improvement of any kind to an existing nonresidential structure to an extent or amount of less than

50% of its market value shall be elevated or floodproofed to the base flood elevation.

- (c) Existing nonresidential structures located in a designated floodway shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying stream improvements.
- (3) Space below the lowest floor.
- (a) Fully enclosed space below the lowest floor (including basement) is prohibited.
  - (b) Partially enclosed space below the lowest floor (excluding basement) that 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 floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space" also includes crawl spaces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
    - [1] A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
    - [2] The bottom of all openings shall be no higher than one foot above grade.
    - [3] Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (4) Accessory structures.
- (a) Structures accessory to a principal building or use 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 the storage or support of tools, material or equipment related to the principal use or activity.
    - [2] Floor area shall not exceed 100 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 floodwaters.
    - [5] Power lines, wiring and outlets will be at least 1 1/2 feet above the one-hundred-year flood elevation.

- [6] With the exception of alternative energy generation or conversion equipment, permanently affixed utility equipment and appliances, including but not limited to furnaces, heaters, washers and dryers, are permitted only at elevations above the base flood elevation.
  - [7] Sanitary facilities are prohibited.
  - [8] The structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwaters 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 square inch for every square foot of enclosed space.
    - [b] The bottom of all openings shall be no higher than one 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.
- C. Fill. If fill is used to raise the finished surface of the lowest floor two feet above the base flood elevation, the fill shall be placed as follows:
- (1) Fill shall extend beyond a structure for a sufficient distance to provide acceptable access for the intended use of the structure.
  - (2) Fill shall extend laterally 15 feet beyond the building line from all points of a residential structure.
  - (3) Fill shall extend laterally 15 feet beyond the building line, at a minimum of 25% of the perimeter of a nonresidential structure.
  - (4) Fill material shall consist of soil or rock materials only.
  - (5) Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring or settling.
  - (6) Fill slopes shall be no steeper than one vertical to two horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Township Engineer.
  - (7) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.
- D. Drainage facilities. Drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure 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.

- E. Utility, electrical, and mechanical systems.
- (1) 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 floodwaters.
    - (b) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
    - (c) On-site sewer disposal systems are prohibited in a floodplain.
  - (2) Equipment. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall be located above the base flood elevation.
  - (3) Fuel supply systems. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.
  - (4) 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.
  - (5) All air ducts, large pipes, storage tanks, and other similar objects or components located below the flood elevation shall be securely anchored or affixed in accordance with accepted engineering practices to prevent floatation.
- F. Streets. The finished elevation of all new streets shall be no more than one foot below the base flood elevation.
- G. Storage. No materials that are buoyant, flammable, explosive or in time of flooding could be injurious to human, animal or plant life shall be stored below an elevation of one foot above base flood elevation.
- H. Electrical components.
- (1) Electrical distribution panels shall be at least three feet above the base flood elevation.
  - (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.
  - (3) All electric water heaters, electric furnaces, electric air-conditioning and ventilating systems and other electrical equipment or apparatus shall be permitted only at elevations at least three feet above the base flood elevation.
- I. Floors, walls and ceilings.
- (1) Wood flooring used at or below the base 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.

- (2) Plywood used at or below the base flood elevation shall be of a marine or water-resistant variety.
- (3) Walls and ceilings at or below the base flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
- (4) Windows, doors, and other components at or below the base flood elevation shall be made of metal or other water-resistant material.

J. Paints and adhesives.

- (1) Paints and other finishes used at or below the base flood elevation shall be of marine or water-resistant quality.
- (2) Adhesives used at or below the base flood elevation shall have a bonding strength that is unaffected by inundation (i.e., marine or water-resistant quality).
- (3) All wooden components (doors, trim, cabinets, etc.) shall be sealed with a marine or water-resistant quality or similar product.

K. Uniform Construction Code coordination. The standards and specifications contained in the Uniform Construction Code as adopted in Pennsylvania shall apply to construction in the Floodplain Management District, to the extent that they are more restrictive and/or supplement the requirements of this article.

L. Post-construction documentation.

- (1) Technical or scientific data shall be submitted to FEMA for a letter of map revision (LOMR) within six months of the completion of any new construction, development, or other activity resulting in changes in the base flood elevation. A LOMR or conditional letter of map revision (CLOMR) is required for:
  - (a) Any development that causes a rise in the base flood elevations within the floodway; or
  - (b) Any development occurring in an area without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
  - (c) Alteration or relocation of a watercourse, including but not limited to installing culverts and bridges.

**§ 172-100.21. Duties and responsibilities of Floodplain Administrator.**

- A. To ensure that flood damage controls are being employed in all new construction and improvements within the Floodplain Management District, the Zoning Officer as the Floodplain Administrator shall provide an applicant information concerning the location of the district boundaries relative to the proposed construction, improvements, or use and the water surface elevation of the one-hundred-year flood at the proposed site. The source of the information concerning the district boundary

shall be the Flood Insurance Study for the Township as prepared by the Federal Emergency Management Agency, Federal Insurance Administration, and other sources as appropriate according to those cited in this article regarding the Floodplain Management District for the Township. The source for the information concerning the base flood elevation shall be the Flood Insurance Study.

- B. The Zoning Officer shall issue a zoning permit only after it has been determined that the proposed work or use to be undertaken will be in conformance with the requirements of this article and all other applicable laws, regulations, codes and ordinances.
- C. Prior to the issuance of any permit, the Zoning Officer shall review an application for a permit to determine if all other necessary government permits required by state and federal laws have been obtained. No permit shall be issued until this determination has been made.
- D. In the case of existing structures, prior to the issuance of any permit, the Zoning Officer shall review the history of repairs to the subject structure, so that any repetitive loss issues can be addressed before a permit is issued.
- E. During the construction period, the Zoning Officer 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 laws and regulations. The Zoning Officer shall make as many inspections during and upon completion of the work as are necessary.
- F. The Zoning Officer shall have the authority to enter any building, structure, premises or development in the Floodplain Management District, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this article.
- G. In the event the Zoning Officer discovers that the work or use 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 Zoning Officer shall revoke the applicable permits and report such fact to the Township Manager and Board of Supervisors for whatever action it considers necessary.
- H. The Zoning Officer shall maintain in perpetuity all records associated with the requirements of this article including, but not limited to, permitting, inspection and enforcement.

**§ 172-100.22. Start of construction.**

- A. Unless otherwise specified under the UCC, work on proposed construction shall begin within 180 days after the date of permit issuance and shall be completed within 12 months after the date of permit issuance or the permit shall expire unless a time extension is granted, in writing, by the Zoning Officer.
- B. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Zoning Officer to approve such a request and the original permit is compliant with the ordinance and FIRM/FIS in effect at the time the extension is granted.



- C. Placards. In addition to a permit, the Zoning Officer shall issue a placard that shall be displayed on the premises during the time construction is in progress. The placard shall show the number of the permit, the date of its issuance, and be signed by the Zoning Officer.

**§ 172-100.23. Enforcement; violations and penalties.**

- A. Notices. Whenever the Zoning Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this article, or of any regulations adopted pursuant thereto, the Zoning Officer shall give notice of such alleged violation as hereinafter provided.

- (1) Notices shall be in writing.
- (2) A notice shall include a statement of the reasons for its issuance.
- (3) A notice shall allow a reasonable time not to exceed a period of 30 days for the performance of any act required for compliance.
- (4) A notice shall 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 authorized method.
- (5) A notice shall contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.

- B. Penalties.

- (1) Any person who fails to comply with any or all of the requirements or provisions of this article or who fails or refuses to comply with any notice, order of direction of the Zoning Officer or any other authorized employee of the municipality shall be subject to the applicable penalties specified by this chapter.
- (2) In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this article.
- (3) The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time.
- (4) Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this article may be declared by the Board of Supervisors to be a public nuisance and abatable as such.

- C. Appeals. Any person aggrieved by any action or decision of the Zoning Officer concerning the administration of the provisions of this article may appeal to the Zoning Hearing Board as provided by this chapter for Zoning Hearing Board appeals.

**§ 172-100.24. Abrogation and greater restrictions.**

- A. This article supersedes any other conflicting provisions which may be in effect in the Floodplain Management District; however, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive.
- B. If there is any conflict between any of the provisions of this article, the more restrictive shall apply.

**§ 172-100.24.1. Special requirements for subdivisions and development.**

All subdivision proposals and development proposals containing at least 50 lots or at least five 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 and letter of map revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

ARTICLE XXC  
**Slope Conservation**

**§ 172-100.25. Purpose and intent.**

It is the purpose and intent of this section to provide for the slope conservation regulations as set forth in Chapter 134, Slope Conservation, and, accordingly, every provision therein is incorporated as though fully set forth herein.



ARTICLE XXD  
**Cluster Development Community Overlay District**  
**[Added 9-10-2018 by Ord. No. 2018-05<sup>31</sup>]**

**§ 172-100.26. Purpose; objectives.**

- A. It is the purpose of this article to encourage greater flexibility in the design and development of residential housing, while also encouraging the preservation of open space and creation of passive and active recreational amenities, by permitting the cluster development of residential housing as an alternative to conventional, single-family lot development or other residential lot requirements. In addition to the zoning objectives set forth in §§ 172-3 and 172-4, the specific objectives of this article are the following:
- (1) To encourage innovations in residential development so that the demand for housing may be met by greater variety in type, design and layout of dwellings;
  - (2) To encourage the conservation and preservation of open space, vistas, scenic roads, stream valleys, agricultural land, trees, natural topography and other natural resources and amenities;
  - (3) To provide increased flexibility in the land development regulations of the Township in order to encourage development that recognizes advances in the theory and practice of site planning, design, and green technology;
  - (4) To conserve land and preserve open space by allowing for reduced lot sizes;
  - (5) To encourage the use of ingenuity, imagination and sustainable design to produce residential developments which are in keeping with the objectives of the Township's Comprehensive Plan;
  - (6) To provide for cluster development communities in areas that are consistent with the goals of the Township's Comprehensive Plan, in particular Chapter Three, Land Use Plan, the Natural Resources Protection Plan and the Community Facilities Plan, and compatible with and protective of the existing character of the community, especially its natural features;
  - (7) To decrease or minimize the amount of impervious surfaces in site development;
  - (8) To implement stormwater infiltration measures integrated into the site design that will return water to the soil in excess of NPDES requirements for volume of infiltrated water where site and soil conditions allow, based upon soils testing and where suitable infiltration rates exist;
  - (9) To provide for on-site facilities and services which allow the residents of a cluster development community to minimize the necessity for automobile trips in their daily lives by encouraging on-site movement by foot or bicycle;
  - (10) To provide facilities, residential design and site layouts that encourage

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31. Editor's Note: This ordinance also repealed former Article XXD, Cluster Development Community Option, added 2-26-2007 by Ord. No. 2007-03.

cohesiveness and interaction among residents of a cluster development community;

- (11) To provide for private and public recreation, both active and passive, within the development tract; and
- (12) To contribute to the establishment of a community-wide trail and greenway system.

B. This article is also intended to implement § 604, Zoning Purposes, of the Pennsylvania Municipalities Planning Code<sup>32</sup> (MPC) insofar as this article is designed to promote, protect and facilitate coordinated and practical community development and proper density of population; the preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains; and to provide for the use of land within the municipality for residential housing of various dwelling types. This article is further intended to implement § 605, Classifications, of the MPC<sup>33</sup> insofar as this article is designed to encourage innovation and the promotion of flexibility, economy and ingenuity in development and for the purpose of authorizing increases in the permissible density of population or intensity of a particular use based upon expressed standards and criteria as set forth in this article.

### § 172-100.27. Definitions.

In addition to the definitions set forth in Article I, other definitions in Chapter 172 and common definitions, the following terms shall have the meanings specified below when used in this article:

**CLUSTER DEVELOPMENT COMMUNITY or CLUSTER DEVELOPMENT** — A form of residential development that concentrates buildings or lots on a portion or portions of a tract of land to allow the remaining land to be used for open space, recreation, and preservation of environmentally sensitive land. The concentration of lots is facilitated by a reduction in lot size, the permissible use of single-family detached, attached and semiattached residential dwelling units and the reduction of lot yard setbacks.

**COMMUNITY BUILDINGS** — Structures accessory to cluster development communities designed and used for the sole purpose of supporting the cluster development community, solely for use by the residents and their guests, or supporting services, such as management offices, recreational halls, club facilities, exercise facilities, post offices, dining facilities or pool houses.

**CONSTRAINED LAND** — Areas of land found in the Floodplain Conservation District, defined wetlands, areas of very steep slopes or associated with a stormwater management system.

**GROSS CLUSTER TRACT AREA** — The area of land contained within the legally described property lines of the tract upon which an application for a cluster development community development is submitted.

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32. Editor's Note: See 53 P.S. § 10604.

33. Editor's Note: See 53 P.S. § 10605.

NET CLUSTER TRACT AREA — The gross cluster tract area, excluding:

- A. Seventy-five percent of any land lying within the Floodplain Management District or located in wetlands;
- B. One hundred percent of areas of existing rights-of-way for streets, public or private utilities and areas of existing easements, including but not limited to storm drainage easements, sewage easements, easements of access, conservation easements and agricultural easements;
- C. Fifty percent of the land containing very steep slopes and 25% of the land containing steep slopes; and
- D. One hundred percent of surface water areas.

OPEN SPACE — A parcel, parcels or designated area of land or an area of water, or a combination of land and water, excluding stormwater basins, within a cluster development community site that has been or will be set aside and restricted from further development in perpetuity, whether dedicated to the Township or not, except as permitted under this article, and intended for the exclusive or nonexclusive use or enjoyment by residents of the development subject to the regulations of this section. The term "open space" means both private open space and public open space and shall include the buffer area. Open space shall not include any private yards, parking lots or street right-of-way. Access drives and parking may be provided only in association with an approved recreational use.

PRIVATE OPEN SPACE — Open space that is held in private ownership for public or private use of the residents of the cluster development.

PUBLIC OPEN SPACE — Open space that is dedicated to the Township for use by the public subject to the regulations of this section.

SEMIDETACHED BUILDING — A residential structure supporting two single-family dwelling units with one family living on each side of a vertical common wall.

**§ 172-100.28. District established; eligibility and design criteria.**

- A. The Cluster Development Community Overlay District is a zoning overlay district on those parcels in the R-1, R-1A, R-2 and R-3 zoning districts that have a gross cluster tract area of at least 25 acres, which permits, upon conditional use approval, the tract of land to be developed and used as a cluster development community in accordance with the regulations of this article.
- B. The regulations set forth in this article for an approved cluster development community shall supersede the regulations set forth in §§ 172-29 through 172-34 related to Residential Zoning Districts R-1, R-1A, R-2 and R-3.

**§ 172-100.29. Permitted uses; site and lot standards.**

- A. Subject to conditional use approval by the Board of Supervisors, cluster development communities may include the following uses or any combination of such uses:
  - (1) Single-family detached dwellings;

- (2) Single-family semidetached dwellings;
- (3) Townhouses, provided that no more than five such units shall be attached;
- (4) The following structures accessory to dwelling units:
  - (a) Attached or detached residential garages;
  - (b) Attached decks and patios;
  - (c) Shed structures for single-family detached and single-family semidetached dwellings, which shall be subject to the limitations and requirements of Article XXI, § 172-103;
  - (d) Fences as permitted by, and subject to the conditions and requirements of, § 172-104, except to the extent special exception approval is granted for a front yard fence, such fence shall not be a stockade type fence that blocks the view of the house from the street by police or emergency services; and
  - (e) Any accessory structure not expressly set forth herein is prohibited.
- (5) The following uses and structures accessory to a cluster development community:
  - (a) Community parking areas including parking lots and deck parking garages;
  - (b) Community buildings;
  - (c) Community swimming pools, playing fields, ball fields, tennis courts, putting greens and other similar active recreation use;
  - (d) Community walking, biking and horse riding trails and picnic areas for use of the residents of the community and their guests;
  - (e) Community greenhouses, gardens, patios and terraces, nature preserves, arboretums, and other similar passive recreational areas for use of the residents of the community and their guests;
  - (f) Maintenance and storage facilities for the cluster development community;
  - (g) Gatehouses, guard houses, card entry gates and other similar security-related structures and mechanical devices;
  - (h) Any other uses that are similar to those set forth in this subsection and that are customarily incidental to and related to a cluster development community, provided they are recognized on an approved land development plan;
  - (i) Fences as permitted by, and subject to the conditions and requirements of, § 172-104, except that fences may be constructed and maintained along the entire perimeter of the community provided that the fence is not a stockade type fence and does not completely obstruct the viewshed



from or into the community; and

(j) Any accessory use or structure not set forth herein is prohibited.

(6) Open space subject to §§ 172-100.30 and 172-100.31.

B. Regulations.

(1) Lot area and setback requirements.

(a) To allow maximum creativity and flexibility in the layout and design of residential units in development, there shall be no minimum lot area requirements applicable to individual dwelling units, provided all structures are constructed to meet all Township-adopted Fire Protection Codes, including Return Time Code, Chapter 88 and Building Codes, Chapter 69. However, each dwelling shall have the following setback requirements, whether or not the area of land in the setback is owned by the dwelling unit owner or the homeowners' association:

[1] A front yard setback which shall not be less than 20 feet from the front of the dwelling to the sidewalk, and if no sidewalk, the right-of-way line;

[2] A side yard setback(s) which shall not be less than 10 feet from the side of the dwelling to the lot line;

[3] A rear yard setback which shall not be less than 20 feet from the property line or 30 feet between primary dwelling structures;

[4] Accessory structures shall be set back a minimum of five feet from any property line.

(b) In addition to the above setback requirements, a dwelling or other building shall not be within 10 feet of an easement.

(2) Height regulations.

(a) The height of primary dwelling units, community buildings and deck parking shall be limited to the building heights set forth in the underlying zoning district.

(b) The maximum height of structures accessory to dwelling units and cluster development communities, other than community buildings, deck parking, and fences shall be the heights set forth in Article XXI, § 172-103.

(c) Fences shall not exceed six feet, except that to the extent special exception approval is granted for front yard fences per § 172-104, said fences shall not exceed four feet.

(3) Perimeter buffer areas. The cluster development community tract shall contain a perimeter buffer of 100 feet from all tract boundaries ("buffer areas"). Buffer areas shall be landscaped by, as determined by the Board of Supervisors, either retaining existing vegetative cover or by planting a combination of trees,

shrubbery and ground cover, in consideration of the impact on scenic views and the impacts of the development on adjacent residences. Perimeter areas not adjacent to residential lots are allowed to include internal access roads, sidewalks, pathways, gates, security devices, guard houses, gatehouses, fences, lighting, utility equipment and their facilities (excluding surface stormwater management facilities), and gateway signs that serve the cluster development community. Any gatehouses or guardhouses in the buffer shall be set back a minimum of 50 feet from any right-of-way line or tract boundary line.

- (4) Open space. A minimum of 50% of the gross cluster tract area, which shall not include more than 50% of constrained lands, shall be preserved as open space, subject to the requirements of §§ 172-100.30 and 172-100.31.
- (5) Dwelling density. The number of permitted dwelling units in a cluster development community shall be the equivalent of the base number of units rounded up to the nearest whole unit. The base number of units shall be calculated by dividing the net cluster tract area by the minimum lot area permitted per dwelling unit in the underlying zoning district. In lieu of this calculation, the developer may submit a conventional land development plan based on the lot area requirements of the underlying zoning district, and complying with all other zoning and SALDO requirements of the Township, and the base number shall equal the number of residential units that would have been permitted pursuant to that plan. An additional 10% of the base number of units, rounded up to the nearest unit, are permitted for each of the following; however, the total additional units above base number shall not exceed 20%:
  - (a) If dedication of open space for public use is accepted by the Township, solely in its discretion, as set forth in § 172-100.30D(2);
  - (b) Dedication of trails or trail easements for public use is accepted by the Township solely in its discretion;
  - (c) If the amount of open space provided in the gross tract area exceeds 55% of the gross tract area; and
  - (d) If the cluster development community is greater than 150 feet from a public sanitary sewer system, provision of public sewer services to the cluster development community.
- (6) Impervious coverage shall be limited to 40% of the net cluster tract area. Stormwater management facilities shall be designed in accordance with the proposed impervious coverage as set forth on the land development plan, plus an additional 20% to accommodate in-fill, in accordance with the limitations of the underlying zoning districts.
- (7) Minimum separation distance between structures shall be consistent with the Township's Building Code and Fire Prevention Code, or as set forth in this article, whichever is greater.
- (8) The site plan shall establish, where applicable, an upland buffer of vegetation

of at least 50 feet in depth adjacent to wetlands and surface water, including creeks, streams, springs, lakes and ponds.

- (9) The site plan shall accommodate and preserve features of historic, cultural or archaeological value and any features identified on the Township Historic Resources Map as may be adopted. Preserved historical dwellings shall not count toward the maximum number of dwelling units permitted.
  - (10) Sidewalks shall be included to promote a walkable neighborhood environment. Sidewalks shall be installed along the perimeter roadway(s) of the cluster development community and along roadways that are adjacent to any residence, structures accessory to residences and structures accessory to cluster development communities and open space within the community. Sidewalks along open space shall be on the open space side of the roadway.
  - (11) All cluster development communities shall be serviced by public water. All cluster development communities shall be serviced by public sewer unless waived by the Township Board of Supervisors, subject to all DEP and Act 537 requirements. If public sewer becomes available within 150 feet of the cluster development community as measured from the tract boundary at any time after development commences, the cluster development community, or the individual dwelling units therein, shall be required to connect to the public sewer system in accordance with all Township Code provisions regarding sewer connections and related expenses and fees.
- C. Design Standards Manual. All subdivision and land development applications for a cluster development community shall include a Design Standards Manual containing a conceptual plan for the cluster development community; architectural guidelines governing issues of building massing, building type adjacencies, architectural character or theme and building placements within the cluster development community; and design standards for the improvements (as defined in Chapter 148, Subdivision and Land Development, § 148-9, of the Code of the Township of Newtown), including but not limited to design standards for street and roadway improvements, sidewalks and lighting. The Design Standards Manual shall be subject to the recommendation of the Planning Commission and approval of the Board of Supervisors. In the case of a conflict between the provisions of the Design Standards Manual and other provisions of the Code of the Township of Newtown, the provisions of the Design Standards Manual, as approved by the Board of Supervisors, shall govern. Provisions of the Design Standards Manual shall include the following design and architectural requirements:
- (1) Stormwater management should be integrated to complement the natural character of the site such that the visual distinction between stormwater areas and adjacent natural land forms be limited. Where natural features exist, such as sloughs, drainages or hills, open spaces should be preserved and used to frame and define residential areas.
  - (2) A landscaping plan, including street trees, consistent with Township Code Chapter 104 which shall consist of landscaping that will not destroy or deteriorate the integrity of the street or sidewalk structure.
  - (3) A variety of home models and/or elevations will be required.

- (4) All units shall front on a public or private street to assure emergency access and be identified with a street address approved by the Police Chief and the Township Fire Marshal.
- (5) The primary front entrance of a residence shall be oriented towards the public street or private street if the lot does not abut a public street. The street-facing facade should incorporate elements such as a front porch, primary living space windows, building articulation elements such as cornices, brackets, overhangs, shutters and window boxes, and front yard landscaping to create an attractive street appearance and enhance the surrounding neighborhood.
- (6) Entrances and windows, not garages, shall be the dominant element of front facades facing streets. Garage facades shall be set back at least 10 feet from the facade of the principal dwelling. Alternatively, side-loading garages or detached garages or garages accessed by back alleys may be utilized.
- (7) Residential projects shall avoid large box-like forms with continuous unrelieved surfaces. Buildings should include design variety and articulation. Design doorways, columns, overhangs, and other architectural elements to be substantial in depth in order to create shadow and architectural relief. Examples of these elements include: decorative trim, pitched/variegated roof forms, roof overhangs at least 18 inches deep, variety of materials, railings, building base, bay windows, chimneys, front porches and balconies. The entire home should have a coherent architectural composition with transitions from front, sides and rear elevations being graceful, not abrupt.
- (8) The choice of colors and materials should convey an image of quality, permanence and durability and enhance the architectural concepts within each residential development.
- (9) Green space shall be positioned in visually prominent locations through the integration of terminal vistas, community green areas or garden courtyards, greenlets and greens (alleviate monotony). Additionally, buildings and structures shall be adequately grouped such that existing scenic views or vistas are preserved as an unobstructed, single block of common open space, especially from public streets.

**§ 172-100.30. Cluster development open space standards and criteria.**

- A. Open space shall be preserved and designed to preserve and enhance existing natural physical characteristics of the site and to place common open space within convenient access and view of dwelling units, while preserving and enhancing natural features.
- B. Open space shall not include any area of a proposed dwelling lot.
- C. Lakes, ponds, streams, floodplains, wetlands, steep slopes, very steep slopes, woodlands, other related natural features and subsurface stormwater facilities (e.g., no stormwater basins) may be incorporated into the required minimum open space. Notwithstanding the foregoing, of the total proposed open space, at least 50% shall not be constrained lands.

- D. Areas set aside for open space shall contain no structure other than structures directly related to outdoor recreational use. However, in no case shall the impervious coverage of such structures in the open space areas exceed 5% of the minimum required open space area.
- (1) Areas set aside for private open space may contain buildings and structures related to the recreational uses of the private open space, access roads, sidewalks, pathways, parking areas, including access improvements from interior and adjacent streets to accommodate pedestrian, bicycle, maintenance and vehicle traffic, and utility easements and related structures and facilities (including but not limited to sanitary sewage facilities) serving the cluster development community and/or adjacent properties. A note shall be placed on the recorded plan stating the restrictions contained in this section, and easements and/or deed restrictions memorializing such restrictions shall be recorded simultaneously with or as a part of the deed of dedication for the public open space.
  - (2) The Township acceptance of dedication of open space for public open space shall be in the sole discretion of the Township Board of Supervisors. The Township Board of Supervisors may consider any factors it deems appropriate in exercising this discretion, but may consider among other things, the size, shape, location, accessibility and physical characteristics of the open space and the amount of use and enjoyment said open space may provide to Township residents. Public open space shall be used for recreation only. Access roads, sidewalks, pathways, parking areas, including access improvements from adjacent streets to accommodate pedestrian, bicycle, maintenance and vehicle traffic, utility easements and related structures and facilities (including but not limited to sanitary sewage facilities) and open-air pavilions shall be permitted, provided that utility easements and related structures and facilities (including but not limited to sanitary sewage facilities) and stormwater management facilities serving the cluster development community shall not be located within the public open space. The Township shall not dispose of public open space by sale or otherwise. A note shall be placed on the recorded plan stating the restrictions contained in this section, and easements and/or deed restrictions memorializing such restrictions shall be recorded simultaneously with or as a part of the deed of dedication for the public open space.
- E. The open space shall be contiguous and not be separated by existing roads. Open space shall:
- (1) Be designed as a continuous system of open space and be interconnected with existing or proposed open space areas on abutting parcels, provided that the physical characteristics of the site enable such incorporation without sacrificing innovative design.
  - (2) Be comprised of areas not less than 75 feet in width and not less than one acre of contiguous area, except when the open space is part of a trail system or pathway network or plan for such network, in which case the areas may be reduced in size, subject to the approval of the Township.
  - (3) Be provided with sufficient permanent parking when necessary and with safe

and convenient access by adjoining street frontage and be capable of accommodating pedestrian, bicycle and maintenance and vehicle traffic, and containing appropriate access improvements.

- (4) Be suitably landscaped either by retaining existing natural cover and wooded areas and/or by adding enhancement plantings in accordance with an approved landscaping plan for enhancing open space areas through plantings which are consistent with the purposes of this section and which minimize maintenance costs.
  - (5) Be subject to such agreement with the Township and such deed restrictions duly recorded in the office of the Recorder of Deeds in Delaware County as may be required by the Township for the purpose of preserving the open space for such use.
  - (6) Include a transition area surrounding the perimeter of the entire tract. This transition area shall be at least equal to the area required for front yards in the underlying zoning district and shall not contain any structures or parking areas. Only necessary ingress and egress and perimeter fencing and/or berms shall be allowed in the transition area. The transition area shall not be included in any of the minimum lot area(s).
- F. The open space required by this section is a separate and distinct requirement from the recreational land requirements set forth in § 148-41 to allow the exercise of the cluster development option. Public open space and/or trails accepted by the Board of Supervisors or private open space may be considered recreational lands only to the extent that the open space, or portions of the open space, comply with the requirements of Chapter 148.

#### **§ 172-100.31. Ownership and maintenance of open space.**

- A. All applications for the cluster development community option shall describe the plan for ownership and maintenance of open space.
- B. The Board of Supervisors shall require the applicant to provide for and establish a homeowners' association, or other similar organization or group of dwelling unit or lot owners holding undivided interest in private open space, for the maintenance of the private open space, organized under or similar to that required by the Uniform Planned Community Act,<sup>34</sup> and such homeowners' association or other similar organization shall be prohibited from disposing of the private open space by sale or otherwise (except to a similar homeowners' association or organization conceived and established to own and maintain the open space, such as a private conservation organization). The governing documents of such homeowners' association or similar organization shall be submitted to the Township for review and approval from the standpoint of its capacity to raise revenue, meet obligations and properly maintain facilities prior to the receipt of final land development approval for a cluster development community. The organization shall also be required to enter into an open space maintenance agreement, substantially in the form provided at Chapter AA176 Appendix 2,<sup>35</sup> with the Township which may be recorded in the

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34. Editor's Note: See 68 Pa.C.S.A. § 5101 et seq.

Recorder of Deeds.

- C. In the event that the private open space is, in the reasonable judgment of the Township, permitted to deteriorate or not be maintained in reasonable condition in accordance with the approved plan, the Township may take whatever actions are available by law to require compliance with the approved plan. A note shall be placed on the recorded plan stating this right held by the Township.
- D. In addition to any other remedies afforded by law, the Township shall have the right, which shall be made part of the land development agreement with the applicant, upon reasonable notice to interested parties, to enter upon the private open space and maintain the same for a period not to exceed one year. The purpose of such action by the Township shall be to preserve the value of the private open space within the development and to prevent the private open space from becoming a public nuisance. The cost of such maintenance by the Township shall be assessed against the dwelling units and/or lots within the development which have a right of enjoyment of the private open space and shall become a lien upon said units and/or lots upon filing thereof as required by law.

**§ 172-100.32. Application review; effect of other provisions; modifications.**

All applications for the proposed cluster development community development shall be subject to review and conditional use approval by the Board of Supervisors of Newtown Township through the subdivision and land development procedures set forth in Chapter 148, Subdivision and Land Development. Compliance with all other provisions of this Chapter 172, Zoning, Chapter 148, Subdivision and Land Development, and all other land use regulations adopted by the Township, including Chapter 91, Flood Damage Prevention,<sup>36</sup> Chapter 104, Natural Features and Landscaping, Chapter 134, Slope Conservation, and Chapter 138, Soil Erosion and Sediment Control, shall be required, except where such provisions are modified by this article. In the case of a conflict between the provisions of this article and other provisions of the Code of the Township of Newtown, the provisions of this article shall govern. Where literal compliance with the criteria and standards specified in those land use regulations adopted by the Township over which the Board of Supervisors is vested with jurisdiction is clearly impractical, the Board may modify or adjust the standards and criteria to permit reasonable utilization of the tract on which the cluster development community is proposed in the interest of securing substantial compliance with the objectives of this article. Any exclusions for single-family residential developments in Chapter 104 shall not be applicable when applied to this article.

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35. Editor's Note: So in original.

36. Editor's Note: Former Ch. 91, Flood Damage Prevention, adopted 8-11-1980 by Ord. No. 1980-12, as amended, was repealed 9-9-2002 by Ord. No. 2002-5. See now Art. XXB, Flood Hazard District, of this chapter.





ARTICLE XXE  
**Planned Residential Development**  
**[Added 7-13-2009 by Ord. No. 2009-02]**

**§ 172-100.33. Title; findings.**

- A. Title: "A zoning ordinance supplementing the Newtown Township Zoning Ordinance and Subdivision and Land Development Ordinance in order to implement the purposes and intent of planned residential development as defined and authorized by Article VII of the Pennsylvania Municipalities Planning Code."
- B. Short title. This article shall be known and may be cited as "The Township of Newtown Planned Residential Development Ordinance of 2009, as revised to 2016." **[Amended 6-9-2014 by Ord. No. 2014-01; 1-11-2016 by Ord. No. 2016-01]**
- C. Statement of legislative findings. The Board of Supervisors of Newtown Township, Delaware County, hereby elects to adopt the provisions of and exercise the powers granted by Article VII of the Pennsylvania Municipalities Planning Code.<sup>37</sup> In support thereof, the Board of Supervisors makes the following findings:
- (1) The Board of Supervisors finds that the Newtown Township Comprehensive Plan provides broad goals, community development objectives, and policies for the future development of the Township which are consistent with the intent of Article VII of the Municipalities Planning Code. The Comprehensive Plan specifically sets forth goals and policies of local concern related to reinforcing and enhancing the Newtown Square crossroads area as the community's commercial and social sector; directing new consumer-oriented service businesses primarily to the Newtown Square crossroads area of the community; enhancing the Newtown Square crossroads area of the community so as to create a highly attractive mixed-use district that has a unique identity in the region, with improved circulation, parking, and landscaping, increased prospects for one-stop patronage of several kinds of facilities, and expanded opportunities for pedestrian circulation; directing new commercial and higher-intensity residential uses to the Newtown Square crossroads; expansion of the network of community trails in accordance with a trail system plan; protecting and enhancing environmentally sensitive and culturally significant areas of Newtown Township; establishing a firm identity for Newtown Township in the minds of its residents and its visitors and places for the community to assemble; and putting in place a variety of approaches, mechanisms, and tools appropriate for dealing with the challenges posed by growth.
  - (2) The Board of Supervisors finds that it is in the best interest of the Township to take full advantage of modern design, construction, technology and planning methods and thus seeks to permit planned residential development under certain conditions meeting certain design standards of the Township. The objectives to be accomplished by this article (the "PRD objectives") in furtherance of the goals and objectives of the Comprehensive Plan shall include but are not limited to the following:

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37. Editor's Note: See 53 P.S. § 10101 et seq.

- (a) To address the unique planning and development issues affecting the Township of Newtown by encouraging innovative and flexible long-range development plans that will contribute to the quality of life in the community through a variety of well-planned land uses and amenities.
- (b) To provide an optional approach to community development, with provisions to permit more efficient use of land and public services on other than a lot-by-lot basis.
- (c) To provide increased flexibility in the laws governing the development of those areas in the Township which are now substantially open land and encourage such development in directions that will recognize the changes in design and technology in the building industry, new demands in the housing market and the continuing evolution of community form.
- (d) To insure that the uniform regulations in place in the Township's various zoning districts do not operate to discourage efficient and imaginative development of said substantially open areas.
- (e) To encourage the efficient allocation and maintenance of open space ancillary to new residential, commercial and other nonresidential areas.
- (f) To encourage the efficient development and use of public facilities required in connection with new development within the Township.
- (g) To create opportunities for the redevelopment of areas affected by prior industrial activity.
- (h) To provide greater opportunities for pedestrian and bicycle mobility as an alternative to travel by automobile.
- (i) To encourage innovations in residential and nonresidential development and renewal so that the growing demand for housing and other development may be met by greater variety in type, density, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses.
- (j) To assure that the flexibility of regulations herein is carried out pursuant to sound, expeditious and fair administrative standards and procedures.

#### **§ 172-100.34. Definitions.**

Unless specifically defined in this article, the definitions contained in this chapter shall apply. For the purpose of this article, certain terms, phrases and words are defined as follows:

**DEVELOPMENT SCHEDULE** — A schedule approved with the tentative PRD plan showing proposed time frames within which the applicant shall submit final plans for each development section. The development schedule may be modified subject to the provisions of § 172-100.36M of this article.

**DEVELOPMENT SECTIONS** — Areas delineated in a PRD tentative plan for which

separate applications for final plan approval may be filed. Development sections shall have no minimum or maximum acreage and may include one or more permitted uses.

**EXISTING BUILDINGS** — Buildings located on a tract subject to PRD development which were in existence on the date this article was enacted.

**FLOOR AREA RATIO** — The gross floor area of the building or buildings on any parcel, exclusive of parking garages, divided by the total tract area of the parcel to which the computation relates.

**MAN-MADE STEEP SLOPES** — Those slopes created by human actions, such as, but not limited to, the movement of dirt to construct a road, building, parking lot, berm, etc., and which have not occurred naturally on a property. Proof of whether a slope is man-made may be provided through comparisons of historic aerial photographs, soil borings, USGS maps, development plans, inspection of the site by the Township Engineer, or through the review of other maps and documentation found acceptable by the Township Engineer.

**MIXED-USE AREAS** — An area within a PRD containing a variety of complementary and integrated uses, such as, but not limited to, residential, office, retail, entertainment and recreation uses in a compact form.

**OPEN SPACE** — A parcel or parcels of land or an area of water (including but not limited to stormwater management facilities), or a combination of land and water (including but not limited to stormwater management facilities), within a PRD that has been or will be designated, dedicated, reserved, or restricted in perpetuity from further development, except as permitted under this article, and is either dedicated to the Township or set aside and intended for the exclusive or nonexclusive use or enjoyment by residents of the development. The term "open space" means both private open space and public open space and shall include the buffer areas.

**PLACES OF INDOOR AMUSEMENT, RECREATION OR ASSEMBLY** — Any amusement or recreation establishment that is wholly enclosed in a building, which provides games, rides, or similar entertainment facilities and devices. A casino or other gaming facility shall not be permitted.

**PLANNED RESIDENTIAL DEVELOPMENT (PRD)** — An area of land, controlled by a landowner, to be developed pursuant to this article as a single entity for a number of dwelling units or a combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, use, density, intensity, lot coverage or required open space to the regulations established in any one district created, from time to time, under the provisions of this chapter.

**TOTAL TRACT AREA** — The total horizontal area of land contained within the property lines of all parcels of land within the subject area, excluding areas within existing public or private street rights-of-way.

**TRACT** — An area of land comprised of a single parcel or multiple parcels which are either in single ownership or, in the case of multiple ownership, subject to an agreement of all owners that development will be governed by and will be completed in accordance with a unified land development plan. A tract may contain parcels that are separated by public or private street rights-of-way.

**UNOCCUPIED ARCHITECTURAL ELEMENTS** — Those unoccupied portions of a building which are located above the occupied floors of a building and which contribute

to the architectural character of the building, such as gabled roofs, chimneys, spires, towers, elevator penthouses, tanks, cupolas, cornices, pediments, domes, dormers, or other unoccupied architectural elements.

**§ 172-100.35. Development standards.**

- A. Eligibility criteria. The Planned Residential Development (PRD) District is defined and established to include and be an overlay upon parcels situated within the mapped overlay district as set forth in the PRD Overlay District Map<sup>38</sup> and meeting the following additional criteria:
- (1) The tract shall be serviced by public sanitary sewer and water systems.
  - (2) The total tract area subject to PRD development shall contain at least 200 acres. The total tract area may add or include existing developed land provided the land complies with the applicable PRD District regulations and is located within PRD-zoned land. **[Amended 6-9-2014 by Ord. No. 2014-01]**
  - (3) The tract shall be in single ownership, or, in the case of multiple ownership, evidence shall be presented that the parties involved have agreed that the PRD development will be completed in accordance with a unified land development plan.
- B. Use regulations.
- (1) Uses as of right:
    - (a) Single-family dwellings.
    - (b) Two-family dwellings.
    - (c) Townhouses.
    - (d) Multifamily dwellings, including residences in mixed-use commercial/residential buildings.
    - (e) Retail store(s).
    - (f) Personal service establishments, tailor, barbershop, beauty shop, shoe repair, spa, dressmaking shop, and other personal service shop or store.
    - (g) Bank or other similar financial institution, including a drive-in banking facility or automated teller facility.
    - (h) Business, administrative, executive, governmental, professional, sales and/or similar offices.
    - (i) Places of indoor amusement, recreation or assembly.
    - (j) Movie theaters.
    - (k) Restaurant or café, including establishments dispensing or serving food for consumption on the premises outdoors. Drive-in food stands shall not

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38. Editor's Note: The PRD Overlay District Map is on file in the Township offices.

be permitted.

- (l) Grocery or convenience store.
  - (m) Hotel or inn.
  - (n) Educational institution.
  - (o) Conference center.
  - (p) Public and private garages and parking lots.
  - (q) Civic uses, such as a police station, municipal office, fire station, post office, EMS service, and transit facility.
  - (r) Playgrounds, parks, tot-lots or open spaces.
  - (s) Health club, fitness center, indoor squash, tennis, or racquetball facilities or other similar uses.
  - (t) Nursery schools and day-care centers.
  - (u) Accessory use on the same lot with and customary and incidental to any of the foregoing, similar to a clubhouse or recreation building, swimming pool, tennis courts, fountains, fire pits, patios, terraces; parking lots and private garages; and recreational uses. Individual outside storage sheds in mixed-use areas are prohibited. **[Amended 1-11-2016 by Ord. No. 2016-01]**
  - (v) Housing for the elderly. **[Added 1-11-2016 by Ord. No. 2016-01]**
- (2) Mix requirements. **[Amended 10-28-2019 by Ord. No. 2019-04]**
- (a) Residential uses. Within mixed-use areas, at least 10%, but no more than 70%, of the new gross floor area shall be devoted to residential uses. Existing buildings and uses shall not be part of this calculation.
  - (b) Retail uses. Within mixed-use areas, at least 15%, but no more than 50%, shall be devoted to retail, restaurant, markets, or cinema uses. Existing buildings and uses shall not be part of this calculation.
- (3) Building footprint limitations. **[Amended 6-9-2014 by Ord. No. 2014-01; 1-11-2016 by Ord. No. 2016-01]**
- (a) With the exception of single-use office buildings located adjacent to West Chester Pike, and existing or redeveloped buildings, no building within the PRD Development shall have a building footprint in excess of 40,000 square feet, except that one building shall be permitted to have a building footprint of up to 75,000 square feet and two buildings shall be permitted to have building footprints of up to 55,000 square feet.
  - (b) No new retail building shall have a single retail tenant occupying in excess of 40,000 square feet of floor area, except that one building shall be permitted to have a single retail tenant occupying up to 75,000 square feet of floor area and two buildings shall be permitted to have single retail

tenants occupying up to 55,000 square feet of floor area.

- (c) No more than two office buildings and no more than 400,000 square feet of office space shall be located west of the Loop Road and within 1,000 feet of West Chester Pike. Structured parking facilities shall be permitted in addition to the two office buildings and shall not count towards office building square footage. There is no maximum floor area or building footprint requirement for the foregoing office buildings.
- (d) In the event an office headquarter user is proposed as the lead user or occupant for the second office building located west of the Loop Road and within 1,000 feet of West Chester Pike, the Board of Supervisors, in their sole discretion to better serve the Township's interests, may allow the total allowable square footage of office space to increase by 110,000 square feet. An office headquarter user is in a building serving as the managerial and administrative center of an organization, corporation, or business. **[Added 6-25-2018 by Ord. No. 2018-03]**

C. Area and dimensional regulations.

- (1) Traditional lot area and yard setbacks shall not be required. Building setbacks shall instead be provided from adjacent uses, streets and parking areas as follows:
  - (a) All buildings located between Clyde Road and Winding Way shall be set back a minimum distance of 35 feet from existing or proposed curblines of Route 3, whichever is greater.
  - (b) All one- or two-story buildings located west of Winding Way shall be set back a minimum distance of 35 feet from existing or proposed curblines of Route 3.
  - (c) All buildings greater than two stories located west of Winding Way shall be set back a minimum distance of 75 feet from existing or proposed curblines of Route 3, whichever is greater.
  - (d) Required building setback areas from Route 3 shall be devoted to walkways, street trees, green areas, or a combination thereof. Limited driveway and road access through such setbacks shall be permitted.
  - (e) All buildings shall be set back a minimum distance of 10 feet from curblines of all other existing or proposed streets. Such setback areas shall be devoted to walkways, street trees, green areas, or a combination thereof. Limited driveway and road access through such setbacks shall be permitted. No off-street parking shall be permitted within such setback areas. **[Amended 6-9-2014 by Ord. No. 2014-01]**
  - (f) All buildings located adjacent to Clyde Lane and/or Winding Way shall be set back a minimum distance of 25 feet from the existing or proposed curblines, whichever is greater. Structures associated with a bridge over Winding Way that are unoccupied shall be set back a minimum distance of 10 feet from the existing or proposed curblines, whichever is greater.

- (g) All buildings shall be set back a minimum distance of 200 feet from the current right-of-way of both Route 252 north of Winding Way and along Goshen Road. In no case shall a building be set back less than 100 feet from any property outside of the tract zoned R1 or R2. Driveways and parking are permitted in the foregoing setback. **[Amended 6-9-2014 by Ord. No. 2014-01]**
- (2) Not more than 30% of the total tract area shall be occupied by buildings, including parking structures, and not more than 60% of the total tract area shall be covered with impervious materials. The overall floor area ratio of a PRD development shall not exceed 0.3058. **[Amended 10-28-2019 by Ord. No. 2019-04]**
- (3) At least 25% of the total tract area shall be designated and used for open space purposes.
- (4) Driveways and private streets shall have a minimum of ten-foot- to twelve-foot-wide travel lanes. Parallel parking lanes, where provided, shall be a minimum of seven feet to eight feet wide.
- (5) Parking and loading. Because of the multi-use, integrated nature of a planned residential development, the following shall govern the parking and loading within a planned residential development:
- (a) For single-family detached dwellings, townhouses and twin homes, there shall be at least two parking spaces per dwelling.
- (b) For multifamily residential units, there shall be at least 1.5 parking spaces per unit, which may be comprised of on-street, off-street, and garage spaces, but must include a minimum of 0.25 garage space per unit. **[Amended 1-11-2016 by Ord. No. 2016-01; 10-28-2019 by Ord. No. 2019-04]**
- (c) For hotels, there shall be a minimum of one parking space for each hotel room.
- (d) For retail stores, banks, restaurants, and other commercial buildings, there shall be 4.5 parking spaces for every 1,000 square feet of gross floor area.
- (e) For offices, there shall be 3.5 parking spaces for every 1,000 square feet of gross floor area.
- (f) Off-street parking spaces shall be a minimum of nine feet by 18 feet. However, the applicant shall provide suitable oversized vehicle parking areas in mixed-use and/or office area locations which are provided in groups within parking lots in which the parking spaces shall be a minimum of 10 feet by 18 feet. A minimum of 2% of the total parking provided shall be oversized vehicle parking.
- (g) Where efficiencies may be derived from shared parking, and more open spaces provided, a reduction in the number of parking spaces shall be permitted when there will be a sharing of parking spaces by uses with

different periods of peak parking demand, or where the applicant can provide justification for reduced parking based upon Urban Land Institute (ULI) standards for shared parking as set forth in its publication Shared Parking, Second Edition. This analysis shall include a submission of calculations indicating that parking demands will be met during peak demands for parking.

- (h) The Board may authorize the applicant to hold up to 20% of the total number of parking spaces required in reserve without actually paving such spaces upon a showing that the additional number of parking spaces is not currently needed. The Board's determination of whether reserve parking should be permitted shall be made at the time of tentative plan approval. In the event that reserve parking is permitted, the stormwater management system shall be designed to handle the total required parking spaces, including the parking spaces held in reserve. Applicant shall be required to construct the parking spaces held in reserve upon determination by the Board of Supervisors. **[Amended 1-11-2016 by Ord. No. 2016-01]**
- (i) On-street parking shall be permitted along private access drives and streets and shall count as part of the overall parking requirement, except that on-street parking along collector roads, while permitted, shall not count as part of the overall parking requirement.
- (j) Off-street loading and unloading space with proper access from a street or alley shall be provided where a building primarily used for trade or business for the uses contained in § 172-100.35B(1) is located. Loading and unloading spaces may be accessed from parking areas.
- (k) Required parking lot green area. Where parking areas, loading and unloading facilities and accompanying access from a street or driveway exceeds 3,000 square feet, a minimum of 10% of all paved areas shall be devoted to green areas, or 5% may be provided if the parking is substantially located to the rear of the buildings and it can be demonstrated that views of the parking lot from the public right-of-way are shielded by a combination of landscaping and/or berming. In such a case, there shall not be a requirement for green areas between rows of parking spaces. Green area requirements shall not be applicable in structured parking or multilevel parking facilities.
- (l) For civic uses, such as libraries, museums, fire stations or other similar places, one parking space for every 800 square feet of floor area, except that the parking calculation shall not apply to garage areas used for storing fire-fighting vehicles. Garage space used for the storage of vehicles shall require one parking space for each vehicle. If sleeping quarters are provided for fire personnel, an additional one space per room shall be provided. **[Added 6-25-2018 by Ord. No. 2018-03]**
- (6) Buildings used for residential purposes within mixed-use areas that are within 300 feet of a nonresidential use shall be governed by the following additional dimensional requirements:



- (a) Setback to curblines of an arterial or collector street: fifteen-foot minimum. Setback to other streets, accessways or parking: ten-foot minimum. **[Amended 1-11-2016 by Ord. No. 2016-01; 10-28-2019 by Ord. No. 2019-04]**
- (b) Building-to-building separation distance: twenty-five-foot minimum. **[Amended 1-11-2016 by Ord. No. 2016-01]**
- (c) Building height: no more than five stories or 65 feet, provided that unoccupied architectural elements of the building shall not be included in calculating the height. With the exception of clock towers, the height of the unoccupied architectural elements shall not exceed 27 feet above the main roofline.
- (d) Notwithstanding the foregoing requirements of Subsection C(6)(a), (b), and (c), townhouse, two-family residential and twin dwellings located east of the Loop Road and north of Winding Way Extension shall be governed by the following dimensional requirements: **[Added 10-28-2019 by Ord. No. 2019-04]**
  - [1] Minimum unit width: 22 feet for townhouses and 20 feet for two-family residential and twin dwellings.
  - [2] Front building setback to curblines of a street, common driveway or edge of paving:
    - [a] Ten feet minimum setback if no vehicular access is taken from the street, common driveway or edge of paving; or
    - [b] Twenty-two feet minimum setback if vehicular access is provided from the street, common driveway, or edge of paving.
  - [3] Rear building setback to a curblines of a street, common driveway or edge of paving: 18 feet.
  - [4] Building-to-building separation distance: 20 feet side to side; 35 feet side to front; and 50 feet front to front and rear to rear.
  - [5] There shall be no more than five single-family townhouse dwellings in a row or five two-family dwellings in a row.
  - [6] Building height: no more than 3 1/2 stories and no part of a building shall exceed 45 feet.
- (7) Mixed uses in buildings devoted to a mix of residential and nonresidential uses or hotels shall be governed by the following additional dimensional requirements: **[Amended 1-11-2016 by Ord. No. 2016-01]**
  - (a) Setback to curblines: ten-foot minimum.
  - (b) Building-to-building separation distance: ten-foot minimum.
  - (c) Building height: no more than five stories or 65 feet, provided that unoccupied architectural elements of the building shall not be included in

calculating the height. With the exception of clock towers, the height of the unoccupied architectural elements shall not exceed 27 feet above the main roofline.

- (8) New nonresidential buildings other than office buildings located west of the Loop Road shall be governed by the following additional dimensional requirements: **[Amended 6-9-2014 by Ord. No. 2014-01]**
  - (a) Setback to curblines: fifteen-foot minimum.
  - (b) Building-to-building separation distance: twenty-foot minimum.
  - (c) Building height: no more than four stories or 60 feet, provided that unoccupied architectural elements of the building shall not be included in calculating the height. With the exception of clock towers, the height of the unoccupied architectural elements shall not exceed 27 feet above the main roofline.
  - (d) No buildings within 75 feet of West Chester Pike shall be greater than four stories or 60 feet in height, provided that unoccupied architectural elements of the building shall not be included in calculating the height. With the exception of clock towers, the height of the unoccupied architectural elements shall not exceed 27 feet above the main roofline.
- (9) Office buildings located west of the Loop Road (Medical Drive) and within 1,000 feet of West Chester Pike shall be governed by the following additional dimensional requirements: **[Amended 6-9-2014 by Ord. No. 2014-01]**
  - (a) The required minimum building setback from West Chester Pike shall be 200 feet from the existing curblines. All buildings shall be set back a minimum distance of 10 feet from the curblines of all other existing or proposed streets. No off-street parking shall be permitted within 100 feet of West Chester Pike. No setbacks shall be required from interior lines abutting other lots within the PRD.
  - (b) The required minimum building setback from adjacent properties shall be 100 feet, except that the Board of Supervisors may, upon individual application, reduce the setback to not less than 75 feet from all right-of-way lines against which the lot abuts where it is shown by the applicant that such reduction in setback is necessary due to the unusual slope, size or topography of the lot.
  - (c) Maximum building height shall not exceed five stories above or partially above grade, nor shall it exceed 85 feet from ground after finished grading. Height shall be measured from any point of the building to the closest perpendicular point on the ground surrounding the building after finished grading. **[Amended 6-25-2018 by Ord. No. 2018-03]**
- (10) Residential buildings located outside of mixed-use areas shall be governed by the following additional dimensional requirements:
  - (a) Single-family detached residential dwellings shall be governed by the following dimensional requirements:

- [1] Minimum lot area: 6,000 square feet.
  - [2] Maximum lot area: 7,500 square feet.
  - [3] Minimum lot width at building line: 55 feet.
  - [4] Minimum lot width at street line: 45 feet.
  - [5] Maximum depth of front yard: 20 feet.
  - [6] Minimum depth of rear yard: 25 feet, unless serviced by an alley, in which case the setback can be reduced to 15 feet.
  - [7] Side yards: zero-foot minimum, provided that at least 50% of one sidewall shall be located a minimum of 20 feet from the property line. The balance of the sidewall shall be located so that the aggregate of the two side yards shall be at least 15 feet.
  - [8] Building height: no more than three stories.
- (b) Townhouse, two-family residential and twin dwellings shall be governed by the following dimensional requirements:
- [1] Minimum unit width: 24 feet, except that a two-family dwelling shall be a minimum of 20 feet. **[Amended 6-9-2014 by Ord. No. 2014-01]**
  - [2] Setback to curblines: ten-foot minimum or 25 feet where there are garages in the front of the unit and the driveway provides for parking in front of the garage.
  - [3] Building-to-building separation distance: 15 feet side to side; 50 feet front to front and rear to rear.
  - [4] Building height: No more than 3 1/2 stories. The height of a two-family dwelling building shall not exceed 3 1/2 stories or 45 feet, whichever is greater. **[Amended 6-9-2014 by Ord. No. 2014-01]**
  - [5] There shall be no more than five single-family townhouse dwellings in a row, or 10 two-family dwellings in a building. **[Amended 6-9-2014 by Ord. No. 2014-01]**
  - [6] There shall be at least one garage parking space and one off-street parking space for each single-family dwelling, townhouse and two-family dwelling and 0.25 off-street guest parking space provided.
  - [7] Sidewalks shall be located on at least one side of all residential streets within residential areas located outside of mixed-use areas, which shall be four feet in width and have a four-foot green area between the sidewalk and curb. **[Amended 6-9-2014 by Ord. No. 2014-01]**
- (c) Building design standards for single-family detached dwellings, two-family dwellings, twins and townhouses.

- [1] In order to insure that the single-family detached dwellings possess a village character, single-family dwellings shall be located a maximum of 20 feet from the curbline unless unusual features, such as the shape of the lot or natural features, make such location infeasible.
  - [2] One side lot line for each single-family detached dwelling may be permitted to be reduced down to zero feet, provided that at least 50% of one sidewall shall be located a minimum of 20 feet from the property line. The balance of the sidewall shall be located so that the aggregate of the two side yards shall be at least 15 feet.
  - [3] One hundred percent of the single-family detached dwellings and 33% of the two-family dwellings, townhouses, and twins shall have side- or rear-loaded garages.
  - [4] At least one community open space green shall be provided within areas devoted solely to residential use. This green shall be located so that it is accessible to the residents of that residential area. The green shall be at least 10,000 square feet in size and contain at least one civic element, such as a piece of artwork, a sitting area, a gazebo, or the like.
  - [5] Single-family detached dwellings shall have sloping roofs that do not exceed the average height of the supporting walls, with a minimum of 5/12 and a maximum of 18/12 slope. Fifty percent of the units will have a principal roof with a minimum pitch of at least eight vertical to every 12 horizontal inches.
  - [6] Two-family dwellings, twins, and townhouses shall be governed by Subsection C(10)(c)[5] above, except that flat roofs are permitted, provided parapets conceal the roof and all rooftop equipment. The average height of such parapets shall not exceed 15% of the height of the supporting wall and feature three-dimensional cornice treatments.
  - [7] The principal building shall be located a minimum of 20 feet from the rear property line, unless serviced by an alley, in which case the setback can be reduced to 15 feet. The minimum setback for accessory structures shall be governed by § 172-103 of this chapter.
  - [8] One-story accessory structures shall have a maximum height of 20 feet.
- (11) Redevelopment of existing buildings within a PRD development shall be governed by the following requirements:
- (a) Existing buildings may be adaptively reused for any of the uses permitted in the SU-1 Zoning District, provided that impervious surface shall not be increased by more than 1%.
  - (b) Existing building square footage may be demolished and rebuilt,

provided that all replacement of existing building square footage shall be constructed within the curtilage of the building demolished or to be rebuilt and shall also comply with the use, area, bulk and dimensional requirements of the SU-1 Zoning District, except with regard to the following: **[Amended 6-9-2014 by Ord. No. 2014-01]**

- [1] Impervious coverage shall be based upon the tract as a whole.
- [2] The new building or buildings shall not be permitted to exceed the total square footage of the demolished building or buildings.
- [3] The required minimum building setback from Goshen Road shall be 300 feet.
- [4] The required minimum building setback from adjacent properties shall be 50 feet.
- [5] Maximum building height: no more than five stories or 70 feet, except that unoccupied architectural elements of the building shall not be included in calculating the height. Other than clock towers, the height of such unoccupied architectural elements shall not exceed 27 feet above the main roofline.
- [6] There shall be 3.5 parking spaces for every 1,000 square feet of gross floor area.
- [7] Off-street surface parking spaces and parking spaces in any new parking structure shall measure a minimum of nine feet by 18 feet.

(12) Accessory use buildings within a PRD development shall be governed by the following requirements: **[Added 1-11-2016 by Ord. No. 2016-01]**

- (a) No accessory use or building shall be located within the building setback required for the principal use.
- (b) A clubhouse or recreation building that is 30 feet or less in height shall have a minimum setback to another building of 10 feet. A clubhouse or recreation building that is more than 30 feet in height shall have a minimum setback to another building of 25 feet. A clubhouse or recreation building shall not exceed 35 feet in height.
- (c) Compliance with the design guidelines shall not apply as it relates to the architectural character and elevations and building materials of the rebuilt or redeveloped building square footage. **[Added 6-9-2014 by Ord. No. 2014-01]**

D. General development regulations governing PRD development.

- (1) Development of a PRD development shall be in accordance with an overall plan for the development/redevelopment of the entire tract subject to the PRD.
- (2) No new nonresidential uses may be constructed within 1,500 feet of Goshen Road. This does not apply to redevelopment of existing nonresidential buildings on the site.

- (3) Only those uses permitted in the SU-1 District and civic uses may be located on the portion of the tract located west of the Loop Road and within 1,000 feet of West Chester Pike. **[Amended 6-25-2018 by Ord. No. 2018-03]**
- (4) The street system shall be designed so as to relate harmoniously with land uses and adjacent streets. Streets throughout the community shall be arranged as a generally interconnecting network and should terminate at other streets. The construction of all public streets shall be in accordance with the construction specifications and regulations established in Chapter 148, Subdivision and Land Development, of the Code of the Township of Newtown, except as provided otherwise in the design guidelines.
- (5) The architectural design of all nonresidential buildings within the PRD development shall be substantially consistent with approved design guidelines, subject to such revisions as are hereafter agreed to by the parties. This section does not apply to redevelopment of existing nonresidential building square footage on the site. **[Amended 6-9-2014 by Ord. No. 2014-01]**
- (6) Sidewalks that are located through the retail and mixed-use areas of the tract shall be wide enough to accommodate walking and outdoor dining where appropriate.
- (7) Street furniture shall be provided which shall include such items as benches, waste containers, planters, bicycle racks, water fountains and bollards. Such items shall be provided at appropriate locations throughout the mixed-use areas of the tract. Street furniture must be compatible with the architecture of the surrounding buildings and character of the area and other elements of the streetscape.
- (8) Exterior lighting shall be provided in accordance with the design guidelines and shall be architecturally compatible with the style, materials, colors, and details of the buildings. The mounting height of parking lot lighting shall not exceed 28 feet, as measured to the top of the fixture from grade. All exterior lighting adjacent to Route 3 or Route 252 shall not exceed 20 feet, as measured to the top of the fixture from grade, except as otherwise required to satisfy PennDOT or PECO requirements.
- (9) All trash containers shall be screened in six-foot-high, three-sided masonry or wood enclosures, to be compatible with the architecture of the buildings, and shall be located in the rear of the buildings. Trash collection shall occur only between 7:00 a.m. and 9:00 p.m.
- (10) Outdoor retail sale of garden goods or related products shall not be permitted in the parking areas, except that temporary seasonal or special events shall be permitted for a period of up to 30 days, up to three times per year. If permits are required for outdoor events within the parking areas, the applicant shall be required to obtain the required permits.
- (11) Required green areas within the tract may include paving for site amenities, such as plaza areas, pedestrian trails and walkways, which shall not count against the impervious requirements of the tract. In addition, seasonal or special events, including but not limited to concerts, arts and crafts fairs, flea

markets, festivals, sports tournaments and charity events, shall be permitted to be conducted within the green areas of the tract and shall be subject to the temporary amusement permitting provisions of § 152-29 of the Code of the Township of Newtown.

- (12) All ground-level mechanical units, refuse, recycling and similar facilities must be screened from view using materials consistent with the building style or landscaped when located at or near the ground.
- (13) A pedestrian pathway system shall be provided through the tract, which shall include a combination of sidewalks, pathways and trails, to provide reasonable access from nonresidential areas and residential areas to the central open spaces and to provide pedestrian circulation through the tract. Pedestrian pathways will be coordinated with a Township system of pathways, where possible. Trails shall be approximately 10 feet in width. Trails may be constructed of pervious or impervious materials, as appropriate for their location. The trail may be designed to serve walkers, runners, or bicyclists. Trails shall not be used by motorized vehicles, except as authorized by the owner and/or the Township for maintenance, management or emergency purposes. Trails shall connect to sidewalks when appropriate to create an interconnected pedestrian system.
- (14) The open space areas required to be preserved shall be owned and maintained by the landowner unless the landowner elects to offer all or a portion of said open space for dedication to the Township. If the Township accepts dedication of such open space, said open space areas shall continue to be included in all area and bulk calculations for the remainder of the tract.
- (15) Bus shelters with benches without advertising shall be provided along Route 3 and Route 252 if there are SEPTA bus stops in existence or planned as a result of the development or redevelopment of the tract. Bus shelters may be provided within the tract as determined by the landowner.
- (16) All buildings to be constructed on the tract shall have sprinkler fire-protection systems, pursuant to applicable codes and regulations. Prior to the issuance of any building permit for a building other than a parking structure, the Township Code Enforcement Officer shall confirm with the Township Fire Marshal that the roof of the proposed building can be accessed by the Township's fire equipment. In the case of parking structures, the Township Fire Marshal shall confirm that the Newtown Square Fire Company has in its possession a fire-fighting apparatus specifically designed for parking garages.
- (17) Fire hydrants shall be installed at locations not more than 600 feet apart. All fire lanes shall be appropriately painted, and proper signage shall be installed.
- (18) All HVAC and compressor-type equipment shall be enclosed or screened, but may be placed on rooftops where they will not be required to be enclosed or screened; provided, however, that they must not be visible from public roads or surrounding properties.
- (19) Provided that conveyance and treatment facilities are available, sewage generated by the future development of the PRD development shall be

conveyed to facilities owned and operated by the Newtown Township Sewer Authority. If existing buildings are served by the Radnor Haverford Marple Sewer Authority, they may continue to be served by the Radnor Haverford Marple Sewer Authority.

- (20) It is recognized that certain requirements of the Township's governing ordinances are intended to guide traditional suburban development and are inappropriate for and would interfere with the development of the tract in accordance with this article. Therefore, in connection with the development of the tract in accordance with this article, the following requirements of the Township's other governing ordinances shall be modified as follows:
- (a) Because of the size of a tract subject to PRD, § 104-11, Existing conditions and preservation inventory plan, of Chapter 104, Natural Features and Landscaping, is modified to the extent that it requires identification of all existing trees. Large stands of trees shall be identified in schematic fashion as part of the final landscape plan submission.
  - (b) The minimum planting requirements of § 104-14 of Chapter 104, Natural Features and Landscaping, shall be replaced by the development guidelines, as approved by the Board of Supervisors in connection with the approved tentative plan.
  - (c) Construction of improvements or disturbance of areas of man-made steep slopes shall be permitted to the extent necessary to permit the development of the tract in accordance with the PRD, without the need for conditional use approval pursuant to Chapter 134, Slope Conservation.
  - (d) To the extent that minimal disturbance of natural steep slopes is required to permit the installation of sewer facilities and other utilities, the requirements of Chapter 134, Slope Conservation, shall not be applied. "Minimal disturbance" is defined as grading that is necessary within the context of implementing the sector plans of the tract and that, as far as practical, limits surface runoff, erosion or sedimentation or unstable soil conditions.
  - (e) The block design requirements regarding length, width and shape of blocks, and as set forth in § 148-25, shall be replaced by the design guidelines as set forth in § 172-100.36B(4)(c)[12][a] of this article.
  - (f) The lots and lot size requirements of § 148-26 are inconsistent with PRD development and shall not be applied.
  - (g) The street design requirements set forth in § 148-27 are inconsistent with PRD development and shall not be applied. However, all streets shall be designed to promote the public safety and be designed to accommodate their planned function.
  - (h) The applicant shall be permitted to substitute alternative street construction specifications to those set forth in § 148-29 for the streets which are to remain private, provided that such alternate specifications



are acceptable to the Township Engineer. The Township Engineer's decision shall be final.

- (i) The private street design requirements set forth in § 148-30 are inconsistent with PRD development and shall not be applied to the private streets proposed within the development.
- (j) The driveway design requirements set forth in § 148-31 are inconsistent with PRD development and shall not be applied.
- (k) The alley and service streets design prohibitions set forth in § 148-32 are inconsistent with PRD development and shall not be applied.
- (l) The parking area requirements of § 148-33 are replaced by the specific use and dimensional criteria for the PRD and development conditions governing the PRD.
- (m) The curbing requirements of § 148-35 may be replaced by the design guidelines.
- (n) The passive open space areas and common gathering areas required within the PRD satisfy all of the recreational land requirements of § 148-41.
- (o) To the extent not modified herein, the requirements of Chapter 148, Subdivision and Land Development, of the Code of the Township of Newtown shall apply to a PRD development, unless modified in accordance with the procedures for PRD approval set forth in § 172-100.36 of this article.

**§ 172-100.36. Application submission and review procedures.**

- A. Administration. The Board of Supervisors of Newtown Township shall administer this article pursuant to Article VII of the Pennsylvania Municipalities Planning Code<sup>39</sup> (MPC) and shall be the entity with responsibility for the approval of all plans filed pursuant to this section.
- B. Application for tentative approval.
  - (1) Submission of information to the Township. Copies of the tentative plan and all supporting data shall be officially submitted to the Township by the applicant or the applicant's representative authorized in writing to submit the plan.
  - (2) Number of copies:
    - (a) One copy of the application for review of the tentative PRD plan, on a form promulgated by the Township for this purpose or, if no form exists, by an application letter submitted by the landowner or on behalf of the landowner.

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<sup>39</sup>. Editor's Note: See 53 P.S. § 10101 et seq.

- (b) Four copies of the tentative PRD plan which shall fully comply with this article. Whenever a PRD is located partially in or adjacent to another municipality, one additional plan print shall be required per adjacent municipality.
- (3) Filing fee. The Township Secretary shall collect a filing fee for each application for tentative approval of a PRD. Fees shall be charged in order to cover the costs of examining plans and other incidental expenses. The applicant shall pay the fee and establish the necessary escrow at the time of application for tentative approval in accordance with the Fee Schedule of Newtown Township.<sup>40</sup>
- (4) Tentative plan requirements.
  - (a) The intent of the tentative plan submission requirements is to provide the schematic design and planning information specifically required by Section 707(4) of Act 247, the Pennsylvania Municipalities Planning Code,<sup>41</sup> without mandating detailed site engineering, architecture or landscape architecture which shall be required in the final plan submission.
  - (b) The tentative plan shall be prepared by a professional engineer, surveyor, landscape architect or architect registered in the Commonwealth of Pennsylvania, who shall place his/her seal and signature on all applicable plans, maps and drawings. Plans shall be drawn to a scale that is adequate for proper review, but in no case larger than one inch equals 50 feet and no smaller than one inch equals 100 feet, and shall not exceed 30 inches by 42 inches in overall size. Site plans may consist of multiple sheets if a key map showing the relationship of each sheet to the overall site plan is placed on all of the multiple sheets.
  - (c) The tentative plan shall include:
    - [1] The project name or identifying title.
    - [2] The name and address of the landowner of the tract, the applicant, and the firm(s) that prepared the plans.
    - [3] The nature of the landowner's interest in the land proposed to be developed.
    - [4] The file or project number assigned by the firm that prepared the plan, the plan date, and the dates of all plan revisions, with an indication of the revision made.
    - [5] A key map for the purpose of locating the site to be developed, at a minimum scale of 800 feet to the inch, showing the relation of the tract to adjoining property and to all streets, municipal boundaries and streams existing within 500 feet of any part of the property

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40. Editor's Note: See Ch. A176, Fee Schedule.

41. Editor's Note: See 53 P.S. § 10707(4).

proposed to be developed.

- [6] The entire tract boundary with bearings, distances and identification of all existing corner markers, North arrow and graphic scale.
- [7] An existing features plan, including:
  - [a] Topographical and physical features of the tract, such as streams and wooded areas, and the tract size, expressed in acres and square feet. Topography shall be provided at two-foot contour intervals.
  - [b] The delineation of all soil types as indicated by the most recently available United States Department of Agriculture Soil Conservation Service Soil Survey of Delaware County.<sup>42</sup>
  - [c] Locations of all historically significant sites or structures on the tract or on any abutting property.
  - [d] Floodplains, steep slopes, and wooded areas.
  - [e] The delineation of wetlands.
  - [f] All existing buildings, roads or other structures and the approximate location of all existing pipelines, major power transmission lines, sewage and water treatment plants, buildings, tree masses, rock outcrops, lakes, ponds, streams and other watercourses.
- [8] A proposed overall development plan, including:
  - [a] A designation and location of the intended uses of all portions of the proposed development.
  - [b] A statement of the maximum number of residential units permitted (including accessory residential units) and the proposed number of units.
  - [c] A statement of the maximum nonresidential square footage permitted and the proposed nonresidential square footage.
  - [d] A statement of the density of land use to be allocated to parts of the site to be developed.
  - [e] A statement of the amount of required open space and the amount of proposed open space (in acres and as a percentage of the total tract area).
  - [f] The location, paving and right-of-way widths of all existing streets and proposed streets and public ways. The location of proposed local streets within an individual development section shall be considered to be for conceptual purposes only and may

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42. Editor's Note: The Soil Conservation Service is now the Natural Resources Conservation Service (NRCS).

be modified between the time of tentative plan approval and final plan submission.

- [g] The approximate height, bulk and location of buildings and other structures. It is specifically recognized that the locations and configurations of buildings shown on the overall development plan may change between tentative plan approval and final plan approval.
  - [h] The general location of parking areas within the PRD and an explanation of the provisions made for parking of vehicles within the PRD.
  - [i] Any additional required modifications to the Township land use regulations otherwise applicable to the PRD.
- [9] A development section plan which shall depict for each development section the general delineation, location and size of each development section within the PRD and the approximate number of residential units and/or amount of nonresidential square footage proposed within each development section.
- [10] A master utility plan or plans, including:
- [a] General location of trunk lines showing how water service will be provided to each development section. No location or profiles of water facilities shall be required.
  - [b] General location of trunk lines showing how wastewater service will be provided to each development section. No location or profiles of sewer facilities shall be required.
  - [c] The location of existing gas and electric service and a general indication of how such services shall be provided to each development section.
  - [d] The general location of surface and subsurface drainage (e.g., swales, stormwater collection systems, stormwater management basins) and a general indication of how such services shall be provided to each development section.
- [11] An open space plan which shall depict the general location and use of the proposed open space as it can be determined at the time of the tentative plan submission. Open space areas in the tentative plan shall identify:
- [a] The general location of the proposed open space;
  - [b] The general use of the proposed open space, whether such open space will be public open space or restricted private open space, and its designation as active open space, passive open space, resource protection open space or a mixture of open space types;

- [c] The form of organization proposed to own and maintain such open space;
  - [d] The general location of any trails, bike paths or other pedestrian systems that may interlink or provide access to open space areas as known at the time of the tentative plan submission;
  - [e] The general location of any other improvements to the open space known at the time of the tentative plan submission.
- [12] The tentative plan shall be accompanied by the following supplemental data, as applicable:
- [a] A draft of a manual of written and graphic design guidelines for buildings, streets, landscaping and pedestrian circulation within the proposed PRD (the "design guidelines"), which shall function as a coordinated and coherent set of drawings and narratives and shall include, but not be limited to, architectural and landscaping standards, street and circulation systems, signage, building materials, banners and signage, pedestrian walkways, sidewalks and crosswalks, parking, screening and lighting, pavilions, gazebos and plazas, street furniture and amenities, and open space operation and maintenance. The design guidelines shall apply to all use and development within the PRD development. The design guidelines shall be adopted by the homeowners' association or associations of the PRD for enforcement and shall not be adopted by ordinance.
  - [b] A traffic impact study by a qualified traffic engineer. The study shall include, but not necessarily be limited to, an analysis of expected traffic generation to, from and upon surrounding roads, particularly showing a.m. and p.m. peak hours to existing traffic flow during a normal business day, in comparison with that which is anticipated after the proposed PRD development is fully completed, and, if applicable, upon the completion of each stage. Existing traffic flows shall be based on actual counts; if these are not available, then an alternative source shall be fully cited and deemed acceptable by the Township. The study shall include recommendations for lane changes, signalization, impact on other intersections within the Township and other matters, as applicable.
  - [c] Information demonstrating the feasibility of proposals for water supply to meet expected demand. If a new water system is proposed for the PRD, the applicant shall submit a description of the ability to achieve a safe and efficient water supply system supported by geologic, hydrologic or other relevant data necessary to demonstrate the feasibility of the water supply. In the event that water service is proposed to be provided by an existing water company, authority or other entity, a written statement from the water company of intent to provide public

water service to the PRD.

- [d] Information demonstrating the feasibility of proposals for the disposition of sanitary wastewater, including a description of the ability to achieve a safe and efficient system for sewage disposal. The description shall indicate all proposed measures and methods for conveying, treating, and disposing of wastewater sewage, the approximate sizes of all major collection mains, the direction and approximate quantities of anticipated flow, as well as all connections which will be required to tie into existing sanitary sewers, if applicable and as known at the time of filing of the application for tentative plan approval. In the event that wastewater service is proposed to come from an existing public sewer source, a written statement from the owner/operator of the sewer source of intent to provide public sewer service to the PRD.
- [e] Information demonstrating the feasibility of proposals to comply with the peak rate reduction requirements of Chapter 143, Stormwater Management, of the Code of the Township of Newtown. Soil permeability testing or other information required to demonstrate ultimate compliance with applicable stormwater requirements of Chapter 143, Stormwater Management, shall not be required at the tentative plan stage.
- [f] Information demonstrating the feasibility of proposals for the management of stormwater. Soil permeability testing or other information required to demonstrate ultimate compliance with applicable stormwater infiltration requirements shall not be required at the tentative plan stage.
- [g] To the extent known at the time of the application for tentative plan approval, the substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures, including proposed easements or grants for public utilities.
- [h] To the extent known at the time of the application for tentative plan approval, identification of the required modifications in the Township land use regulations otherwise applicable to the site.
- [i] Development schedule. In the case of a tentative plan which calls for development of various development sections over a period of years, a development schedule showing the proposed times within which applications for final approval of each development section of the PRD are intended to be filed. Said development schedule shall be updated annually by the anniversary of tentative plan approval.
- [j] To the extent known at the time of the application for tentative plan approval, a report that evaluates the feasibility of

proposals for energy conservation and the effective utilization of renewable energy sources.

[k] A written statement by the applicant setting forth the reasons why, in the applicant's opinion, a PRD would be in the public interest and would be consistent with the Comprehensive Plan for the development of the Township.

C. Review of tentative plan.

- (1) Review by the Township Engineer. The Township Engineer shall review the tentative plan to determine its conformance with this article. The Engineer may recommend changes, alterations or modifications as he may deem necessary in order to bring the plan into conformity with the requirements of this article. The report of the Engineer shall be in writing and shall be submitted to the Township Planning Commission prior to the regularly scheduled or special meeting at which the tentative plan is to be considered by the Planning Commission. The scheduled date for the meeting at which the tentative plan is to be discussed shall provide for a reasonable interval of time, as agreed upon by the Township, the Township Engineer and the applicant, for review of the plan.
- (2) Review by the Delaware County Planning Commission. Within 10 days after the submission of a tentative plan, the Township shall submit one copy of the tentative plan and one copy of all supporting materials to the Delaware County Planning Commission for review.
- (3) Review by the Township Planning Commission. When a tentative plan has been submitted, such plan shall be reviewed by the Township Planning Commission. The scheduled date for the meeting at which the tentative plan is to be discussed shall provide for a reasonable interval of time, as agreed upon by the Township, the Township Engineer and the applicant, for review of the plan. During review of the tentative plan, the Township Planning Commission shall consider the written reports of the Township Engineer, the Delaware County Planning Commission or other Township consultants, if any. The Township Planning Commission may recommend changes, alterations or modifications deemed necessary in order to bring the plan into conformity with the requirements of this article. The report of the Township Planning Commission shall be in writing and shall be submitted no less than five days before the public hearing at which the tentative plan is to be heard by the Board of Supervisors.

D. Public hearing.

- (1) Within 60 days after the Township receives an application for tentative approval of a PRD, a public hearing shall be held by the Board of Supervisors, which shall be advertised, conducted and made a record in the manner prescribed in Section 708 of the Municipalities Planning Code.<sup>43</sup> The Board of Supervisors may continue the hearing from time to time and, where applicable, may refer the matter back to the Township Planning Commission for a report;

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43. Editor's Note: See 53 P.S. § 10708.

provided, however, that, in any event, the public hearing or hearings shall be concluded within 60 days after the date of the first public hearing.

- (2) At the hearing, the applicant shall present evidence as to the proposed PRD's:
  - (a) General character and substance;
  - (b) Objectives and purposes to be served;
  - (c) Scale, scope and impact of the proposed development on the Township;
  - (d) Why the proposed PRD is in the public interest; and
  - (e) General sequence of development.
- (3) A stenographic record of the hearing shall be caused to be made by the Board of Supervisors. The appearance fee for a stenographer and the cost of the original transcript shall be paid by the applicant. The cost of additional copies shall be paid by the person ordering such additional copy or copies.

E. The findings.

- (1) The Board of Supervisors, within 60 days following the conclusion of the public hearings, shall, by official written communication to the landowner, either:
  - (a) Grant tentative approval of the tentative plan as submitted;
  - (b) Grant tentative approval subject to specified conditions not included in the tentative plan as submitted; or
  - (c) Deny tentative approval of the tentative plan.

[1] The official written communication shall be mailed to the applicant. Failure to issue said official written communication shall be deemed to be a grant of tentative approval of the tentative plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the applicant may, within 30 days after receiving a copy of the official written communication of the Board of Supervisors, notify the Board of Supervisors of his refusal to accept one or more of said conditions, in which case the Board of Supervisors shall be deemed to have denied tentative approval of the tentative plan. In the event that the landowner does not notify the Board of Supervisors within said period, tentative approval of the tentative plan, with all said conditions, shall stand as granted.

[2] The applicant shall have the right to appeal the denial of tentative approval or any conditions imposed upon the grant of tentative approval to the Court of Common Pleas of Delaware County.

- (2) The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial. The written communication shall set forth, with



particularity, in what respects the tentative plan would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:

- (a) The extent to which the tentative plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;
  - (b) The extent to which the tentative plan is or is not consistent with the Township Comprehensive Plan or with the objectives of this section;
  - (c) The purpose, location and amount of the open space, the proposals for ownership, administration, maintenance and conservation of open space, and the adequacy or inadequacy of the amount and purpose of the open space as related to the proposed density and type of residential development;
  - (d) The physical design of the tentative plan and the manner in which the design does or does not make adequate provisions for public services, provide adequate control over vehicular traffic, and further the amenities of light and air and recreation;
  - (e) The relationship, beneficial or adverse, of the proposed PRD to the neighborhood in which it is proposed to be established;
  - (f) In the case of a tentative plan which proposes development over a period of years, the sufficiency of terms and conditions intended to protect the interests of the public and or the residents of the PRD in the integrity of the tentative plan;
  - (g) The extent to which the intent of the tentative plan is made clear for the benefit of future Township officials and future residents of the PRD in the protective covenants which shall be imposed for the preservation of the integrity of the tentative plan over the years and through various stages of development where such are contemplated.
- (3) In the event a tentative plan is granted tentative approval, with or without conditions, the Board of Supervisors may set forth in the official written communication the approved development schedule. Except upon the consent of the landowner, the time so established between the grant of tentative approval and application for final plan approval shall not be less than three months, and, in the case of developments over a period of years, the time between applications for final approval of each part of the plan shall not be less than 12 months.
  - (4) In the event a tentative plan is granted tentative approval with conditions which require that modifications be made to the overall development plan, within 45 days of the grant of tentative approval, the applicant shall submit to the Township a revised overall development plan which modifies the layout of the PRD as required by the conditions of tentative approval.

## F. Status of plan after tentative approval.

- (1) Where tentative approval has been granted, it shall be deemed an amendment to the Zoning Map, effective upon final approval, and shall be noted on the Zoning Map.<sup>44</sup>
- (2) Tentative plan approval shall not qualify a PRD plan for recording, nor authorize construction or the issuance of any zoning and/or building permits. A tentative plan which has been given tentative approval as submitted or which has been given tentative approval with conditions which have been accepted by the landowner (provided the landowner has not defaulted or violated any of the conditions of the tentative approval) shall not be modified or revoked or otherwise impaired by action of the Township pending application for final approval without the consent of the landowner, provided an application or applications for final approval are filed, or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.
- (3) In the event the PRD plan is granted tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon the tentative plan and shall so notify the Board of Supervisors, in writing; the tentative approval shall be deemed to be revoked, and all the portion of the area included in the tentative plan for which final approval has not been given shall be subject to those ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the Zoning Map and in the records of the Township Secretary.

## G. Application for final plan approval.

- (1) An application for final plan approval may be for all the land included in the PRD or for one or more specific development sections as delineated on the approved tentative plan. Said application shall be made to the Township within the time or times specified by the official written communication granting tentative approval or any extensions thereof granted by the Board of Supervisors. If the application for final plan approval is in accordance with the approved tentative plan and any specified conditions, a public hearing need not be required.
- (2) Number of copies. The provisions of § 172-100.36B(2) shall be followed.
- (3) Filing fee. The provisions of § 172-100.36B(3) shall be followed.
- (4) Final plan application requirements. Each copy of the application for final plan approval shall consist of the following:
  - (a) Name of the applicant and record owner and the source(s) of title to the area included in the application for final plan approval as shown by the records of the Delaware County Recorder of Deeds.

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44. Editor's Note: The Zoning Map is on file in the Township offices.

- (b) The boundary lines of the area being developed pursuant to the final plan, with accurate distances to hundredths of a foot and bearings to one second. These boundaries shall be determined by accurate survey in the field, which shall be balanced and close with an error of closure not to exceed one foot in 10,000 feet, provided that the boundary adjoining additional unplatted land (for example, between separately submitted final plan sections) is not required to be based upon field survey and may be calculated. The location and elevation of all existing and proposed boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being developed. In addition, a professional land surveyor shall certify, to the accuracy of the survey, the drawn plan and the placement of the monuments.
- (c) The name (or number), right-of-way width and cartway width of all existing public streets and the name and location of all other roads within the area included in the application for final plan approval.
- (d) The following data shall be shown for the cartway edges and right-of-way lines for all existing, recorded (except those to be vacated) and/or proposed streets within or abutting the area included in the application for final plan approval: the length of all straight lines and the radius, length and central angle of all arcs. Measurements shall be to the nearest hundredth of a foot or in degrees, minutes and seconds, as appropriate.
- (e) The following data shall be shown for all lot lines and all internal angles within lot lines: the length, width and direction of all straight lines and the radius, length and central angle of all arcs. Measurements shall be to the nearest hundredth of a foot or in degrees, minutes and seconds, as appropriate.
- (f) A statement of the intended use of all nonresidential lots, with reference to restrictions of any type which exist or will exist as covenants in the deed for the lots contained in the development and if covenants are recorded, including the book and page number.
- (g) The permitted building envelope and the location of proposed buildings. It is acceptable for prototypical buildings to be depicted if exact buildings are not known at the time of final plan submission.
- (h) The location (and elevation, if established) of all existing and proposed required street and boundary monuments.
- (i) All easements or rights-of-way where provided for or owned by public services and any limitations on such easements or rights-of-way. Rights-of-way shall be shown and accurately identified on the plan, and easements shall either be shown or specifically described on the plan.
- (j) Plan for water supply and distribution, fire hydrants, locations, size and invert elevations of all sanitary and/or storm sewers and location of all manholes, inlets and culverts. (This data may be submitted as a separate plan.)

- (k) A clear sight triangle and a safe stopping sight distance triangle shall be clearly shown for all street-to-street intersections. This shall not be required for intersections involving residential driveways or alleys and service streets.
- (l) A certification of ownership, acknowledgement of plan and offer of dedication shall be lettered on the plan and shall be duly acknowledged and signed by the owner(s) of the property and notarized.
- (m) A plan for the final location of surface and subsurface drainage of the tract shall be shown. The application for final plan approval shall include stormwater runoff calculations for the entire property being developed and shall show the proposed method of accommodating the anticipated runoff. Such calculations and documentation shall demonstrate compliance with Chapter 143, Stormwater Management.
- (n) A certificate for approval of the plan by the Board of Supervisors and a notation of review by the Township Planning Commission shall be lettered on the plan.
- (o) The total number of lots, dwelling units, approximate square feet of nonresidential uses, total acres of open space and number of parking spaces provided. A running total of these same items from all previously approved final plans should also be included.
- (p) A lot typical for each type of dwelling unit and nonresidential structure to be developed pursuant to the final plan, giving approximate dimensions of the structures, distances between the structures, distances to street rights-of-way and parking areas.
- (q) Accurate dimensions of open space areas, specifically indicating those areas to be developed for active or passive recreation. Where open space areas are to be developed, a general description of the type and nature of the open space improvements and the approximate location of the structures in the open space areas.
- (r) A landscape plan showing existing and proposed grades for the area, location and construction details of proposed retaining walls and other structures in common areas, and a proposed planting schedule indicating the locations, species and sizes of plantings. Existing vegetation shall be shown by depicting the general edge of woodland areas and individual trees of twelve-inch diameter at breast height or greater within 20 feet of any proposed disturbance.
- (s) Location and dimensions of easements for utilities and any limitations on such easements.
- (t) Certification with seal by a professional land surveyor registered in the Commonwealth of Pennsylvania to the effect that the survey and plans are correct to the accuracy required by this article. If the final plans propose subdivision resulting in the creation of any new property lines, they shall be sealed by a professional land surveyor registered in the

## Commonwealth of Pennsylvania.

- (u) A blank space measuring three inches square shall be left along the lower edge of the sheet, in order that the Delaware County Planning Commission may acknowledge receipt of the final plan when it is presented.
  - (v) A blank space measuring three inches square shall be left along the lower edge of the sheet, in order that the Delaware County Recorder of Deeds may acknowledge receipt of the final plan when it is presented.
- (5) The final plan shall be accompanied by:
- (a) Profile sheets for all proposed streets within the area to be developed pursuant to the final plan. Such profiles shall show at least the following information, properly labeled:
    - [1] Existing (natural) profiles along the center line of each street. Profiles shall also be shown along each right-of-way when requested by the Township Engineer.
    - [2] Profiles along the center line of each proposed street shall be shown. Such profiles shall show existing and proposed grades at one of the following sets of scales:
      - [a] One inch equals 10 feet horizontal, and one inch equals one foot vertical.
      - [b] One inch equals 20 feet horizontal, and one inch equals two feet vertical.
      - [c] One inch equals 40 feet horizontal, and one inch equals four feet vertical.
      - [d] One inch equals 50 feet horizontal, and one inch equals five feet vertical.
      - [e] One inch equals 100 feet horizontal and one inch equals 10 feet vertical.
    - [3] Proposed finished grade of the center line and a grid with specific existing and proposed elevations every 25 feet and appropriate curb radius details to ensure adequate information for construction.
    - [4] The length of all vertical curves and the function of such curves.
    - [5] Existing and proposed sanitary sewer mains and manholes, storm sewer mains, inlets, manholes and culverts and existing or proposed water mains and fire hydrants.
  - (b) An updated overall development plan which depicts:
    - [1] All phases and sections of the PRD that have been built, in the manner that they were built;

- [2] An outline of the area to which the phased final plan section pertains;
  - [3] The remaining portions of the PRD that have not yet been built, depicting the improvements shown on the approved tentative plan;
  - [4] All street, alley, sidewalk, trail, open space, recreation, utility, lot line, and other plan changes and linkages that may be necessary to integrate the final plan phase to adjoining development; and
  - [5] Overall calculations of development density and intensity, open space, and other tract-wide parameters established by the tentative approval.
- (c) A comprehensive signage package demonstrating compliance with the signage criteria contained in the design guidelines approved as part of tentative plan approval.
  - (d) Any additional required modifications to the Township land use regulations otherwise applicable to the PRD.
  - (e) Such private deed restrictions, including building setback lines, as may be imposed upon the property as a condition of sale, together with a statement of any restrictions previously imposed which may affect the title to the area included in the application for final plan approval.
  - (f) A completed stormwater drainage system showing culverts, ditches, curbs and gutters is required. All inlets, manholes and pipes for storm drainage shall be shown. This shall be accompanied by computations prepared and certified by a registered professional engineer that the stormwater drainage system will be adequate for the development pursuant to the final plan.
  - (g) The applicant shall comply with all other conditions of the written notice and communication concerning the approval of the tentative plan.
  - (h) Prior to the time of final plan approval, restrictions of all types which will run with the land and become covenants in the deeds of lots shown on the final plan shall be submitted.
  - (i) Such certificates of approval by authorities as have been required in this article, including certificates approving the water supply system and the sanitary sewer system, shall be submitted.
  - (j) Prior to recording of the final plan, an estimate of the cost of construction of all public improvements required by this article for the area to be developed pursuant to the final plan ("construction cost estimate"). The estimate shall be prepared by the applicant's consulting engineer or other qualified professional to be a fair and reasonable estimate of such costs.

#### H. Review of final plan.

- (1) Review by the Township Engineer. The Township Engineer shall review the

final plan to determine its conformance with this article. The Engineer may recommend changes, alterations or modifications as he may deem necessary in order to bring the plan into conformity with the requirements of this article and the conditions of tentative plan approval.

- (2) In the event an application for final plan approval has been filed as required by this article and the official written communication granting tentative plan approval, the Board of Supervisors, within 45 days after the date of the next regular meeting of the Board of Supervisors following the date the application is filed, shall grant final plan approval. The Township Planning Commission shall have the right to review the final plan at its next regularly scheduled meeting. A public hearing on an application for final plan approval shall not be required, provided the submission for final approval is determined to be consistent with this article and the official written communication granting tentative plan approval.
- (3) In the event the final plan as submitted contains variations from the approved tentative plan, the Board of Supervisors may refuse to grant final plan approval and, within 45 days from the date of the regular meeting of the governing body next following the date the application for final plan approval is filed, shall so advise the applicant, in writing, of its refusal, setting forth in the notice the reasons why one or more of the variations are not in the public interest.
  - (a) In the event an application for final plan approval is denied approval, the applicant may either:
    - [1] Refile his application for final plan approval without the variations objected to; or
    - [2] File a written request with the Board of Supervisors that it hold a public hearing on his application for final plan approval.
  - (b) If the applicant wishes to take either action, he may do so at any time within which he is entitled to apply for final plan approval or within 30 additional days if the time for applying for final plan approval shall have already passed at the time when the applicant was advised that the final plan was not in substantial compliance. In the event the applicant shall fail to take either of these alternate actions within the required time, he shall be deemed to have abandoned the final plan.
- (4) Any public hearing on an application for final plan approval granted by the Board of Supervisors shall be held pursuant to public notice within 30 days after request for the hearing is made by the applicant, and the hearing shall be conducted in the manner prescribed herein for public hearings on applications for tentative approval.
  - (a) The Board of Supervisors, within 30 days following the conclusion of the public hearings, shall, by official written communication, either:
    - [1] Grant final plan approval; or
    - [2] Deny final plan approval.

- (b) The grant or denial of final plan approval shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth herein.

I. Recording of final plan.

- (1) A final plan which has been granted final approval shall be certified without delay by the Board of Supervisors as being approved; provided, however, that no final plan shall be certified unless security to secure the completion of improvements in accordance with this article has been posted.
- (2) Within 90 days after certification by the Board of Supervisors of final plan approval, the plan shall be filed of record by the landowner in the office of the Recorder of Deeds of Delaware County on a plan size acceptable to the Recorder of Deeds.
- (3) Upon the recording of the final plan, the zoning and subdivision regulations otherwise applicable to the land included in such final plan shall cease to apply thereto.
- (4) In the event that a development plan, or section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved and shall so notify the approving body, in writing, or, in the event the landowner shall fail to commence and carry out the planned residential development in accordance with Section 508 of the Municipalities Planning Code<sup>45</sup> after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is reclassified, by enactment of an amendment to this chapter, to its prior zoning classification.

J. Performance guarantee. Performance guarantees shall be posted in accordance with Section 509 of the Municipalities Planning Code.<sup>46</sup>

K. Release of performance guarantee. Release of performance guarantees shall be in accordance with Section 510 of the Municipalities Planning Code.<sup>47</sup>

L. Dedication and maintenance guarantee.

- (1) All streets, parks or other improvements shown on the final plan, recorded or otherwise, shall be deemed to be private until such time as the same have been offered for dedication to the Township and accepted by resolution of the Board of Supervisors. It is the intent of this article that all streets, rear lanes and other public ways be offered for public dedication to and accepted by the Township in accordance with this article, unless the applicant notes on the plan that such improvements shall remain private.
- (2) Before accepting dedication of any improvements, the Board of Supervisors shall completely release the applicant of the performance guarantee and

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45. Editor's Note: See 53 P.S. § 10508.

46. Editor's Note: See 53 P.S. § 10509.

47. Editor's Note: See 53 P.S. § 10510.



require the applicant to file a maintenance guarantee in an amount of 15% of the cost of constructing the improvements to be dedicated to the Township. Such maintenance guarantee shall not have a term greater than 18 months from the date of acceptance of dedication.

- (3) Dedication shall be effected by a deed in a form approved by the Township Solicitor, which deed shall include a reference to a plan of the streets and/or other parcels dedicated.
- (4) The applicant shall furnish the Township with as-built plans. There shall be one paper and two Mylar prints of the as-built plans, showing completed required improvements, including drainage, profiles and utilities. The applicant shall also provide an electronic copy of the as-built plans in a form specified by the Township at the time of dedication.

M. Development schedule.

- (1) The applicant shall present an updated development schedule to the Board of Supervisors at its first regularly scheduled meeting of every calendar year following the year the tentative plan was approved until the development is completed and accepted. If the updated development schedule is unchanged from the most recently approved development schedule, then the submitted development schedule shall be automatically deemed approved. If the updated development schedule shows changes from the most recently approved development schedule, the applicant shall demonstrate good cause for the change in a written statement and other prepared materials, and the Board of Supervisors shall take into consideration prevailing economic and market conditions, anticipated and actual needs for residential and nonresidential space within the municipality and the availability and capacity of public facilities to accommodate the proposed development.
- (2) If the applicant has demonstrated good cause for the requested change in the development schedule, the Board of Supervisors shall approve said request, and the revised development schedule shall supersede and replace the originally approved development schedule.
- (3) Failure of the applicant to submit an updated development schedule shall not be deemed an abandonment of the PRD, but the Board of Supervisors may institute enforcement remedies as contained in Section 712.2 of the MPC.<sup>48</sup>

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48. Editor's Note: See 53 P.S. § 10712.2.



ARTICLE XXI  
**Miscellaneous Regulations**

**§ 172-101. No-impact home-based businesses.**

- A. In R-1, R-1A, R-2, R-3 and R-4 Residential Zoning Districts, all single-family detached dwelling units, except apartments, may be used for no-impact home-based businesses when approved by the Zoning Hearing Board as a special exception. (Such uses are not permitted in apartments.) Nothing in this section shall be construed to prevent an apartment dweller from having a home office for their personal use.
- B. Intent. It is the intent of this chapter to regulate home occupations within residential districts in such a manner that will ensure such uses are utilized as accessory and incidental to the primary residential use of the property and that all home-based businesses be "no-impact" in accordance with the Pennsylvania Municipalities Planning Code.<sup>49</sup> Further, it is the intent of this chapter to ensure that home occupations will not be inconsistent with nor disruptive of the normal residential use of the premises, nor detrimental to neighboring properties or incompatible with the characteristics of residential zones. These provisions are not to supersede any deed restriction or covenant or bylaw of any common interest ownership.
- C. In addition to the general standards enumerated for special exceptions in this chapter, the following specific requirements governing no-impact home-based businesses shall be considered:
- (1) The business activity shall be compatible with the residential use of the property and surrounding residential neighborhood.
  - (2) The business shall employ no employees at the residence other than family members residing in the dwelling, and the number of residents employed in the no-impact home-based business shall not exceed two, including the owner/operator.
  - (3) The operation of any wholesale or retail business is prohibited, unless it is conducted entirely by mail and does not involve the sale, shipment or delivery of merchandise to or from the premises.
  - (4) There shall be no display or sale of retail goods and no stocking of inventory of a substantial nature.
  - (5) There shall be no outside appearance of a business use, including, but not limited to, parking of vehicles or equipment and the use of signs or lights. (For purposes of defining "equipment," see §§ 165-17 and 165-18.)
  - (6) Home occupations shall be conducted exclusively within the dwelling unit, except for storage which shall be permitted within an attached or detached accessory building permitted by this chapter (§ 172-103).
  - (7) No alterations shall be made to change the exterior residential appearance of

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<sup>49</sup>. Editor's Note: See 53 P.S. § 10101 et seq.

the dwelling unit, garage or shed.

- (8) The proposed use shall not utilize in excess of 400 square feet or 25% of the floor area, including storage, whichever is less.
  - (9) The no-impact home-based business shall not involve the use of commercial vehicles.
  - (10) Delivery of goods, merchandise, or equipment incidental to the operation of the home occupation shall be by passenger motor vehicle, light commercial vehicle (one-ton capacity or less) or by parcel or mail service vehicles typically employed in residential deliveries and be made no more frequently than once a week. Deliveries by semi-tractor-trailer trucks are prohibited.
  - (11) No-impact home-based businesses shall not be conducted between the hours of 10:00 p.m. and 7:00 a.m., and customers are not permitted at the premises at any time.
  - (12) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood, and no home-based business may involve or create a dangerous condition.
  - (13) 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.
  - (14) The business may not involve any illegal activities.
  - (15) All home-based businesses must register with the Township.
- D. The Zoning Officer or his designee shall have the right at any reasonable time to enter and inspect the premises for safety and compliance purposes.

**§ 172-101.1. Day-care centers; home-based day care.**

Day-care centers are a permitted use by special exception in all nonresidential districts. Home day care is a permitted use by special exception in a residential district. However, a day-care center may be located in a school, church or similar facility as an accessory use by special exception. All day-care providers, whether in a day-care center or home-based day care, must, in addition to the regular special exception criteria, satisfy the following requirements:

- A. The applicant is required to demonstrate compliance with the requirements of the Pennsylvania Department of Public Welfare and/or the Department of Education, if any apply to the size and scope of the program offered (Title 55, Chapter 3270<sup>50</sup>).
- B. The day-care center or home-based day care is a safe environment and meets all requirements of the Commonwealth of Pennsylvania or the local fire codes and safety provisions, including, but not limited to, ingress and egress. The operator

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50. Editor's Note: See 55 Pa. Code § 3270.1 et seq.

must obtain an inspection and recommendation by the Fire Marshal and provide a comment letter from the Fire Marshal. The applicant must satisfy the Zoning Hearing Board that they have adequate training in first aid in accordance with the size and scope of the program being offered and an emergency evacuation plan. Under no circumstances shall a home-based day care be operated on a dead-end street.

- C. The hours of operation in a residential district may not be earlier than 7:00 a.m. or later than 6:00 p.m.
- D. The applicant has the ability to provide indoor and outdoor activities. Indoor activities, whether educational or recreational, must be organized and set forth to the Zoning Hearing Board as part of a plan of operations. Outdoor activities must be conducted in a fenced-in yard, the said fence to be at least four feet in height to insure the safety and security of the participants. Said fenced-in area is to have a self-locking mechanism on any gate into the fenced area. Outside activities may only be conducted between the hours of 10:00 a.m. and 4:00 p.m.
- E. The applicant must demonstrate, as part of their program, what meal or other food, snack and beverage provisions are to be made for the participants.
- F. The applicant must also demonstrate that they have adequate and safe dropoff and pickup areas.
- G. All day-care operators and employees are required to have a criminal history check made by the Newtown Township Police Department.
- H. All day-care operators shall register with the Township and submit to an annual inspection by the Fire Marshal and Health Officer subsequent to registration.

### **§ 172-101.2. Historic buildings.**

No historic building as defined herein may be demolished or neglected to the extent that inevitable demolition is apparent, as determined by the Building Official or Zoning Officer, subject to the following conditions:

- A. A demolition permit is required for all such structures to be demolished.
- B. Where inevitable demolition is apparent, as determined by the Building Official or Zoning Officer, a remediation plan may be required by the Township, or the owner shall be in violation of this chapter and an enforcement action may be taken as the inevitable demolition hereby determined would have been undertaken without a permit.
- C. A permit or remediation action may only be granted by action of the Board of Supervisors at a public hearing duly advertised, at which time the Board shall consider the following issues in reaching its determination:
  - (1) The effect of demolition on the historical significance of the subject and architectural integrity of neighboring contributing historic resources.
  - (2) Economic feasibility of adaptively reusing the resource proposed for demolition.

- (3) Alternatives to demolition of the resource.
- (4) Special incentives to encourage the owner to maintain the structure, such as including historic resources as part of the open space contribution, including it as part of a homeowners' association or other incentive as determined by the Board.

**§ 172-102. Vision obstruction. [Amended 11-14-1994 by Ord. No. 1994-4]**

Clear sight triangles shall be maintained at all street intersections in accordance with the standards of § 148-27G of Chapter 148, Subdivision and Land Development. Within such triangles, no vision-obstructing object shall be permitted which obscures vision above the height of 30 inches and below 10 feet, measured from a vehicle 10 feet back from the edge of the pavement of the street being entered to the center line of the approaching traffic lane. In the case of a four-lane street being intersected, it shall be measured on the left from the intersecting street to the outside lane and on the right to the median lane. The Township reserves the right to require more stringent standards where special conditions exist, such as, but not limited to, topographical features, such as slope or curve, and traffic conditions and the use of the site. See also § 172-104 for the application of this provision to wall and fence restrictions.

**§ 172-103. Accessory buildings. [Amended 4-10-1978 by Ord. No. 1978-5]**

A. Purpose and intent.

- (1) A garage, garden shed, barn, greenhouse or other accessory building may be erected within the rear yard of an R-1, R1-A, R-2 or R-3 Zoning District in accordance with the following regulations, which are promulgated to regulate density within zoning districts in relation to lot size and to insure that the residential character of the district is not adversely affected by accessory buildings.
- (2) An accessory building is permitted to be erected and accessory uses therein are permitted to exist when the building and uses are such as are customarily incidental to any of the permitted uses in the relevant zoning district, so long as the accessory building and use is not seriously detrimental to the residential neighborhood within which it is located. The term "accessory use" does not include a business use but includes a professional use as defined by this chapter. A building or use which satisfies the definition of "accessory building" or "accessory use" may not be a principal use on a lot. Where an owner or applicant owns or controls adjoining parcels and wishes to place an accessory building on the separate parcel, this may only be done by consolidating the said parcels so that the accessory use or building is in fact accessory to the principal use on the consolidated lot and not a principal use on a separate tax folio.

B. Garages/carports.

- (1) In an R-1 District, a private garage of one story may be constructed for housing no more than four passenger motor vehicles and shall not exceed 1,000 square feet and 17 feet in height, and the use of the garage shall be limited to parking

and storage customarily incidental to a residential use. Notwithstanding any other provision of this chapter, a homeowner may construct a garage roof sloped to conform to the slope of the main dwelling by special exception.

- (2) In an R1-A and R-2 District, a private garage of one story may be constructed for housing no more than three passenger motor vehicles and shall not exceed 750 square feet and 15 feet in height, and the use of the garage shall be limited to parking and storage customarily incidental to a residential use. Notwithstanding any provision of this chapter, a homeowner may construct a garage roof sloped to conform to the slope of the main dwelling by special exception.
- (3) In an R-3 District, a private garage of one story may be constructed for housing no more than two passenger motor vehicles and shall not exceed 500 square feet and 14 feet in height, and the use of the garage shall be limited to parking and storage customarily incidental to a residential use. Notwithstanding any provision of this chapter, a homeowner may construct a garage roof sloped to conform to the slope of the main dwelling by special exception.
- (4) Carports or temporary structures of any kind or material, when so determined by the Zoning Officer, may not be constructed or placed on a premises for storage.

C. Sheds.

- (1) One shed or similar accessory building may be erected, in addition to a private garage and/or carport, in any residential district in accordance with the following criteria:
  - (a) In an R-1 District, a shed shall not exceed 180 square feet and be more than 10 feet in height.
  - (b) In an R1-A and R-2 District, a shed shall not exceed 150 square feet and be more than 10 feet in height.
  - (c) In an R-3 District, a shed shall not exceed 100 square feet or be more than eight feet in height.

D. Barns/greenhouses/gazebos.

- (1) A barn or similar structure may be constructed in any district where agricultural uses or the housing of livestock is permitted. The size of said structure shall not exceed 200 square feet per acre of land devoted to such use unless approved by the Zoning Board as a special exception. The height of said structure shall not exceed 20 feet unless approved by the Zoning Board as a special exception.
- (2) Greenhouses may be constructed in any residential district, but the size of said structure may not exceed the allocation of space for a shed in the same district. This structure shall be in place of and not in addition to a shed structure. Nothing in this regulation should be construed to deny a property owner the right to construct a greenhouse as an integral part of a residential dwelling or garage or shed structure. Where such a structure is constructed as an addition

to and is an integral part of a residence, the allocation of space shall not be deducted from the total assigned to accessory buildings in that district so long as the addition is within the buildable area of the lot.

- (3) Gazebos may be constructed in any residential district, but the allocation of space for all accessory buildings within that residential district may not be exceeded by the construction of such a structure.
- E. Other accessory buildings. The regulation of hot tubs, children's playhouses, trash enclosures, swing sets, and small animal shelters are not covered by this section, except that all such structures shall be no closer than 10 feet from the rear or side yard property line, and no such structure shall be located in the front yard in any residential district, including both front yards on a corner lot, unless approved by the Zoning Hearing Board as a special exception. If such is granted, these structures must be provided with a landscape buffer to shield the structures from the street line. The buffer may not be closer than 10 feet to the cartway. The requirements of § 172-102 as to sight line triangles must be met if implicated by the placement of these structures.
- F. General requirements.
- (1) A zoning permit is required for the erection or placement of any structure listed in this section.
  - (2) Accessory buildings may not be located in the front yard of a residence. This restriction shall include either front yard of a corner lot. In the event that a variance is granted, however, a buffer must be placed to shield the structure from the road. (See Subsection E above.)
  - (3) All accessory structures shall be located within the buildable area of the lot. However, such structures may be located within the setback lines if all of the following criteria are met:
    - (a) If the building is entirely separated from the main building.
    - (b) If the building is located at least 10 feet further back from the front street line than the rearmost portion of the main building.
    - (c) If the building is set at least five feet from the rear or side property lines.
  - (4) All accessory buildings must be placed no closer than 10 feet to any other structure unless a special exception is granted by the Zoning Board.
  - (5) Accessory structures must be erected or placed on a pad, piers or a foundation in accordance with the Building Code<sup>51</sup> or other applicable regulation. In the absence of a specific regulation, accessory buildings (other than garages and barns and greenhouses) must be placed on level ground and be supported by a concrete slab four inches thick or four-by-four treated beams, no more than two feet on center, placed perpendicular to the floor joists of the structure. Other more substantial structures must have proper foundations as determined by the Building Official.

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51. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.



- (6) The total square footage of all accessory buildings may not exceed the total set forth in this section for accessory buildings as allocated to the particular zoning district.
    - (a) In an R-1 District: 1,180 square feet.
    - (b) In an R1-A and R-2 District: 900 square feet.
    - (c) In an R-3 District: 600 square feet.
  - (7) Where an existing lot is currently nonconforming as to accessory buildings, all legally erected and legally used accessory buildings may remain. However, upon replacement, the new structure(s) must conform to the standards set forth in this section.
  - (8) No garage, carport, shed or similar structure shall contain a second story unless authorized as a special exception by the Zoning Hearing Board. The structure must be constructed so as to support the specific use contemplated on the second floor, except that the area above the parking deck of any garage may be finished to the extent necessary to allow for customary residential storage only. Commercial uses are not permitted.
  - (9) Swimming pools are not governed by this subsection. See § 172-118.
  - (10) Gated communities, churches, clubs, school facilities, estates, farms and similar entities in any district may be permitted additional accessory buildings that are customarily incidental to such facilities, such as guard houses, pool houses, snack bars and other accessory structures, if approved by the Zoning Board as a special exception. See § 172-103G.
  - (11) In addition to the criteria for special exceptions set forth in this chapter, the Zoning Board shall consider the following factors:
    - (a) The total number of accessory buildings on the premises and the duplication of uses and buildings.
    - (b) The total amount of impervious surface and/or the loss of green space in proportion to the total space, as regulated by the specific relevant zoning districts or the criteria set forth in Chapter 148, Subdivision and Land Development.
    - (c) Alternative methods or buildings available to the applicant for the proposed use.
    - (d) Special traffic conditions, such as stacking of vehicles at entry points or queuing of persons in lines affecting residential uses nearby.
    - (e) Any special public nuisance factors created by the proposed structure, including but not limited to noise, light, glare, exhaust fumes, trash and debris affecting residential uses nearby.
- G. Special provisions for properties in excess of three acres.
- (1) Purpose and intent. The accessory uses contemplated herein recognize the

special and traditional needs and uses on such parcels. It has been determined that density factors mitigate in favor of additional allocations of space, and therefore, the additional uses and structure size are not detrimental to a residential neighborhood.

- (2) Definitions. As used in this section, the following terms shall have the meanings indicated:

LARGE ESTATE — Residential properties located in any district consisting of 10 or more acres.

MINI ESTATE — Residential properties located in the R-1 District consisting of three or more acres but less than five acres.

SMALL ESTATE — Residential properties located in any district consisting of five or more acres.

- (3) In addition to the usual accessory uses, the following uses are permitted in estates:

(a) Mini estates and small estates. A pool house may be erected in addition to other permitted buildings, but no residential use is permitted in such a building. A kitchen is also prohibited, but a wet bar, refrigerator and minor appliances may be installed. In addition, an in-law suite or servants quarters may be located above a garage or in a separate suite in the residence. Rental of such space is prohibited, and the location of any such use in a separate building apart from the main structure is subject to the grant of a special exception.

(b) Large estates. In addition to the above uses, such a property may contain a barn or similar structure. The allocation of square footage shall be 200 square feet per acre, with a height limitation of 20 feet.

(c) Such other accessory buildings as the Zoning Board finds are appropriate, including but not limited to gatehouses, and similar uses by a grant of special exception only.

- (4) Accessory building allocation of square footage for estates is based on multiples of the permitted allocation in the R-1 District resulting in 135 square feet per acre or portion thereof, e.g., a three-acre site equals 405 square feet; a four-acre site equals 540 square feet; a five-acre site equals 675 square feet, to a maximum of 1,350 square feet for a large estate, exclusive of garage space.

- (5) A garage for a residential property in an estate is the same as the R-1 District, however, additional garage stalls or buildings may be erected under the following conditions:

(a) No garage may be less than 250 square feet per vehicle.

(b) The additional bays or buildings are subject to the overall allocation of space for accessory buildings in accordance with the space allocation and impervious surface requirements defined in this chapter.

(c) Such buildings must be constructed so as to be compatible with the

existing garage and/or dwelling unit.

**Example:**

R-1 = 1,180 square feet of garage and other accessory buildings + 135 square feet per acre

R-1	3 acres	=	1,585 square feet
	4 acres	=	1,720 square feet
	5 acres	=	1,855 square feet
	10 acres	=	2,530 square feet
	11 acres	=	2,530 square feet

H. Construction; maintenance.

- (1) No garage, carport, shed or other accessory building may be constructed unless it is in compliance with the current Building Code<sup>52</sup> in effect in the Township at the time of the grant of a building or zoning permit.
- (2) No such structure shall be of metal unless grounded for lightning protection as determined by the Building Official.
- (3) All accessory buildings in residential districts shall be constructed with similar materials and be similar in appearance to the building to which they are accessory. All accessory buildings made of wood must be painted or stained, and all accessory buildings made of metal must be painted. Structures may not be constructed of uncoated cement blocks. This provision is intended for safety reasons and to insure such structures are not detrimental to the residential neighborhood.
- (4) All structures exceeding 100 square feet and exceeding eight feet in height must have an adequate stormwater management plan approved by the Building Official prior to installation. Such a plan has no special requirements other than the means necessary to insure all stormwater remains on the premises.
- (5) If such a structure is located in a front yard or either front yard of a corner lot because of the grant of a variance by the Zoning Hearing Board, it must be shielded from the street line by a landscape buffer approved by the Building Official or the Township Landscape Official.

I. Once accessory structures are created, subdivisions of these lots are prohibited, unless all buildings remain on a surviving lot.

**§ 172-104. Fences, walls and hedges.**

- A. No fence, wall, hedge or similar object or structure shall be located closer to the street than the frontmost portion of the dwelling unit. Existing fences, walls and hedges must conform to the requirements of § 148-31G, including but not limited to the requirement that no object greater than 2 1/2 feet in height may be located

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52. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.

within 12 feet of the cartway at or near a driveway or intersection to insure a sight triangle of 100 feet in either direction. Greater distances may be required if the circumstances, such as curvature of the road, elevation or other features, interfere with the sight distances or safety concerns imputed therein.

- B. When an existing fence, wall, hedge or similar object or structure is removed, the more stringent requirements of this section shall apply, and no such object or structure may be located closer to the cartway than the frontmost portion of the premises.
- C. Nothing in this section is intended to prohibit the normal landscaping of a premises, unless the safety issues implicated in the sight triangle at the driveway are involved.
- D. All swimming pools must be fully enclosed by a fence or wall no less than four feet in height above grade. The fence must be constructed to prevent entry to the pool area, except by a gate which must be latched or secured to prevent children from gaining entry and/or accidental entry by others. (See also § 172-118.)
- E. Safety and privacy screens along highways or busy streets may allow for the construction of a fence, wall, hedge or similar object or structure in the front, side or rear yard, if approved by the Zoning Board by special exception, so long as the safety issues implicated in the sight triangle are abated as set forth in § 172-102. The Building Official may evaluate existing conditions and approve appropriate existing structures (such as post and rail fences) or plantings (such as hedges) subject to safety considerations.
- F. The finished side of any fence must show to the street or neighboring properties. All fences must be constructed off the property line so that no portion of the fence encroaches on a neighboring property owner.
- G. Fences for horses may be set at the property line, but no closer than the right-of-way line where it exists on the lot, so long as the fence has a 50% greater opening.

**§ 172-105. Building height restrictions.**

No part of any building shall exceed 45 feet in height unless otherwise provided in this chapter, provided that this regulation shall not apply to chimneys, spires, towers or similar projections not used for human habitation.

**§ 172-106. Restricted uses. [Amended 2-14-1983 by Ord. No. 1983-2]**

Applicable in all districts and uses, no building may be erected, altered or used and no lot or premises may be used for any use, trade, processing or business which is noxious or offensive by reason of odor, dust, smoke, gas, radiation, vibration, electrical disturbances, illumination or noise or which constitutes a nuisance or a public hazard, whether by fire, explosion or otherwise.

- A. Fire and explosive hazards and radioactivity. All activities involving and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazards of fire and explosion and adequate fire-fighting and fire-suppression equipment and devices as detailed and specified by the Department of Labor and Industry and the laws and regulations of the

Commonwealth of Pennsylvania. Any activity which involves radioactivity shall be registered with the Township.

- B. Smoke, ash, dust, fume, vapor, gases and other forms of air pollution. There shall be no emissions at any point from any chimney or otherwise which may cause any damage to health, to animals or vegetation or to other property or which will cause excessive soiling at any point. Visible emissions from any chimney or otherwise shall meet the current limitations of the Pennsylvania Department of Environmental Protection.
- C. Liquid and solid wastes. There shall be no discharge at any point into any private or public sewerage system or stream or into the ground of any materials in such a way or of such a nature or temperature as can contaminate or otherwise cause the release of hazardous materials except in accordance with the standards of the Pennsylvania Department of Environmental Protection and the Township of Newtown.
- D. Noise and vibration. Noise from a facility at the property line adjoining residential uses shall not exceed 40 decibels when measured at night. There shall be no vibrations which adversely affect other properties.
- E. Odor. There shall be no emission of odorous gases or other odorous matter in such quantities as to be readily detectable on adjacent streets or adjacent lots.
- F. Operation. All operations, other than agricultural, involving processing or production of any materials or goods shall be conducted entirely within an enclosed building.
- G. Light sources may not produce in excess of 0.2 footcandle when measured at the property line.
- H. Hours during which construction activities or activities creating noise or glare may not commence: prior to 7:00 a.m., and must cease by 7:00 p.m.

**§ 172-107. Existing setbacks.**

The setback of a building from street lines in any zoning district shall be as hereinbefore provided in the regulations governing the side of a front yard, provided that:

- A. Wherever in any zoning district the present setback of existing buildings is greater than the minimum provided, the required setback of a building hereafter erected shall be the same as or greater than the present setback of existing buildings in the same block on the same side of the street, except when a special exception is authorized.
- B. Wherever the present setback of existing buildings in commercial districts is less than 20 feet, the required setback of a building hereafter erected on an unimproved lot may be the same as the present setback of existing buildings within the same block and on the same side of the street when authorized as a special exception.

**§ 172-108. Public utility corporations.**

This chapter shall not apply to any existing or proposed building or extension thereof

used or to be used by a public utility corporation if, upon petition of such corporation, the Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

**§ 172-109. Side yards for corner lots. [Amended 1-23-1989 by Ord. No. 1989-1]**

Where a side yard is required, a corner lot having a side yard shall have a minimum width of at least as great as the narrower side yard specified for lots containing two side yards; however, in no case shall a side yard on a corner lot be less than 25 feet in width.

**§ 172-110. Irregular lot frontages. [Amended 4-10-1978 by Ord. No. 1978-5; 9-11-2000 by Ord. No. 2000-4]**

Where a lot fronts on a cul-de-sac turnaround, in conformance with Chapter 148, Subdivision and Land Development, the Board of Supervisors of the Township may, at the time of approving the subdivision, specify that the lot frontages on such lots be measured at the building setback line as established at the minimum front yard required by the underlying zoning district, providing that a minimum lot width of 50 feet is provided at the street line. In such cases, a notation shall be made on the subdivision drawing indicating how the frontages of the cul-de-sac circle lots were measured. All other lots shall have their lot frontages measured at the street line.

**§ 172-111. Conversion of one-family dwellings.**

Because the ordinances of Newtown Township provide for adequate two-family and multifamily dwellings, single-family dwellings may not be converted into two-family or multifamily dwellings unless they are permitted uses in the subject district, and then only by special exception.

**§ 172-112. Existing corner lots.**

In the residential zoning districts (R-1, R-2 and R-3), for lots held in single and separate ownership prior to the effective date of this chapter, February 4, 1938, the following less restrictive provisions apply to corner lots only when the owner does not own adjoining property:

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
<b>District</b>	<b>Buildings Affected</b>	<b>Lot Width (feet)</b>	<b>Permitted Minimum Depth of Front Yard (feet) (measured on the longest side)</b>
R-1	All	175	50
R-2	All	125	40
R-3	All	80	30

**§ 172-113. Floor area requirements.**

- A. No detached dwelling shall hereafter be erected or altered and no permit shall hereafter be issued for the erection or alteration of a detached dwelling having less than 1,200 square feet of habitable floor space, which shall be exclusive of any floor space contained in the cellar or garage attached thereto. The habitable floor space shall be that space which is included in the area within the walls of any dwelling which can be used principally and primarily for living quarters of one or more human beings.
- B. No room used for living or sleeping purposes shall contain less than 80 square feet of floor area, nor shall the ceiling height at the center of such room be less than seven feet, six inches above the floor, nor shall the knee wall height be less than four feet, unless the Building Code<sup>53</sup> in effect has a more restrictive requirement which shall govern.

**§ 172-114. Basement use regulations.**

No cellar, basement, lower story or any portion of a building of which 1/2 or more of the height from the floor to the ceiling is below the level of the ground adjoining shall be used for sleeping purposes, except that, in multifamily dwellings, one janitor's apartment may be constructed in the basement. The location, size and arrangement of windows in such apartment shall be subject to the approval of the Zoning Officer or his or her designee, unless the Building Code<sup>54</sup> in effect has a more restrictive requirement which shall govern.

**§ 172-115. Temporary structures.**

The use for dwelling purposes of temporary structures, tents, trailers or other movable or temporary types of buildings is prohibited.

**§ 172-116. Minimum lot area for locations with no public water or public sewer service.**

Any lot in any district on which is built a dwelling which is not an accessory building and for which there is not public water supply or public sewer shall have an area of not less than 12,000 square feet. Further, all relevant state regulations governing the placement of on-site septic in relation to on-site water supply are incorporated herein by reference.

**§ 172-117. Motor vehicle use regulations. [Amended 2-9-1981 by Ord. No. 1981-1]**

The following are specific physical requirements governing the granting of approval relating to motor vehicles. When more than one of these uses are proposed, the standards shall be mutually inclusive, provided that the requirements for each use is met.

- A. Gasoline service stations. Gasoline service stations shall be subject to the following:
- (1) A minimum lot frontage of 140 feet along one street, a lot depth of 150 feet and a minimum lot size of 35,000 square feet shall be provided.

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53. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.

54. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.

- (2) All buildings shall be set back from all street rights-of-way by 40 feet; service islands shall be set back 50 feet from all street rights-of-way to allow for the width of a car on the street sideline.
  - (3) All curb cuts for access driveways shall be not less than 25 feet nor more than 40 feet in width.
  - (4) Except for access driveway openings, where the curb shall be depressed, a raised curb shall be provided along all street frontages.
  - (5) All accessways and paved areas shall be constructed to Township road standards.
  - (6) All permanently installed hydraulic hoists, pits and all lubricating, greasing, washing and repair equipment shall be entirely enclosed within the building.
  - (7) All waste, used parts and used tires shall be stored within a fenced area or building. Waste material and small used parts shall be stored in closed containers.
  - (8) "No smoking" signs shall be posted in the service areas of the buildings and around gasoline pumps.
  - (9) Noise from repairs and other operations shall not exceed 40 decibels when measured at the property line at any time.
  - (10) Any environmentally safe method of disposal of waste oils and other pollutants shall be provided.
  - (11) Sale of goods not related to motor vehicles is prohibited, unless expressly authorized by the Township as a conditional use, except for food, cigarettes and drinks when served from not more than three vending machines.
  - (12) Except for accessways, the first 10 feet in depth along all street frontages shall be green area. Not less than 10% of the total lot shall be green area, complying with Article XXV.
  - (13) Fire-protection equipment shall be present at all times. Included shall be ten-pound BC extinguisher units, located as follows:
    - (a) A minimum of one in each indoor service area.
    - (b) At a maximum distance of 40 feet from all points within an indoor service area or an outdoor service island.
    - (c) A minimum of two in the facility.
  - (14) No repairs may be performed outside of a building.
- B. Car wash establishments. Car wash establishments shall be subject to the following:
- (1) All provisions of Subsection A(2) through (6) and (9) through (12).
  - (2) A minimum lot frontage of 150 feet along one street, a lot depth of 250 feet and a minimum lot size of 37,500 square feet. Frontage may be reduced to 100



feet, provided that the layout plan has been approved by the Township Supervisors.

- (3) Connecting to public water and public sanitary sewers.
  - (4) A one-way traffic pattern on the property.
  - (5) An ancillary accessway so that vehicles do not have to go through the washing facilities to reach the street exits.
- C. Motor vehicle repair facilities. Motor vehicle repair facilities shall be subject to the following:
- (1) All provisions of Subsection A(3) through (13).
  - (2) A minimum lot frontage of 80 feet along one street, a lot depth of 150 feet and a minimum lot size of 15,000 square feet, with a front yard setback of 50 feet.
  - (3) There shall be no storage or parking of vehicles awaiting servicing or repairs on public streets.
  - (4) Major repairs of vehicles involved in accidents, body repair, painting and correction of structural members shall be conducted only in conjunction with a car sales agency or in a I Light Industrial District unless authorized by the Zoning Hearing Board by special exception.
- D. Car sales facilities. Car sales facilities shall be subject to the following:
- (1) All provisions of Subsection A(2) through (7) and (11) through (13).
  - (2) A minimum lot frontage of 175 feet along one street, a lot depth of 200 feet and a minimum lot size of three acres.
  - (3) A system of lighting, fencing and alarms designed to minimize theft and vandalism shall be provided.
  - (4) Where vehicles involved in accidents are to be repaired, the provisions of Subsection C hereof shall apply, except that storage of all such vehicles shall be inside of a building or fenced area.

#### **§ 172-118. Swimming pools.**

All swimming pools shall be located within the setback lines specified by the zoning district in which they are to be located, except that, in the case of private swimming pools located in R-1, R-1A, R-2 or R-3 Zoning Districts, a swimming pool may be located not less than 10 feet from the rear and side property line on which the pool is to be located.

- A. All swimming pools must be fully enclosed by a fence or wall as set forth in § 172-104.
- B. The pool and its enclosures may not interfere with the sight triangle necessary to insure safe exiting from any street, alley or driveway. (See § 172-104 or 148-31G for guidance.)

**§ 172-119. Recycling facilities. [Added 5-28-1991 by Ord. No. 1991-3]**

All commercial, industrial, institutional and multifamily (four units or more) uses shall include adequate facilities to handle, store and properly remove recyclable materials as required by the laws of the Commonwealth of Pennsylvania and Township ordinance.

## ARTICLE XXII

**Signs****[Amended 4-9-1984 by Ord. No. 1984-1]****§ 172-120. Compliance required.**

Any sign hereafter erected or maintained in the Township shall conform with the provisions of this article and the provisions of the Township Building Code<sup>55</sup> and all other applicable ordinances or regulations of the Township.

**§ 172-121. Single-family residence districts.**

In R-1, R-1A, R-2 and R-3 Residence Districts, the following types of signs and no other shall be permitted:

- A. Official traffic signs, signs of government agencies and any other signs required by law.
- B. Signs indicating the name and profession of the occupant of a dwelling, provided that:
  - (1) The area on one side of any such sign shall not exceed 200 square inches.
  - (2) Not more than one such sign shall be erected for each dwelling unit.
  - (3) No such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.
  - (4) The profession is actually practiced on the premises.
  - (5) A no-impact home-based business shall not have a sign.
- C. Identification signs, including directory signs and changeable copy signs for farms, estates, schools, churches, hospitals and buildings and uses other than dwellings, provided that the same are located on the premises of such institutions, and provided that:
  - (1) The size of any such sign shall not exceed 20 square feet.
  - (2) Not more than one such sign shall be placed on any property.
- D. Integral signs not to exceed two square feet per building.
- E. Real estate signs advertising the sale or rental of the premises on which such signs are located, provided that:
  - (1) The size of any such sign shall not exceed eight square feet.
  - (2) Not more than one such sign shall be erected for any premises or lot held in single and separate ownership.
  - (3) No such sign shall be illuminated.

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55. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.

- (4) All such signs shall be removed on the day of settlement.
- F. Signs advertising the development of a premises upon which they are erected, provided that:
- (1) The size of any such sign shall not exceed 20 square feet.
  - (2) Not more than one such sign shall be erected on the premises or lot.
  - (3) No such signs shall be illuminated.
  - (4) All such signs shall be removed upon settlement of all lots on the premises in all the phases of the development.
  - (5) No such signs shall be located off the premises of the development.
- G. Trespassing, entrance, exit and parking signs or signs indicating the private nature of a driveway or property, provided that the area of one side of any such sign shall not exceed two square feet. All such signs must comply with Pennsylvania state statutes for directional or traffic signage and signs for trespass. Signs not in accordance with the relevant statute must be removed.
- H. Construction signs, provided that:
- (1) Such signs shall be erected only on the property where such work is being performed.
  - (2) The area of one side of any such sign shall not exceed 12 square feet.
  - (3) Such signs shall be displayed visibly where a building is being erected or altered and shall be removed promptly upon completion of the work.
- I. Public utility signs required in connection with the identification, operation or protection of a public utility, provided that the area of one side of any such sign shall not exceed nine square feet.
- J. Up to two off-site directional signs indicating the location of real estate advertised for sale may be permitted when all of the following conditions are met:
- (1) They are located near a street intersection.
  - (2) They are located on private property beyond the street right-of-way and have the affirmative permission of the owner of that property. Only one sign shall be located on such a property.
  - (3) Each sign should not exceed six square feet.
  - (4) Each natural person, partnership, corporation, unincorporated association or other organization or entity which erects such signs shall be annually registered with the Township and shall pay a registration fee as set from time to time by resolution of the Board of Supervisors. Registration shall be withheld or suspended for up to 90 days by the Township where the registrant has violated this section.

**§ 172-122. Other residence districts.**

- A. In R-4, R-4A, and R-5 Residence Districts, A-O Apartment Office Districts, and A Apartment Districts, the following types of signs and no other shall be permitted:
- (1) Any signs permitted in a residence district as provided in § 172-121, except § 172-121J.
  - (2) Signs, including directory and changeable copy relating to any profession, permitted use or accessory use, conducted in apartment buildings on the same lot and indicating only the name, profession or use, provided that:
    - (a) The area of one side of any such sign shall not exceed two square feet, except that, in the case of a sign announcing two or more professions or uses conducted on a single lot, the size of each such sign may be increased one square foot for each additional profession or use, not to exceed a maximum of six square feet.
    - (b) Not more than one such sign shall be erected per lot.
  - (3) Permanent directional signs, not exceeding two square feet in area, nor with a total height extending more than two feet above grade, shall be permitted for the informational needs of the users of the property.
- B. The form of ownership of a given premises shall not alter the number of permitted signs under this article.

**§ 172-123. Commercial, industrial and special use districts. [Amended 11-14-1994 by Ord. No. 1994-4]**

In C-1 and C-2 Commercial Districts, I Light Industrial Districts and SU-1 and SU-2 Special Use Districts, the following types of signs and no other shall be permitted:

- A. Any sign except those under §§ 172-121J and 172-124, provided that the total sign area of all signs placed on any one premises shall not exceed any of the following requirements:
- (1) Two square feet per linear foot of frontage of all buildings, up to a maximum of 25 linear feet. ("Frontage," for the purpose of signage, shall be the side of the building on which the main entrance to the premises is located.)
  - (2) The maximum area of all signs of a single premises in this district shall not exceed 50 square feet, notwithstanding any other provision of the regulations pertaining to signs in this zoning district. In addition to the measurement of signage set forth in § 172-2, Definitions, the total square footage is determined from all items meeting the definition of a sign visible from the exterior of the building and intended for such visual purposes, not to include normal window displays of goods and services.
  - (3) All occupants in a building with no direct public entrance from a parking lot or street shall collectively be permitted one sign which shall identify all such occupants, said sign not to exceed three square feet, which shall be placed on the front of the building only.
  - (4) All occupants in a building with direct access from a parking lot or street shall

be permitted separate signage not to exceed 25 square feet. Where an individual building exceeds 5,000 square feet, any lessee with an interest exceeding 2,500 square feet is entitled to an additional sign.

- (5) With the exception of directional signage, all signage is to be placed in or on the front of the building.
  - (6) Where no building exists, sign area may not exceed one square foot per linear foot of property frontage measured at the building setback line or 50 square feet, whichever is less. Such signage may not be for off-premises advertising use.
  - (7) Permanent directional signs, not exceeding two square feet in area, nor with a total height extending more than two feet above grade, shall be permitted for the informational needs of the users of the property.
  - (8) Billboard (off-premises advertising sign). Billboards may be erected in the Light Industrial District of the Township as a principal use on the property only. Such signs may be no greater than 300 square feet in size and must be square or rectangular in shape. Such signs may be no closer than 3,000 feet apart on both sides of the traveled way. Such signs must be no less than 15 feet to the underside of the sign and no higher than 35 feet to the top of the signs. No such sign shall be closer than 3,000 feet from any structure with an historical designation or any school or public park. A billboard is a principal use and not an accessory use.
- B. In the case of a "shopping center," defined for the purpose of this subsection as a group of three or more stores, with direct access to a parking area or street, all contained on a single premises with a total building frontage of not less than 150 linear feet or on separate adjoining premises with a common street frontage which is served by common street entrances and parking facilities used in common, the following provisions shall apply:
- (1) Not more than one ground sign advertising and identifying each shopping center shall be erected for each street upon which the shopping center has frontage, provided that:
    - (a) No such ground sign shall be less than nine feet nor more than 20 feet in height above the grade. The lowest point of any sign must be at least 8 1/2 feet above grade at the location of the sign.
    - (b) The size of any such sign shall not exceed 75 square feet.
    - (c) The location and orientation of such sign shall be designated on a required land development plan.
  - (2) Each occupant that has direct public entrance to a parking lot in a shopping center or street shall be permitted signs as follows:
    - (a) The signs shall be attached to the wall of the building or combination of buildings on the premises.
    - (b) The size of any such sign shall not exceed the area specified in

## § 172-123A.

- (3) All occupants with no direct public entrance to a parking lot or street shall be permitted one sign, which sign shall identify all such occupants collectively, provided that:
    - (a) Such sign shall be attached to the wall of the building or combination of buildings on the premises and shall be located in the immediate vicinity of the public entrance to the shopping center.
    - (b) The size of any such sign shall not exceed 25 square feet.
  - (4) Loading entrances, employee entrances and other accessory entrances may be marked with one wall sign not exceeding 200 square inches. This area shall not be included in the total area for permissible signs.
- C. Except for those uses included under Subsections A(6) and B(3) hereof, banners shall be permitted, provided that all of the following provisions are complied with:
- (1) Each banner shall be secured at all corners and/or in such manner as it does not freely wave.
  - (2) The cumulative area of all banners shall not exceed 25 square feet.
  - (3) No banner shall overhang any parking lot, sidewalk or cartway.
  - (4) A separate permit shall be secured from the Township for each occasion that banners are displayed. The permit fee shall be established from time to time by resolution. Banner permits for a premises may be issued no more than four times within a calendar year. The number of days for which the banners will be erected shall be stated in the permit application. The sum of days of all permits issued for any premises during a calendar year shall not exceed 92.
    - (a) No permit shall be issued to any applicant who has violated Subsection C hereof within the preceding 12 months.

**§ 172-124. Prohibited signs.**

The following signs shall be prohibited:

- A. No sign, other than an official traffic sign or similar sign, shall be erected within any street right-of-way unless specifically authorized by other ordinances or regulations of the Township.
- B. No sign shall extend beyond any property or right-of-way line, except for official signs.
- C. No sign shall be erected in such a manner as to obstruct free and clear vision on any street, nor shall it interfere with, obstruct the view of or be confused with any traffic signal, sign or device.
- D. No sign shall exceed more than 20 feet in height above the ground.
- E. No wall or projecting sign shall extend more than 15 inches beyond the wall on

which it is attached. Any such projection shall be not less than nine feet above grade level.

- F. No roof sign shall be permitted, except on the roof of a one-story building.
- G. The following types of signs are prohibited: **[Amended 12-27-2001 by Ord. No. 2001-4]**
  - (1) Signs on curbs or sidewalks; signs painted on exterior walls; signs painted on, attached to or suspended from any outdoor bench or chair.
  - (2) Sign posters, signs or other advertising materials affixed by tacking, pasting or otherwise upon utility poles, trees, buildings (except transit shelters) or fences. However, signs prohibiting hunting, fishing or trespassing shall be permitted.
  - (3) Signs which project or hang over any sidewalk, except marquee signs and signs under overhanging roofs, provided that no portion is less than 8 1/2 feet above grade.
  - (4) Banners, except as provided elsewhere in this article, spinners, unshielded light strips, valances or the like.
  - (5) Animated signs; signs that revolve, swing or have movable parts or have or appear to have flashing lights and reflectors; or signs which are mobile (mounted on or which can be attached to motor vehicles); and trailer signs.
  - (6) Billboard signs, except as provided elsewhere in this article.

**§ 172-125. General restrictions.**

- A. All lighting shall be arranged, designed and shielded or directed so as to protect the adjoining properties and streets from glare. Reflectors and lights permitted in conjunction with signs shall be equipped with restraining hoods or shields to concentrate the illumination upon the area of the sign.
- B. Any sign which violates this article shall be removed within 10 days after written notification from the Zoning Officer to the property owner. Upon failure to comply with such notice, the Zoning Officer is hereby authorized, in addition to any other legal remedy, to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the property on which the sign is located, and the Zoning Officer may proceed as authorized by law to collect any such expense, plus interest and penalties, on behalf of the Township. **[Amended 12-27-2001 by Ord. No. 2001-4]**
- C. Where an occupant in a building with approved signs under § 172-123, other than § 172-123A(6) or B(2), relocates to another location and secures appropriate sign permits for the new location, the occupant may obtain a separate sign permit for 30 days, placed at his old location, announcing the location of the new location, provided that it is a sign of 20 square feet or less complying in all other respects with this article. Where the new location is within the Township and a sign permit is required for the new location, the permit for the old location may be incorporated with the permit for the new location so that only a single permit is required.



- D. Mandatory signs installed pursuant to government regulations shall not be included in the calculations of allowable sign area under § 172-123A and B unless the sign exceeds the minimum size required to meet the regulations.
- E. Markings on equipment such as vending machines or gasoline pumps shall not be included in the calculation of allowable sign area under § 172-123A and B. However, markings attached thereto which are not an essential part of the equipment shall be included.
- F. Notwithstanding other provisions of this article, freestanding or ground signs of nonprofit charitable or civic organizations may be placed in a public right-of-way or on public lands when approved by the governmental agency having control of the property or right-of-way and after registration with and approval by the Zoning Officer of the Township.

**§ 172-126. Permit required; application; fee.**

- A. Except for signs of the type described in §§ 172-121A, B, D, E, G, H and I and 172-122A(3), no sign may be erected, structurally altered, relocated or enlarged until a permit for the same has been granted by the Zoning Officer to the owner or tenant of the property on which the sign is proposed to be erected, and the permit number shall be recorded by the Zoning Officer in an appropriate register.
- B. Application.
  - (1) Application for sign permits shall be on an authorized Township form and shall contain:
    - (a) A detailed scale drawing showing the sign and its size and intended location.
    - (b) A description of its type, construction, manner and method of installation, illumination, if any, and materials to be used. Where a sign is to be attached to or mounted on a building, the size and area of the wall to be used shall be stated in the application.
  - (2) Accompanying each application shall be a permit fee.

**§ 172-127. Nonconforming signs.**

Every sign existing on the date of enactment of this section which does not comply with this article, nor is included under Subsection C hereof, shall be removed or altered in order to comply with this article. Unless otherwise specified, such removal or alteration shall be completed by June 1, 1989.

- A. Signs, other than those set forth in § 172-124 and Subsection C hereof, which do not comply with the requirements of this article but which were in existence on the date of enactment of this section shall be removed or altered in order to comply with this article by June 1, 1989.
- B. If, on June 1, 1989, only one sign on a premises exceeds the permitted area requirements of this article but complies in all other respects, it may be continued after June 1, 1989, by a special exception, provided that all other signs on the

premises are removed and all of the other general standards pertaining to a special exception are met according to the discretion of the Zoning Hearing Board.

- C. All signs which do not comply with this article but which were authorized by special exception prior to the date of this section shall continue as special exceptions.

ARTICLE XXIII  
**Outdoor Lighting**

[Amended 11-13-1978 by Ord. No. 1978-10; 7-12-1993 by Ord. No. 1993-3]

**§ 172-128. Compliance required.**

Outdoor lighting hereafter erected or maintained in the Township shall conform with the provisions of this article and the provisions of the Township Building Code<sup>56</sup> and all applicable ordinances and regulations of the Township.

**§ 172-129. Exterior lighting standards. [Amended 9-11-2000 by Ord. No. 2000-05]**

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

CUTS — The manufacturer's catalog sheets, including photographs or pictures showing the design of the fixture and the performance data for the luminaires. The cuts also show lighting fixture supports, poles and the light standards which are proposed with applicable notes.

FOOTCANDLE (FC) — A quantitative unit for measuring illumination equivalent to the illumination produced by a plumber's candle (standard source), measured at a distance of one foot; one lumen per square foot.

ILLUMINATION — The density of luminous flux on a surface.

ISOLUX DIAGRAM — A line plotted on any appropriate set of coordinates which shows all the points of a surface where the illumination is the same as an isolux (isofootcandle) line. When a series of such lines for various illumination levels is plotted on the same set of coordinates, an isolux diagram is formed.

LUMINAIRES — A complete lighting unit, lighting unit assembly (including reflectors, glassware, socket, etc.) and accessories for mounting.

REFLECTOR — A surface or element of a luminaire designed to direct light in a desired direction.

B. Plan requirements.

(1) Final lighting plan. The location and type of all proposed exterior lighting fixtures for parking areas shall be indicated on the final lighting plan, along with the expected hours of operation. On all pedestrian and vehicular use areas indicated on the lighting plan, an isolux diagram shall be drawn to sufficiently indicate the illumination levels furnished by each luminaire and the pattern of coverage on these areas. Reproduction of the cuts shall be transferred to the lighting plan for each type and configuration of proposed exterior lighting.

(2) Final landscape plan. The location and type of all proposed exterior lighting fixtures shall be indicated on the final landscape plan to ensure that there is no conflict between the location of light standards and the location of trees and that trees will not adversely affect lighting patterns. Lighting fixture locations shall be indicated on the plan by symbol.

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56. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.

- C. Design standards. Lighting for safety purposes to illuminate parking and/or pedestrian areas shall conform to the following:
- (1) Lighting shall be designed so that the illumination does not appear beyond the property line on which the lighting originates at levels above 0.2 footcandle.
  - (2) Parking areas shall be lighted using support poles or lighting standards. The fixtures shall be located within or adjacent to parking areas, in raised traffic islands, parking bay separators or adjacent landscape areas. Parking areas shall not be lighted by means of floodlighting attached to buildings. Poles or standards shall be located so as not to be damaged by automobiles being parked (front overhang: minimum 39 inches; rear overhang: minimum 60 inches).
  - (3) The maximum height of outdoor lighting standards and fixtures shall not exceed 20 feet in height, measured from the ground level to the top of the fixture.
  - (4) All light fixtures shall be of the shielded type and provided with deflector light cutoff shields.
  - (5) Site lighting shall not be lighted by means of floodlights attached to buildings, except for single-family dwelling units.
- D. Other lighting.
- (1) Design standards for athletic fields and other similar lighting not included in Subsection C above shall be permitted by special exception. The height and design of the lighting array shall be determined on a case-by-case basis considering the following issues:
    - (a) Spill light.
    - (b) Glare.
    - (c) Sky glow.
    - (d) Definitions. As used in this section, the following terms shall have the meanings indicated:

GLARE — A subjective effect from the highest amount of light from the brightest source of light which must be masked by reflects or other devices to be reduced.

SKY GLOW — The bright aura in the night sky which requires reflections be controlled.

SPILL LIGHT — The footcandles measured beyond the area you are trying to illuminate. In no event shall footcandles exceed 0.2 at the property line.
  - (2) The applicant shall formulate their design based on requirements of the Illumination Engineering Society, the NCAA and the requirements of the various sports groups or similar criteria for lighting in excess of 20 inches in height.

- (3) All lighting must be directed onto the field in question to the maximum extent possible. The height shall be determined by this factor in conjunction with Subsection D(1) and (2) above.
- E. Applicability. The submission requirements under this section shall be part of the submission of any subdivision and land development applications, where applicable. Any application for subdivision or land development, which includes the installation of outdoor lighting, shall not be considered complete unless accompanied by the appropriate submittals as outlined in this section.

**§ 172-130. Construal of provisions.**

Nothing in this article shall be construed to be applied retroactively to existing lighting. When more than 50% of the lighting fixtures on a property are replaced, the new lighting fixtures shall conform to this section.



ARTICLE XXIV  
**Off-Street Parking and Loading Facilities**  
**[Amended 10-9-1978 by Ord. No. 1978-9]**

**§ 172-131. General requirements.**

Any building or other structure erected, enlarged or used and any lot used or occupied for any of the purposes set forth in this chapter shall be provided with minimum off-street parking spaces as set forth in this article, together with adequate passageways, driveways or other means of circulation and access to and from a street or way. Such space shall be readily accessible to and within a reasonable distance from the buildings served thereby and shall be on the same lot as the main buildings or lot adjacent thereto, except when authorized as a special exception. No parking space required by this article shall have a maximum slope of greater than 6%.

- A. Construction. Unless otherwise specified, all parking spaces shall be paved in accordance with all Township ordinances and regulations.
- B. Maintenance of parking areas.
  - (1) The surface of any parking space, loading space or access to facilities used by the public shall be continuously maintained free of any potholes or other obstruction which would constitute a safety hazard. Upon notification from the Township, the property owner of any parking facilities with such conditions shall abate the condition by patching and repairing the facility to its original grade within 10 days of written notification from the Township.
  - (2) All parking areas, loading areas, and driveways shall be graded and surfaced with asphalt or other suitable materials to prevent dust and erosion. Such area shall also be drained in conformance with municipal standards to prevent excessive water flow onto streets to adjoining properties. All parking spaces and parking areas shall be clearly line-stripped and maintained.
- C. Plan approval. Plans for all new stand-alone parking facilities in excess of eight parking spaces shall be submitted to the Township's Planning Commission for review and shall meet generally accepted design standards for parking layouts and be approved by the Board of Supervisors as a land development. All other parking in excess of four spaces shall be on a measured drawing submitted to the Building Official and Zoning Officer for review.
- D. Location of parking spaces. Required off-street parking spaces shall be on the same lot or premises with the principal use served. However, in all cases where it is sought to utilize adjacent premises for parking facilities, the applicant or owner shall be required to enter into an appropriate agreement, duly acknowledged, for recording, reciting that the property upon which the aforesaid establishment is erected and the said adjacent premises are both owned by the applicant, that they are to be used with relation to each other, as above provided, and that neither property shall be separately sold or encumbered, unless other provisions for compliance with this chapter shall have first been entered into, in writing, and approved by the Board of Supervisors.

- E. Handicapped persons parking. All uses shall designate reserved parking spaces for handicapped persons as close as possible to the main entrance of the building, with the exception of single-family or twin dwellings, service stations, garages, cemeteries or any other use for which 10 or fewer spaces are required under this chapter. Said spaces shall be considered as part of the required spaces and shall be appropriately marked with signs to designate handicapped use, as approved by the Board of Supervisors. (For shopping center requirements, see other provisions of this chapter.)
- F. In a residential district, all vehicles must be parked on a paved surface. All parked vehicles must have a current inspection. Nonregistered vehicles are not permitted. Registered vehicles without a current inspection must be registered as or eligible to be registered as antique or classic vehicles and must be stored on a paved surface and in a garage, shed or carport. These regulations are promulgated because of the safety concerns surrounding uninspected vehicles or those with a potential to cause ground contamination caused by leaking oil-based products, fuels and leaded fuels.

### **§ 172-132. Required number of parking spaces.**

Below is the minimum parking spaces to be provided for various uses. Where multiple uses occur at a single facility, minimum parking shall be the total of the required parking specified for each separate use. Where fractions occur, they shall be rounded to the highest whole parking space.

#### **A. Dwellings:**

- (1) For all dwelling units, other than multiple dwellings, two off-street paved parking spaces per family unit, plus one additional parking space for every 200 square feet devoted to a home-based business.
- (2) For apartment units and other multifamily units, two off-street paved parking spaces per dwelling unit, plus adequate space for loading and unloading, guest parking and handicapped parking in accordance with other provisions of this chapter.
- (3) For hotels and motels, 1 1/2 paved parking spaces for each rental or dwelling unit, plus adequate space for loading and unloading, guests and the handicapped as otherwise provided in this chapter. Parking for a restaurant and employees must also be provided in accordance with this chapter.

#### **B. Community service facilities:**

- (1) For auditoriums, assembly or meeting rooms or other similar places of public or private assembly, one paved parking space for every four seats or stacked chairs available for assembly.
- (2) For community centers, libraries, museums or other similar places, one parking space for every 800 square feet of floor area in public use. Where the usable spaces within are being used for purposes set forth in Subsection B(1) above, the parking requirements of that provision will be applied.
- (3) For stadiums, one parking space for every two seats.



- (4) For hospitals, one parking space per bed, plus one parking space for each employee on the largest work shift, with a minimum of two parking spaces assigned for employees or 1 3/4 parking spaces per bed, including employees.
  - (5) For institutional homes or for retirement centers, two parking spaces for each dwelling unit or room or 1 1/2 parking spaces for each bed, whichever is greater.
  - (6) For a skilled nursing home facility providing skilled, intermediate and residential care, 1/2 a parking space per bed. **[Amended 5-14-1984 by Ord. No. 1984-4]**
- C. Commercial and other uses, other than shopping centers. For each of these uses, in addition to the parking spaces required below, one parking space shall be provided for each employee on the largest work shift, with no fewer than two parking spaces assigned for all employees:
- (1) For retail stores, banks and other commercial buildings, one parking space for every 200 square feet of gross floor area. However, no more than 4 1/2 parking spaces per 1,000 square feet of gross floor area, including employee parking provisions, shall be required under this article.
  - (2) For bowling alleys, three parking spaces for each bowling lane.
  - (3) For movie theaters and other similar places of paid admission, one parking space for every two seats.
  - (4) For funeral homes, one parking space for every 75 square feet of gross floor area.
  - (5) For restaurants which do not provide for carrying out of food, one parking space for every two seats. For restaurants providing carry-out service as well as sit-down service, two additional parking spaces shall be provided for each service window or cashier.
  - (6) For public garages, automobile and gasoline service stations and repair facilities, at least one parking space for each 100 square feet of gross floor area, which shall be in addition to the space allocated to normal storage of motor vehicles being repaired or serviced.
  - (7) For car wash operations, 25 parking spaces per washing unit, including storage or stacking lanes.
  - (8) For open areas used for commercial purposes, at least one parking space for each 1,000 square feet of ground (example: car dealers, nurseries, etc., but not including driving ranges and golf courses which shall require the following: two parking spaces for each tee in a driving range and five parking spaces for each golf hole at a golf course). Vehicle storage for vehicle sales agencies shall be in conformance with the definition of "spacing" found in § 172-2.
- D. Offices, wholesale and industrial uses:
- (1) For office buildings, wholesale and industrial uses, one parking space for

every 200 square feet of gross floor area. Where the office building exceeds 1,000 square feet, there shall be 4 1/2 parking spaces for each multiple of 1,000 square feet, and the provision of parking spaces where fractional shall increase to the next highest level.

- (2) For laboratories, 1.1 parking spaces for every employee or one parking space for every 200 square feet of gross floor area, whichever is less.
- (3) For a corporate headquarters office building, 0.85 parking spaces per employee or one parking space for every 450 square feet of gross floor area, whichever is greater. In order to qualify for a corporate headquarters office building, the following conditions must be satisfied:
  - (a) Such building or aggregate of buildings must contain a minimum of 250,000 square feet of gross floor area; and
  - (b) At least 70% of the building or aggregate of buildings must be occupied by a single corporate or other business entity, or its affiliates or subsidiaries.
- (4) For any of the uses set forth above, if parking spaces are to be separately designated (other than handicapped spaces required to be so designated by law), then visitor parking or customer parking must be designated. If a large parking lot is present for an office building complex or corporate headquarters, directional signs to visitor or customer parking must be made part of a plan submitted to the Township.

E. Shopping center and similar uses, including the C-2 District:

- (1) Five paved car parking spaces per 1,000 square feet of gross leasable area of stores in the shopping center, and, in addition, there shall be provided a minimum of one unpaved car parking space per 1,000 square feet of gross leasable area of stores in the shopping center, and, with regard to the unpaved car parking spaces (parking reserve area):
  - (a) Within five years of the issuance of the last certificate of occupancy relating to the final completion of the shopping center, the Board of Supervisors has the right to require the owner, developer or builder to pave the unpaved car parking spaces at any time within the aforesaid period.
  - (b) The unpaved car parking spaces shall not, for purposes of the C-2 Commercial District, be calculated as green area, as defined in § 172-75C(2), nor may they be used for future development.
- (2) A minimum of three paved car parking spaces per 1,000 square feet of gross leasable area of office buildings in the shopping center shall be provided in addition to the space required for other specific uses.
- (3) A minimum of one paved parking space for every 10 seats of a theater in the shopping center.
- (4) For motel and related facilities, a minimum of 1 1/2 paved parking spaces for

each motel rental unit.

- (5) For commercial and other uses, see § 172-132C above.
- (6) Notwithstanding the specific requirements set forth above, an owner may use the guideline of 4 1/2 parking spaces for 1,000 square feet of leasable area, if the leasable area exceeds 1,000 square feet, for all uses within the center if the spaces are reasonably distributed, upon approval by the Zoning Hearing Board as a special exception.
- (7) The applicant may submit an alternative plan for a lesser number of spaces than set forth above to the Board of Supervisors as part of a traffic and parking management plan subject to conditional use approval.
- (8) Any additional space developed subsequent to the original development must add parking spaces in accordance with that specified in this chapter for the particular uses, or the applicant must present a traffic management and parking plan as an alternative to the Board of Supervisors for conditional use approval.
- (9) "Gross leasable area" is the total floor area designed for tenant occupancy, including basements, mezzanines and upper floors, if any, expressed in square feet, measured from center lines of joint partitions and exteriors of outside walls. The gross leasable area does not include the area of any common walkways or public facilities and does not include areas used exclusively for basement storage.

F. Motor vehicles sales agency use. **[Added 9-10-2018 by Ord. No. 2018-04]**

- (1) A motor vehicles sales agency shall provide the following minimum parking spaces:
  - (a) One parking space for each employee on the shift of greatest employment (employee parking);
  - (b) One parking space for every 800 square feet of building floor area accessible to the public and devoted to the sale of motor vehicles (customer parking), or 10 customer parking spaces, whichever is greater.
  - (c) One parking space for every inventory vehicle that is displayed for sale and accessible to customers (inventory parking). Inventory parking may be stacked in rows no more than three cars deep, with only one row having direct access to a drive aisle. Rear rows of vehicles can gain access to the drive aisle by moving vehicles in front. Inventory parking inside the building showroom shall be serviced by an accessway of sufficient width and height to allow sequential movement of display inventory vehicles in and out of the showroom. Display motor vehicles may be placed in the showroom in any manner that accommodates sequential movement of such vehicles by employees in and out of said showrooms; and
  - (d) In connection with motor vehicles being serviced, two parking spaces per service bay, in addition to any spaces that are provided in the service bay (service parking). Service parking may be stacked in rows no more than

three cars deep, with only one row having direct access to a drive aisle. Rear rows of vehicles can gain access to the drive aisle by moving vehicles in front.

- (2) Inventory vehicles that are not displayed for sale and are not accessible to customers shall be considered inventory storage, not parking areas or inventory parking. Inventory storage is to be marked as "off limits" to customers. The minimum requirements for parking spaces, the size of parking spaces and the design features for parking areas provided elsewhere in the Zoning Ordinance do not apply to inventory storage, except all buffer requirements shall be observed and as set forth in this section.
- (3) Parking spaces for customer parking shall measure 10 feet by 20 feet. Parking spaces for employee parking, inventory parking and service parking shall have a minimum size of nine feet by 18 feet.
- (4) Parking lot green area requirements of § 172-135 shall only apply for customer and employee parking. Chapter 172, Attachment 3, Figure 7, shall be met for customer and employee parking, but shall not apply to inventory parking, inventory storage and service parking. For inventory parking, inventory storage and service parking, the required parking lot green area under § 172-135 shall not apply; provided, however, that the ten-percent green area for any inventory parking, inventory storage and service parking is provided elsewhere on the property, in addition to any other green area or pervious coverage requirements for the property.
- (5) The minimum parking requirements, including, but not limited to, size and number of parking spaces, setbacks and any other design features set forth in Subsection F(1), (2), (3) and (4) hereof, or as may be set forth elsewhere in the Township Zoning Ordinance, may be modified, altered and/or reduced up to 25% by conditional use application filed with the Board of Supervisors under this Subsection F(5). The twenty-five-percent cap shall not apply to any conditional use relief requested in connection with any adjoining boundary line setback requirements for adjoining lots/parcels supporting a motor vehicle sales agency use and/or any component thereof. The Board in such cases shall be authorized to modify, alter, reduce or waive such requirements, notwithstanding the twenty-five-percent cap hereunder provided. The Board of Supervisors shall consider the following factors in an application for conditional use relief hereunder:
  - (a) Whether or not the proposed motor vehicles sales agency requires the number of parking spaces and/or design as set forth by Township ordinances due to the nature and scope of applicant's specific business model, price and nature of vehicles sold or other factors affecting volume, need for parking;
  - (b) Whether historical data and statistics of a comparable motor vehicles sales agency or agencies of similar nature supports the requested reduced parking or reduction or waiver of other Township ordinance requirements;
  - (c) Whether the reduction in parking and/or parking design modifications

are needed to accommodate the proposed motor vehicles sales agency development and operations;

- (d) Whether there would be any material adverse impact on surrounding properties which cannot be mitigated by alternate design features and improvements; and
- (e) Whether, after considering proposed mitigating improvements, the requested modification of any Township ordinance requirement will create on-site or off-site conditions which would interfere with emergency vehicles or otherwise pose a danger or have a material adverse impact on the public health, safety and welfare.

**§ 172-133. Storage areas for drive-in facilities.**

At least 200 linear feet of storage area for vehicles awaiting service shall be provided for drive-in facilities and uses. The 200 linear feet of driveway in one or more usable lanes shall be measured from the right-of-way line of a public street or from the cartway of any private way to the window or other place in the building where the vehicle must enter or pass for service. The storage area shall be so designed that vehicles awaiting service shall not back out into the street or way or create a stacking condition on a street or way.

**§ 172-134. Loading and unloading facilities.**

In addition to required off-street parking spaces, off-street loading and unloading space with proper access from a street or alley shall be provided on any lot on which a building for trade or business is hereafter erected or substantially altered.

**§ 172-135. Required green area. [Amended 6-9-1986 by Ord. No. 1986-10; 8-14-1989 by Ord. No. 1989-8]**

- A. Where parking areas, loading and unloading facilities and accompanying access from a street or alley (collectively "paved area") are between 3,000 square feet and 150,000 square feet, a minimum of 10% of all paved area shall be devoted to green area. Where the paved area exceeds 150,000 square feet, a minimum of 15% of all paved area shall be devoted to green area. **[Amended 9-11-2000 by Ord. No. 2000-9]**
- B. Where any part of the parking area is located adjacent to a building, a minimum of five feet of green area shall be provided between the building and the parking area, except at areas required for access to the building. This area is not included as part of the required green area for the parking area, but is to be included as part of the overall green area requirement for the site. However, an option to provide additional green area or buffer requirement between other uses or along a street or way may be used when granted by the Zoning Hearing Board as a special exception, but no less than the amount required by this subsection may be considered.
- C. For all off-street parking areas covered under this section, green areas shall be provided at the ends of rows, and, except for parking areas requiring a minimum green area of 15% of all paved areas, green areas shall be interspersed within the row of parking spaces. For parking areas requiring 15% green area, the green areas

shall be interspersed within the parking area. Such green areas shall be a minimum of eight feet in width. Also, green areas may be provided between rows of parking spaces, and such area shall be a minimum of eight feet in width. Except in parking areas requiring 15% green area, there shall not be more than 90 feet of parking area in a continuous strip without adjacent green areas. However, an option to provide additional green area or buffer requirement between uses or along a street or way may be used when granted by the Zoning Hearing Board as a special exception, but no less than the amount required by this subsection may be considered. **[Amended 9-11-2000 by Ord. No. 2000-9]**

- D. The green area shall be covered with lawn grass, ground cover plants or low-growing plants or shrubs, with weed-free shredded hardwood or other approved mulch. In addition, green areas may be used as the location for planting of shade trees.
- E. Except for parking areas requiring 15% green area, refer to Figure 7 of this chapter.<sup>57</sup> **[Amended 9-11-2000 by Ord. No. 2000-4; 9-11-2000 by Ord. No. 2000-9]**
- F. The green areas required by this section shall not constitute a portion of any green area otherwise required by this article or any other ordinance or regulation of the Township. The exact design and location of green areas required by this section shall be disclosed on a development or subdivision plan or other similar plan and be permanently maintained as such.
- G. See also the buffer requirements set forth in the residential zoning districts of this chapter and the specific buffer requirements set forth in Chapter 148, Subdivision and Land Development, for all uses set forth in § 148-58I, which buffer requirements are specifically incorporated into this chapter.
- H. Buildings or uses other than those specified shall be made by the Building Official/Zoning Officer consistent with the standards set forth herein for comparable buildings or uses.
- I. All parking areas exceeding four spaces must be depicted on a measured drawing submitted to the Township as the official parking plan for a site.

#### **§ 172-136. Curbs. [Amended 9-11-2000 by Ord. No. 2000-9]**

All parking areas, excluding those that require 15% green area and those serving single-family and two-family dwelling units, shall have curbs located in such a manner that at least one side of each parking space shall have a curb.

#### **§ 172-137. Parking reserve areas.**

The total number of parking spaces required by this article shall be clearly set forth and labeled as such on development, subdivision or other plans required to be filed by the owner and/or developer with the Township before the issuance of a building, use or occupancy permit. However, the number of spaces required to be constructed by this article may be reduced, and the land area equal to the reduction shall be denoted as

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57. Editor's Note: Figure 7 is included at the end of this chapter.

"parking reserve area." Such reduction may be accomplished only upon compliance with each of the following conditions:

- A. The landowner or developer shall submit a plan of parking, meeting all the requirements of this article, for the use to which the lot or property is to be devoted, without any reduction.
- B. The landowner or developer shall mark upon his plan that portion of the total parking area to be specified as a "parking reserve area" and shall certify that the parking needs for the use to which the lot or property is to be devoted is less than those required by the terms of this article.
- C. The Board of Supervisors shall concur with the requested reduction or to a reduction of a lesser amount upon the recommendation of the Township's Planning Commission, upon the condition, however, that the reduction must be replaced if the proposed use is changed to another more intensive use.
- D. The parking reserve areas so created shall be utilized as green area and shall be maintained in accordance with terms and conditions as imposed at the time of approval of the Board of Supervisors. The green areas so created shall not constitute a portion of the green areas otherwise required by this article or any other ordinance or regulation of the Township. This parking reserve area shall contain sufficient area to provide the parking spaces and the ten-percent green area required in § 172-135.
- E. The parking reserve area shall be converted to parking area at such time as the Board of Supervisors shall determine. Upon notification of the Township to the owner and occupant of the land, such reserve areas shall be paved pursuant to applicable ordinances or regulations of the Township immediately after such notification and shall be completed within the time set forth by the Township in its notice, but in no case less than 30 days. The design of this area shall conform to this section.

#### **§ 172-138. Existing parking facilities.**

Nothing in this article shall be construed to be applied retroactively to existing land uses. In this regard, the minimum off-street parking space requirements to permit an enlargement of a use or building existing on October 9, 1978, shall be the sum total of the components set forth in Subsection B below, except that any expansion of the physical facility or use must satisfy the additional parking needs of that expansion and use.

- A. For the proposed enlargement to the existing facilities, the parking shall be calculated according to current provisions.
- B. For the existing facility, parking shall be calculated in accordance with Ordinance No. 1959-2 and Ordinance No. 1974-4, at the end of this chapter (Appendix A<sup>58</sup>).

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58. Editor's Note: Appendix A is included at the end of this chapter.





**ARTICLE XXV  
Green Areas  
[Amended 3-9-1987 by Ord. No. 1987-2]**

**§ 172-139. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**GREEN AREA** — That area set aside for growing of vegetation, including trees, bushes, grass, flowers and plants, and also includes lakes, ponds, streams and other natural growth. "Green area" may include walkways for nonvehicular traffic only, but only to the extent that such walkways are provided to cross green areas.

- A. Areas set aside for recreational use shall not be counted as green area, except that those areas devoted exclusively to golf course use, including a driving range when conducted as an accessory use thereto, but not including a miniature golf course, may be counted towards the requisite area.
- B. Green area requirements under this article shall not be used to satisfy green area requirements under Article XXIV.

**§ 172-140. Required green area. [Amended 8-10-1987 by Ord. No. 1987-10; 11-14-1994 by Ord. No. 1994-4]**

Any lot used or occupied in any of the following districts shall be provided with minimum green areas based upon the following percent of the lot area:

<b>Article</b>	<b>District</b>	<b>Percent</b>
VI	R-1 Residence	35%
VII	R-1A Residence	35%
VIII	R-2 Residence	35%
IX	R-3 Residence	35%
X	R-4 Residence	40%
XI	R-4A Residence	40%
XII	R-5 Residence	35%
XIII	A Apartment	35%
XIV	A-O Apartment Office	25%
XV	O Office	30%
XVI	C-1 Commercial	5%
XVII	C-2 Commercial	15%
XVIII	I Light Industrial	30%
XIX	SU-1 Special Use	30%
XX	SU-2 Special Use	30%



ARTICLE XXVI  
**Nonconforming Buildings and Uses**

**§ 172-141. General regulations.**

- A. Continuation. Any lawful use of a building or land existing at the effective date of this chapter or authorized by a building permit issued prior thereto may be continued although such use does not conform to the provisions of this chapter.
- B. Extension. A nonconforming use may be extended upon the lot occupied by such use and held in single and separate ownership at the effective date of this chapter when authorized as a special exception, provided that any extension or enlargement shall conform to the area and height regulations of the district in which it is situated.
- C. Changes. A nonconforming use of a building or land may be changed to a nonconforming use of the same or more restricted classification if no structural alterations are made therein, provided that such change may include structural alterations when authorized as a special exception. Whenever a nonconforming use of a building or land has been changed to a use of a more restricted classification or to a conforming use, such use shall not thereafter be changed to a use of a less restricted classification.
- D. Restoration. A nonconforming building which has been damaged or destroyed by fire, explosion, casualty or act of God or a nonconforming building which has been legally condemned may be reconstructed and used for the same nonconforming use, provided that the reconstructed building shall not exceed in height, area and volume the building destroyed or condemned, and the building reconstruction shall be commenced within one year from the date the building was destroyed or condemned and shall be carried on without interruption.
- E. Abandonment. If a nonconforming use of a building ceases for a continuous period of one year or more or if a nonconforming use of land ceases for any length of time for any reason, subsequent use of such building or land shall be in conformity with the provisions of this chapter.
- F. Nonconforming uses. Where a structure is proposed to be expanded on a nonconforming lot and where the expansion will not encroach further into the front, side or rear yard setback, then such expansion will be reviewed by the Zoning Hearing Board as a special exception.



ARTICLE XXVII  
**Lot Reduction**

**§ 172-142. (Reserved)**

**§ 172-143. General regulations.**

In any subdivision made under the Newtown Township ordinance in R-1 or R-1A Residence Districts, lot areas, except corner lots, may be reduced to not less than 75% of the minimum lot area permitted in the district, and requirements for frontage, side yards and rear yards may be reduced by not more than 15%, provided that:

- A. The Board of Supervisors approves.
- B. The average of the areas of the individual lots within the subdivision shall be not less than the minimum lot area required for the district.
- C. If any lot created within such subdivision is of such size that it could be further subdivided, further subdivision thereof shall be prohibited by a deed restriction or agreement satisfactory to the Township Solicitor and recorded in the county office for the recording of deeds prior to the issuance of a building permit for the erection of any structure within the subdivision or, if acceptable to the Township, either by transfer of a conservation easement or development rights to the Township.
- D. Any lot, tract or area created within such subdivision for park or recreational purposes, if acceptable to the Board of Supervisors, may be dedicated to the Township by a formal deed of dedication. If any such lot, tract or area is not so dedicated, provision for its conservation, maintenance and future use shall be made by deed restriction or agreement satisfactory to the Township Solicitor and recorded in the county office for the recording of deeds prior to the issuance of a building permit for the erection of any structure within the subdivision.



ARTICLE XXVIII  
**Helicopters**  
[Amended 5-14-1984 by Ord. No. 1984-3]

**§ 172-144. Restrictions on landing and takeoff.**

No person shall land, discharge, load or take off in a helicopter in any place within the Township, other than at a heliport, except for which a permit, issued by the Township as hereinafter provided, is in force, unless such landing or takeoff is done:

- A. In conjunction with a special event, such as an athletic contest, a holiday celebration, parade or similar activity, after at least two working days' advance notice has been given to the Zoning Officer of the Township and permission has been obtained to make such landings or takeoffs.
- B. When necessary for law enforcement purposes and for emergencies.
- C. In connection with a construction project where a helicopter is to be used to lift equipment or materials in connection with such project.

**§ 172-145. Use restrictions; permit requirements; heliport standards.**

Heliports are prohibited in A-O Apartment Office, A Apartment and C-1 Commercial Districts. In all other districts, personal use heliports may be permitted as a conditional use. Public use heliports are prohibited in the Township. All heliports shall be subject to the following provisions:

- A. A use permit be obtained from the Township authorizing the same.
- B. The size of the property upon which the heliport is to be constructed is adequate to provide for safe operation of the helicopter and shall not be detrimental to the health, safety and welfare of the Township residents and their property.
- C. There shall be a three-foot fence around the heliport, except for those heliports on a rooftop. The fence shall be located so as to not be hazardous to helicopter operations.
- D. The edge of the takeoff and landing area may not be closer than 200 feet to any property line.
- E. Heliports in residence districts shall be used only by executive-type helicopters under 5,000 pounds maximum gross weight.
- F. Permits for heliports shall be issued for a period of one year and may be renewed annually. Permits shall be deemed automatically revoked if:
  - (1) The Pennsylvania Bureau of Aviation revokes or refuses to relicense the heliport after one of its periodic inspections;
  - (2) The Federal Aviation Administration withdraws or revokes its approval or clearance; or
  - (3) The heliport is not in compliance 30 days after the Zoning Officer has notified

the permit holder at its last known address, in writing, that the heliport is no longer in compliance with the requirements of the Township.

- G. Heliport standards. No land, water or building in the Township shall be used as a location for landing, takeoffs, storage, servicing or fueling of any helicopter until the following standards have been adhered to:
- (1) The proposed heliport shall be constructed, operated and maintained in accordance with the published rules and regulations of the Federal Aviation Administration (FAA), the Pennsylvania Bureau of Aviation and the National Fire Protection Association governing the use of heliports.
  - (2) Each application for a heliport shall include:
    - (a) A copy of the Federal Aviation Administration Form 7480-1, Notice of Landing Area Proposal.
    - (b) A copy of a letter of no objections from the FAA.
    - (c) A copy of the Commonwealth of Pennsylvania application for approval of landing area site and the letter of site approval from the Bureau of Aviation.
    - (d) An aerial photograph or drawing of a scale no less than one inch equals 200 feet indicating the approach and departure routes and the location of all residences, schools, churches, hospitals and areas used for the outdoor assembly of people, as well as other noise-sensitive areas within a radius of 1/2 mile of the proposed heliport site.
    - (e) A statement of property ownership for authorization of the owner for the property proposed to be used as a heliport.
    - (f) A description of the purpose for which the heliport is being established and a schedule of proposed activities, including:
      - [1] Number of monthly operations.
      - [2] Hours of operation.
      - [3] Support activities, such as storage, maintenance and refueling.
    - (g) A site plan, which shall contain the following information:
      - [1] The location, nature and height of proposed security fences, berms, landscaping and other security and noise attenuation structures.
      - [2] The location and type of fire-fighting equipment and materials.
      - [3] The location and type of fuel-storage facilities, if applicable.
      - [4] The location of all existing and proposed buildings.
      - [5] The location of the helicopter takeoff and landing areas, parking areas and the method of surface preparation or stabilization.



**§ 172-146. Rooftop heliports.**

Where heliports are located on rooftops or other elevated structures, the following conditions shall apply in addition to provisions in § 172-145:

- A. Fuel basins and fuel spillage drainage lines shall be provided.
- B. Two fire escapes shall be provided.
- C. Standard heliport markings shall be provided.
- D. There shall be a fence or restraining wall at least four feet in height around that portion of the roof structure, exclusive of the landing pad, designed for human occupancy. No other obstruction above the landing level shall be permitted in the flight path.
- E. Heliports shall comply with the standards of the current Township Building Code.<sup>59</sup>
- F. A certification of structural compliance attested to by a registered professional engineer or architect shall be furnished with each application for a rooftop or other elevated heliport.

**§ 172-147. Fire extinguishers; fueling.**

- A. All heliports shall be provided with fire extinguishers in accordance with current NFPA-recommended requirements for heliports.
- B. Fueling and refueling of aircraft shall be permitted within the Township when authorized by the Fire Marshal.

**§ 172-148. Prohibited landing hours.**

No landings shall be made between 12:00 midnight and 6:00 a.m., unless permitted by conditional use.

**§ 172-149. Exemptions.**

Any heliport licensed in accordance with the Pennsylvania Bureau of Aviation of the Department of Transportation before February 13, 1978, is hereby exempt from the provisions herein relating to heliports.

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59. Editor's Note: See Ch. 69, Art. I, Building Code, and Ch. 79, Construction Code, Uniform.



ARTICLE XXIX  
**Amendments**

**§ 172-150. Procedure.**

- A. The Board of Supervisors may, from time to time, amend, supplement, change, modify or repeal this chapter, including the Zoning Map.<sup>60</sup>
- B. Before voting on the enactment of an amendment, the Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. In the case of an amendment other than that prepared by the Planning Commission, the Board of Supervisors shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Commission an opportunity to submit recommendations. If, after any public hearing held upon an amendment, the proposed amendment is revised or further revised to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

**§ 172-151. Public hearing; notice. [Amended 2-9-1976 by Ord. No. 1976-2]**

- A. The proposed amendment shall be submitted at a regular or special meeting of the Board of Supervisors, which shall fix the time and place of a public hearing thereon and cause notice, which shall state the general nature of the proposed amendment, to be given as follows:
  - (1) By publishing notice 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. **[Amended 11-14-1994 by Ord. No. 1994-4]**
  - (2) By mailing a notice thereof to every association of residents of the Township which has registered its name and address for this purpose with the Board of Supervisors.
- B. Notice of applications for amendment to this chapter shall be given to the Planning Commission so that the Commission may make recommendations to the Board of Supervisors concerning the proposed amendment. This requirement of notice to the Planning Commission shall not require the Commission to hold public hearings on proposed amendments if it does not desire to do so. It is the intent of the Board of Supervisors in inserting this subsection that the procedure set forth in Section 607 of the Pennsylvania Municipalities Planning Code (53 P.S. § 10607) need not be followed since such procedure is required only where a zoning ordinance is originally enacted. It is further stated that it is the intention of the Board of Supervisors that if at any time any proposed amendment is adopted and a Planning Commission is not in existence or if the Commission fails to make any report or recommendation on a proposed amendment or if the Board of Supervisors adopts

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60. Editor's Note: The Zoning Map is on file in the Township offices.

an amendment to this chapter without giving notice as stated by this subsection, it shall in no manner invalidate the amendment. **[Amended 11-14-1994 by Ord. No. 1994-4]**

- C. Where the Official Zoning Map<sup>61</sup> of the Township is to be amended, all affected property owners and owners of property within 600 feet of the affected property shall receive written notice.
- D. At any public hearing on a proposed amendment, full opportunity to be heard shall be given to all parties in interest.

**§ 172-152. Amendments requested by applicants. [Amended 11-12-1979 by Ord. No. 1979-7]**

- A. Where an applicant, other than the Board of Supervisors or the Planning Commission, seeks to amend, supplement, change, modify or repeal this chapter, he shall do so by submitting a written request for the change to the Zoning Officer, together with the appropriate filing fee as established by § 172-153, and submitting the following reports and documents:
  - (1) A legal description of the property.
  - (2) A plot plan of all property involved and all properties immediately abutting the affected property.
  - (3) A list of the names and addresses, if available, of all property owners within 600 feet of the property.
- B. In addition to the aforesaid fees, the applicant shall deposit with the Township an additional sum estimated by the Zoning Officer in escrow, from which all Township costs of any proceedings before the Board of Supervisors, including but not limited to the cost of legal advertising, cost of preparing amendatory ordinances and the cost of amending the official records of the Township, including the Zoning Map and codifying any revised ordinances, shall be charged. If the escrow proves to be insufficient, the Township Zoning Officer may request additional sums to be placed into escrow before the application is processed any further.

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61. Editor's Note: The Zoning Map is on file in the Township offices.

## ARTICLE XXX

**Fees****[Amended 11-12-1979 by Ord. No. 1979-7]****§ 172-153. Establishment of fees.**

The Board of Supervisors, from time to time, shall establish, by resolution, fees to be charged by the Township for applications and permits under this chapter. When adopting such a resolution, the following categories shall be provided for:

- A. Use permits.
- B. Sign permits.
- C. All classes of applications to the Zoning Hearing Board.
- D. All classes of amendments to this chapter.
- E. Such other categories as the Township may establish by ordinance from time to time.



ARTICLE XXXI  
**Administration and Enforcement**

**§ 172-154. Enforcement.**

It shall be the duty of the Zoning Officer, and he is hereby given the power and authority, to enforce the provisions of this chapter. Permits for construction and uses which are a special exception to the requirements of this chapter shall be issued only upon order of the Zoning Hearing Board.

**§ 172-155. Permit requirements.**

- A. A permit shall be required prior to the erection or alteration of any building, structure or portion thereof and prior to the use or change in use of a building or land and prior to the change or extension of a nonconforming use.
- B. Applications for permits shall be made to the Zoning Officer on such forms as may be furnished by the Township. Each application shall contain all information necessary for such official to ascertain whether the proposed erection, alteration, use or change of use complies with the provisions of this chapter.
- C. No building permit or use and occupancy certificate shall be issued until the Zoning Officer or his or her designee has certified that the proposed building or alteration and the proposed use of the property complies with all the provisions of this chapter. **[Amended 11-14-1994 by Ord. No. 1994-4]**

**§ 172-156. Enforcement notice. [Amended 11-14-1994 by Ord. No. 1994-4]**

- A. If it appears to the Township that a violation of this chapter has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- B. 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.
- C. An enforcement notice shall state at least the following:
  - (1) The name of the owner of record and any other person against whom the Township intends to take action.
  - (2) The location of the property in violation.
  - (3) The specific violation, with a description of the requirements which have not been met, citing in each instance the applicable provisions of this chapter.
  - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within 30 calendar days in accordance with procedures set forth in this chapter and the Pennsylvania Municipalities Planning Code.<sup>62</sup>

- (6) 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.

**§ 172-157. Causes of action. [Amended 11-14-1994 by Ord. No. 1994-4]**

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 chapter, the Board of Supervisors or, with the approval of the Board of Supervisors, an officer of the Township 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 instituted by a landowner or tenant, notice of that action shall be served upon the Township at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors. No such action may be maintained until such notice has been given.

**§ 172-158. Violations and penalties. [Amended 11-14-1994 by Ord. No. 1994-4]**

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500, plus all court costs, including reasonable attorneys' 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 Magisterial District Judge. 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 Magisterial District Judge, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating the chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorneys' fees collected for the violation of this chapter shall be paid over to the Township.
- B. The 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.
- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.
- D. The Magisterial District Judge shall have initial jurisdiction over proceedings brought under this section.



ARTICLE XXXII  
**CCRC Continuing Care Retirement Community District**  
**[Added 8-12-2013 by Ord. No. 2013-04]**

**§ 172-159. Applicability.**

In CCRC Continuing Care Retirement Community Districts, the regulations contained in this article shall apply.

**§ 172-160. Purpose.**

The purpose of the CCRC Continuing Care Retirement Community District is to provide residential living and health care facilities providing a continuum of care for senior persons.

**§ 172-161. Permitted uses.**

A building or buildings may be erected, altered or used, and land may be used for the following purposes:

- A. Continuing care retirement community (CCRC).
- B. The following uses as accessory to a CCRC when located on the same tract intended to serve the residents of the CCRC and their visitors:
  - (1) Administrative offices and operational facilities for management of the permitted uses.
  - (2) Personal services such as barber shop, beauty salon or commissary.
  - (3) Bank branch and/or automated teller machine.
  - (4) Dining facilities.
  - (5) Community center.
  - (6) Library.
  - (7) Educational and recreational facilities.
  - (8) Theater.
  - (9) Fitness center and swimming pool.
  - (10) Physical therapy facilities.
  - (11) Physicians' offices for residents.
  - (12) Massage therapy room.
  - (13) Gift/convenience shop.
  - (14) Storage and maintenance facilities supporting the CCRC.
  - (15) Any other accessory uses commonly found in a CCRC.

**§ 172-162. Frontage, area and height regulations.**

- A. Lot area and frontage. There shall be a street frontage of not less than 300 feet and a minimum lot area of 50 acres.
- B. Density. There shall be a maximum of eight dwelling units per acre. Each residential living unit and each personal care living unit shall be considered a dwelling unit. Every five beds in a skilled nursing facility shall be considered a dwelling unit for the calculation of density.
- C. Impervious surface and building area. Not more than 60% of the lot area shall be covered by impervious surfaces, and not more than 30% of the lot area shall be occupied by buildings.
- D. Building setback. Buildings shall be set back not less than 50 feet from the right-of-way line of any street which the CCRC abuts or any property line except where the lot is immediately adjacent to an R-1, R-1A, R-2 or R-3 District, in which case buildings shall be set back not less than 100 feet from the property line adjacent to the R-1, R-1A, R-2 or R-3 District.
- E. Setbacks for parking areas and driveways. No driveway or parking area shall be located within 25 feet of a street line or any property line, except that portion of a driveway providing ingress and egress to the property.
- F. Height regulations. The maximum building height of any building shall be 45 feet.
- G. Buffer area. Along each side or rear property line which directly abuts an R-1, R-1A, R-2 or R-3 District of the Township or similar district in an adjoining municipality, a buffer planting strip of not less than 25 feet in width shall be provided. On the buffer planting strip, there shall be placed shrubbery, trees or other plantings sufficient to provide a reasonable screen of the CCRC from the specified abutting residential districts and to ensure that the residential character of those abutting districts is not adversely affected by such CCRC. Existing trees and shrubbery shall be preserved to the extent reasonably practicable and shall count towards the required buffer strips which shall be supplemented if and where necessary to provide an adequate screen.
- H. Distance between buildings. The minimum distance between buildings shall be 30 feet, except that the distance between buildings comprised of townhouses may be reduced to 20 feet provided that the attics of the townhouses are provided with automatic fire sprinkler protection or provided that the Township Fire Marshal determines that, taking into consideration the nature of the proposed construction or other relevant factors, a twenty-foot distance between buildings is adequate for fire protection purposes without requiring sprinkler protection for the attics, in which case the twenty-foot distance between buildings shall be permitted without automatic sprinkler protection in the attics.
- I. Building frontage, depth or length. The greatest dimension in frontage, length or depth of a building section erected or used under this article, excluding covered walkways, enclosed corridors or bridges, shall not exceed 150 feet. However, the Board of Supervisors, upon recommendation of the Newtown Township Planning Commission, may, in connection with any land development application, approve

buildings with greater dimensions if it determines that such buildings are architecturally pleasing and suitable for a CCRC and avoid monotony and excessive bulk.

**§ 172-163. Design standards.**

A. General design standards.

- (1) All land and buildings erected in a CCRC District shall be under one ownership and/or management responsible to the owner or operator of the CCRC; provided, however, residential living units and personal care living units may be sold as life estates or leased to life tenants who are in residence.
- (2) All new utilities, including but not limited to water, electricity, gas, telephone and cable, shall be installed and maintained underground.
- (3) Public water and public sanitary sewage disposal systems shall be provided.

B. Landscaping.

- (1) Landscaping shall be in accordance with a landscape plan and planting schedule prepared by a landscape architect and approved by the Board of Supervisors during the land development application process.

C. Off-street parking and loading.

- (1) All off-street parking and loading design standards in the Newtown Township Subdivision and Land Development Ordinance<sup>63</sup> and in Article XXIV of this Newtown Township Zoning chapter shall apply. The following numbers of parking spaces shall be provided for uses in a CCRC District:
  - (a) One parking space for each residential living unit.
  - (b) One parking space for every four personal care living units.
  - (c) One parking space for every four beds in a skilled nursing facility.
  - (d) One employee parking space for every two employees on the highest shift.

D. Lighting.

- (1) All driveways, parking areas, and areas of pedestrian use shall be adequately lighted. All such lighting shall be designed and located to direct light away from any adjoining residential development and areas zoned for residential development.

E. Signage.

- (1) One sign of not larger than 40 square feet indicating the name of the CCRC will be permitted at each major entrance to the site. Such sign shall be in accordance with plans submitted to and approved by the Board of Supervisors.

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63. Editor's Note: See Ch. 148, Subdivision and Land Development.

- (2) Directional signs not larger than four square feet. Such signs shall be in accordance with plans submitted and approved by the Board of Supervisors.

**§ 172-164. Special plan requirements.**

- A. A land development plan, which delineates the overall development of the property for which an application is made, or that delineates that portion of an already developed CCRC where additional development is proposed, shall be filed as part of a land development application, which land development plan shall include the following:
  - (1) The number of residential living units, personal care living units and the number of skilled nursing beds.
  - (2) Such other information as required by the Newtown Township Subdivision and Land Development Ordinance.<sup>64</sup>

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64. Editor's Note: See Ch. 148, Subdivision and Land Development.