

## **Chapter 163**

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**[HISTORY: Adopted by the Board of Supervisors of the Township of Lower Yoder 12-21-1987 by Ord. No. 77. Amendments noted where applicable.]**

## GENERAL REFERENCES

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|-------------------------------------|---|
| Building construction — See Ch. 51. | Solid waste — See Ch. 132.                      |
| Floodplain management — See Ch. 76. | Stormwater management — See Ch.135.             |
| Plumbing — See Ch. 114.             | Streets and sidewalks — See Ch. 138.            |
| Property maintenance — See Ch. 119. | Subdivision and land development — See Ch. 141. |
| Sewers — See Ch. 126.               |   |

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ARTICLE I  
Preliminary Provisions

**§ 163-1. Enacting clause.**

Be it ordained and enacted by the Lower Yoder Township Supervisors assembled, and it is hereby ordained and enacted by the authority of the same, that from and after the passage and approval of this chapter, the several classes of districts specified herein shall be established, and the following regulations shall be in full force and effect.

**§ 163-2. Short title.**

This chapter shall be known and may be cited as the "Lower Yoder Township Zoning Ordinance," and the Official Map referred to herein and made a part of this chapter shall be known as the "Lower Yoder Township Zoning Map."

**§ 163-3. Interpretation.**

In the interpretation and application of the provisions of this chapter, said provisions shall be held to be the minimum requirements for the promotion and protection of the public health, welfare and safety. Where the provisions of this chapter impose greater restrictions than those of any other ordinance or regulation, 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.

**§ 163-4. Purpose and community development objectives.**

- A. This chapter is enacted under and pursuant to the Pennsylvania Municipalities Planning Code of July 31, 1968, P.L. 805, No. 247, as amended (53 P.S. § 10101 et seq.), (hereinafter referred to as the "code") for the following purposes:
- (1) To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population civil defense, disaster evacuation, airports and national defense facilities, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements.
  - (2) To prevent one or more of the following: of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers. Zoning ordinances shall be made in accordance with an overall program and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures.
  - (3) To preserve prime agriculture and farmland, considering topography, soil type and classification and present use.

- (4) To control stormwater runoff from present and future development within the township in accordance with the mandate of the Storm Water Management Act<sup>1</sup> and Chapter 135, Stormwater Management, as hereafter enacted and amended.
- B. This chapter is enacted in accordance with the Comprehensive Plan for Lower Yoder Township which sets forth the community development objectives for Lower Yoder Township.
- C. The regulations and districts contained herein represent reasonable consideration as to the character of the districts and their peculiar suitability for particular uses of land. These provisions have been drawn with a view to preserving the existing environment and assuring the development of a future environment that realizes the greatest possible use and enjoyment of land on individual properties, balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties, with the objective of promoting and protecting the public welfare through the regulation of land use and the process of land development.

#### **§ 163-5. Filing.**

This chapter, including the Zoning Map, together with succeeding amendments thereto, shall be on file and may be viewed by any interested party in the township office.

### **ARTICLE II Terminology**

#### **§ 163-6. Word usage.**

The following rules of construction shall apply to this chapter:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- C. The word "shall" is mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and/or "occupied for."
- F. The word "structure" shall include the word "building."

#### **§ 163-7. Definitions.**

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

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<sup>1</sup> Editor's Note: See 32 P.S. § 680.1 et seq.

**ACCESSORY BUILDINGS or ACCESSORY USE** — A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. For the purposes of this section, a trailer, van or any vehicle or structure which was transported to a site is not a building. An accessory use includes, but is not limited to, the following:

- A. Children's playhouse, garden house or private greenhouse.
- B. Civil defense shelter serving not more than two families.
- C. Garage, shed or building for domestic storage.
- D. Storage of merchandise normally carried in stock on the same lot with any commercial use, unless such storage is excluded by the district regulations.
- E. Nonpaying guest house or rooms for nonpaying guests within an accessory building, provided that such facilities are used for the occasional housing of guests or occupants of the principal building and not for permanent occupancy by others as housekeeping units.
- F. Servants' quarters or servants' house.
- G. Off-street motor vehicle parking area; loading and unloading facility.
- H. Home occupation.
- I. Fence; sign.

**ALLEY** — A service way at least 15 feet wide, providing a secondary public means of access of abutting properties.

**ALTERATIONS** — As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height or the moving from one location to another, or any change in use from that of one zoning district classification to another.

**ALTERATIONS, STRUCTURAL** — Any change in the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

**APARTMENT** — A room or suite of rooms in a multiple-family structure which is used as a single housekeeping unit and which contains complete kitchen, bath and toilet facilities, permanently installed.

**APARTMENT HOTEL** — A building consisting of guest rooms, suites of rooms or dwelling units which are occupied more or less permanently wherein the occupants are furnished so-called hotel services, including dining room and mail service.

**APARTMENT HOUSE** — A building used by three or more families living independently of each other and containing dwelling units.

**AREA, BUILDING** — The total of areas taken on a horizontal plane at the main level of the principal building exclusive of uncovered porches, terraces, steps, garages and other accessory buildings.

**AUTOMOBILE REPAIR, MAJOR** — Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers, collision service, including body, frame or fender straightening or repair, and overall painting of vehicles.

**AUTOMOBILE REPAIR, MINOR** — Incidental repairs, replacement of parts, motor service to automobiles and state inspection, but not including any operation specified under “automobile repair, major,” above.

**BASEMENT** — A substructure for a main building partly below the finished grade but having at least ½ of its height (measured from finished floor to finished ceiling) above the average level of the finished grade where such grade abuts the exterior walls of the building.

**BILLBOARD** — Structure, building wall or other outdoor surface used to display lettered, pictorial, sculptured or other matter which directs attention to any product, commodity or service offered only elsewhere than on the premises or as a minor and incidental service on the premises.

**BOARD** — The Zoning Hearing Board of Lower Yoder Township.

**BUFFER PLANTING STRIP** — A strip of required yard space adjacent to the boundary of a property or district, not less in width than is designated in this chapter, which is landscaped for the full width (or as otherwise specified) and on which is located a screen of sufficient density not to be seen through, and of sufficient height to constitute an effective screen and give immediate visual screening to an abutting property or district. The required screen shall be permanently maintained and shall constitute a planting of dense evergreens or a compact evergreen hedge or, where otherwise specifically designed, an appropriate wall, fence, suitable planting, natural vegetation or combination thereof. All planting shall comply with the provisions of Chapter 141, Subdivision and Land Development, if such ordinance provides for the same.

**BUILDING** — A structure, having a roof supported by columns or walls, for the shelter of persons, animals, chattels or property. When separated by walls which are common with the walls of adjoining dwellings, each portion of such structure shall be considered a separate building.

**BUILDING AREA** — The aggregate of the maximum horizontal cross-section areas, excluding steps, cornices, eaves and gutters, of all buildings on a lot.

**BUILDING LINE** — A line parallel to the street right-of-way line at a distance therefrom equal to the depth of the front yard or setback required for the district in which the lot is located, except in the case of an interior lot not fronting on a street or highway for its full width, in which case the building line shall be a line parallel to the right-of-way at a distance from the property line nearest to the highway or street equal to the depth of the front yard required for the district in which the lot is located. If the property or lot abuts more than one street or highway, the front of the lot shall, in the case of an existing building, be deemed to be that part or portion of the lot toward which the main entrance of the building faces and, in the case of a building proposed to be constructed, the part or portion of that lot toward which the main entrance of the building is proposed to face.



**BUILDING HEIGHT** — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roof and to the mean height between eave and ridge for gable, hip and gambrel roofs.

**BUILDING PERMIT** — An official document or certificate issued by the Zoning officer or agency appointed by the township, pursuant to the Lower Yoder Township BOCA Building Codes, as amended, authorizing the construction of a specific building or structure or performance of a specific activity.

**CELLAR** — An unfinished structure having 1/2 or more of its height below the average grade of the adjoining ground. In a dwelling, a cellar may not contain living quarters.

**COMMON OPEN SPACE** — A parcel or parcels of land or an area of water, or a combination of land and water, within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas and areas set aside for public facilities.<sup>2</sup>

**CONDITIONAL USE** — A use permitted in a particular zoning district pursuant to the provisions in 53 P.S. § 10601 et seq.<sup>3</sup>

**COVERAGE** — That percentage of the lot area covered by the building area.

**DECISION** — Final adjudication of any board or other body granted jurisdiction under any land use ordinance or this chapter to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of the county and judicial district wherein the municipality lies.<sup>4</sup>

**DETERMINATION**<sup>5</sup> — Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

- A. The governing body;
- B. The Zoning Hearing Board; or
- C. The planning agency, only if and to the extent the planning agency is charged with final decision on preliminary or final plans under Chapter 141, Subdivision and Land Development, or planned residential development provisions. Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

**DEVELOPER** — Any landowner, agent of such landowner or tenant with the permission of such landowner who makes or causes to be made a subdivision of land or a land development.<sup>6</sup>

<sup>2</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>3</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>4</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>5</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>6</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**DEVELOPMENT PLAN** — The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase “provisions of the development plan” when used in this chapter shall mean the written and graphic materials referred to in this definition.<sup>7</sup>

**DISTRICT, ZONING** — A section of the township for which uniform regulations governing the use, height, area and intensity of use of buildings and land and open spaces about buildings are herein established.

**DWELLING** — A building designed or used exclusively as the living quarters for one or more families.

**DWELLING GROUP** — A group of two or more one-family, two-family or multiple-family dwellings occupying a lot in one ownership and having a yard in common.

**DWELLING, MULTIPLE-FAMILY** — A dwelling or group of dwellings on one plot or lot containing separate living units or dwelling units for three or more families, but which may have joint services or facilities or both.

**DWELLING, MULTISTORY MULTIPLE-FAMILY** — A multiple-family dwelling of more than three stories.

**DWELLING, ONE-FAMILY** — A detached building designed for or occupied exclusively by one family.

**DWELLING, ROW** — A multiple-family dwelling divided by party walls into distinct and noncommunicating units, each dwelling unit of which has direct access to the outdoors.

**DWELLING, TWO-FAMILY** — A building designed for or occupied exclusively by two families living independently of each other, with separate dwelling unit entrances.

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

**FAMILY** — One or more persons related by blood, marriage or adoption, or three unrelated persons living as a household in a dwelling unit. May also include domestic servants and gratuitous guests.

**FLOOR AREA** — The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center line of common walls separating buildings. For purposes of determining parking and loading space requirements for the several zoning districts herein, the floor area of a building or buildings shall include: basement space, penthouses, attic space providing structural headroom of 7½ feet or more, interior balconies and mezzanines, enclosed porches, accessory uses other than accessory off-street parking, lobbies and hallways. For determination of parking and loading space requirements, the following areas shall not be included: cellar space, elevator shafts and stairwells, floor space for mechanical equipment

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<sup>7</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

as necessary to service the needs of the building, uncovered steps, terraces, breezeways, open spaces unroofed unless specifically required in the parking regulations herein and fitting and dressing rooms.

**FLOOR AREA RATIO (FAR)** — The total floor area of the building or buildings on a lot divided by the area of such lot, or in the case of group dwellings or multiple dwelling plan, by the net site areas.

**GARAGE, PRIVATE** — An accessory building, housing only motor-driven vehicles, the property of and for the use of the occupants of the lot on which the private garage is located.

**GARAGE, PUBLIC** — A building, not a private garage, used for the repair, servicing and/or storage of motor vehicles, but not to include marshaling yard, trucking facility or facility for the storage and repair of earth-moving or construction equipment.

**HABITABLE LIVING AREA** — The floor area of a building or structure which is furnished to the extent that it is customarily occupied by residents or users of the buildings or structure.

**HEARING** — An administrative proceeding conducted by a board pursuant to 53 P.S. § 10909.1.<sup>8</sup>

**HOME OCCUPATION** — An accessory use of a service character within a dwelling by residents which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small nameplate, measuring not more than 144 square inches, and in connection therewith, there is not involved the exhibition of stock-in-trade. The secondary use shall not be carried on in an adjacent separate, attached or integral structure not designed for living space, such as a garage or other outbuilding, and shall not constitute more than 25% of the habitable living area. A home occupation shall be permitted by a special exception according to the criteria stated in § 163-41J. In connection with the operation of a home occupation, it shall not be permitted to:

- A. Sell articles produced elsewhere than on the premises.
- B. Have exterior displays of goods visible from the outside.
- C. Store materials or products outside a principal or accessory building or other structure.
- D. Make external alterations which are not customary in residential buildings.
- E. Produce offensive and disturbing noise, smoke, odor or other objectionable effects.

**HOSPITAL** — Includes sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any place for the diagnosis, treatment or other care of human ailments, and shall be deemed to be limited to such places.

**HOTEL** — A building in which lodging is provided and offered to the public for compensation and in which ingress and egress to and from rooms is made from an inside

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<sup>8</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

lobby or office supervised by a person in charge at all hours, and which is open to transient guests, in contradistinction to a boardinghouse, lodging house or rooming house.

**HOTEL, MOTOR** — A building in which lodging is provided and offered to the transient public for compensation and in which egress and ingress to and from rooms may be made either through an inside lobby or office supervised by a person in charge at all times or directly from the exterior.

**INSTITUTIONAL HOUSE** — A public or private benevolent establishment devoted to the shelter, maintenance or education and care of minor children, homeless, aged or infirm persons; or members of a religious community. This classification shall not include alms houses, penal or reformatory institutions, nursing homes or institutions for the custody, care or treatment of persons suffering from amentia, mental derangement or drug or alcoholic addiction.

**LAND DEVELOPMENT**<sup>9</sup> — Any of the following activities

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.
- C. Development in accordance with 53 P.S. § 10503(1.1).

**LANDOWNER** — The legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner or other person having a proprietary interest in land.<sup>10</sup>

**LOADING SPACE** — A space within a main building or on the same lot therewith providing for the standing, loading or unloading of vehicles.

**LOT** — A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.<sup>11</sup>

**LOT, CORNER** — A lot at the point of intersection of and abutting on two or more intersecting streets and which has an interior angle of less than 135° at the intersection of two street lines.

<sup>9</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>10</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>11</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**LOT, DEPTH OF** — The mean horizontal distance between the front lot line and the rear lot line, measured midway between the side lot lines.

**LOT, INTERIOR** — A lot other than a corner lot or a through lot.

**LOT LINE, FRONT** — In the case of an interior lot, the line separating the lot from the street right-of-way line. In the case of a corner lot, the line separating the narrowest frontage of the lot from the street right-of-way line.

**LOT, THROUGH** — A lot having frontage on two parallel or approximately parallel streets and which is not a corner lot.

**LOT WIDTH** — The dimension of a lot, measured between the side lot lines on the building line.

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

**MOBILE HOME LOT** — A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.<sup>12</sup>

**MOBILE HOME PARK** — A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.<sup>13</sup>

**NONCONFORMING STRUCTURE** — A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions this chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this chapter or amendment or prior to the application of this chapter or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.<sup>14</sup>

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

**NURSERY SCHOOL** — A school designed to provide daytime care or instruction for two or more children of preschool age.

<sup>12</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>13</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>14</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**PARKING LOT** — Any lot, parcel or yard used in whole or in part for the storage or parking of two or more vehicles where such usage is not incidental to or in conjunction with a one-family dwelling.

**PARKING SPACE** — An off-street space available for the parking of one motor vehicle and having a width of not less than nine feet and a length of not less than 20 feet, exclusive of passageways and driveways appurtenant thereto, and given access thereto and having direct access to a street, alley, passageway or driveway.

**PLANNED RESIDENTIAL DEVELOPMENT** — An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of this chapter.<sup>15</sup>

**PLANNING COMMISSION** — The Planning Commission of Lower Yoder Township.

**PUBLIC GROUNDS**<sup>16</sup> — Includes:

- A. Parks, playgrounds, trails, paths and other recreational areas and other public areas.
- B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities.
- C. Publicly owned or operated scenic and historic sites.

**PUBLIC OR PRIVATE SCHOOLS** — Publicly owned elementary, junior high or high schools or privately owned elementary, junior high or high schools having a curriculum similar to that ordinarily given in a publicly owned school, but which may also include religious or other instruction.

**REPORT** — Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.<sup>17</sup>

**RIDING ACADEMY** — Any establishment where horses are kept for riding, driving, stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

<sup>15</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>16</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>17</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**SELF-SERVICE LAUNDRY** — A business that provides home-type washing, drying or ironing machines or dry-cleaning machines for hire to be used by customers on the premises.

**SERVICE STATION** — A building, premises or portions thereof which are used, arranged, designed or intended to be used for the retail sale of gasoline or other fuel for motor vehicles, boats or aircraft, as well as for minor automobile repair, including state inspection.

**SIGN** — Any exterior surface, fabric or device bearing lettered, pictorial, sculptured or other matter designed to convey information visually and exposed to public view; any structure designed to carry the above visual information; any structure or device designed or installed principally to direct or attract attention, except traffic signs or devices. **[Amended 2-9-2000 by Ord. No. 127]**

**SITE PLAN** — A drawing prepared to scale which indicates all lot lines, adjacent streets, easements, rights-of-way, the size and location of all buildings, including setbacks, parking areas, driveways and other prominent features. The engineering site plan shall be prepared by a registered architect, professional engineer or registered surveyor and filed with the Township Planning Commission in accordance with § 163-16 prior to the start of construction.

**SPECIAL EXCEPTION** — A use permitted in a particular zoning district pursuant to the provisions of 53 P.S. § 10601 et seq. and § 10901 et seq. **[Added 2-17-1999 by Ord. No. 122]**

**STABLE, PRIVATE** — An accessory building in which horses are kept for riding, driving, stabling for private use and not for hire or sale.

**STORY** — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

**STREET** — A public street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians.

**STREET LINE** — The edge or side limit line of the legal right-of-way of a road or street.

**STRUCTURE** — Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. **[Added 2-17-1999 by Ord. No. 122]**

**USE** — The specific purpose for which land or a building is designed, arranged, intended or for which it may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

**VARIANCE** — Relief granted pursuant to the provisions of 53 P.S. § 10601 et seq. and § 10901 et seq. **[Added 2-17-1999 by Ord. No. 122]**

**YARD** — A space on the same lot with a principal building, open, unoccupied and unobstructed by structures, except as otherwise provided in this chapter.

**YARD, FRONT** — A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lampposts, overhanging eaves or gutters, the depth of which is the least distance between the lot line and the building line.

**YARD, REAR** — A yard extending across the full width of the lot between the rear of the principal building and the rear lot line, unoccupied by other than steps, walks, terraces, driveways, lampposts, overhanging eaves, gutters, cornices and similar structures or accessory buildings as otherwise provided for in this chapter and depth of which is the least distance between the rear lot line and the rear of such building.

**YARD, SIDE** — A yard between the principal building and the side lot line, extending the full depth of the lot, exclusive of steps, walks, terraces, driveways, lampposts, overhanging eaves, gutters, cornices and similar structures. The width of the required side yard is measured horizontally and at 90° with the side lot line, from the nearest part of the principal building.

**ZONING APPROVAL** — A statement issued by and signed by the Zoning Officer authorizing the use or construction of a structure and indicating on its face that the proposed use or structure complies with this chapter or with a decision and order of the Zoning Hearing Board or a court of competent jurisdiction rendered in connection with an application relative to use of the premises involved. No approval shall be issued for any use or construction unless the applicant shall submit written proof that the designated authorities have granted approval of required sanitary sewage and water facilities.

**ZONING OFFICER** — Under the provisions of this chapter, the Zoning Officer, who shall be appointed by the Township Supervisors, shall administer and enforce this chapter, including the receiving of applications, the inspection of premises and the issuing of permits. The Zoning Officer may also, from time to time, be referred to as the "Zoning Administrator."

### ARTICLE III Establishment of Districts

#### § 163-8. Classes of districts.

For the purposes of this chapter, the Township of Lower Yoder is hereby divided into the following classes of districts:

R-1	District	Single-Family Residential District
R-2	District	General Residential District
R-3	District	Multiple-Family Residential District
C	District	General Commercial District
L	District	Light Industrial District
M	District	Manufacturing District
CS	District	Conservation District



**§ 163-9. Zoning Map.**

The boundaries of districts shall be as shown on the map attached hereto and made a part of this chapter, which map shall be known as the "Zoning Map of the Township of Lower Yoder." Said map and all notations, references and data 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.

**§ 163-10. Interpretation of district boundaries.**

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, street lines, highway right-of-way lines or streams, such center lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they approximately follow or are parallel to the center lines of streets, highways or the right-of-way of the same, such district boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the Zoning Map.
- D. Where the boundary of a district follows a railroad, such boundary shall be deemed to be located in the middle of the main tracks of such railroad.
- E. Where the boundary of a district follows a stream or other body of water abutting another municipality, the boundary shall be deemed to be the limits of jurisdiction of the township, unless otherwise indicated.

**§ 163-11. Federal, state, county or municipally owned property.**

Wherever federal, state or county owned property is included in one or more zoning districts, it shall be subject to the provisions of this chapter only insofar as is permitted by the Constitution and laws of the United States of America and of the Commonwealth of Pennsylvania. In the case of municipally owned property, the use provisions of this chapter shall not apply.

ARTICLE IV  
**General Provisions**

**§ 163-12. Conformance and permits.**

No building or land shall, after the effective date of this chapter, except for existing nonconforming uses, be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district and licenses required by all laws and ordinances.

**§ 163-13. Compliance with regulations.**

No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yard, side yard or front yard than is herein specified for the district in which the building is located except as authorized by the Zoning Hearing Board pursuant to Article X.

**§ 163-14. Yards.**

No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as part of a yard or open space similarly required for another building.

**§ 163-15. Substandard dwellings.**

- A. No structure shall be occupied as a dwelling unless said structure is permanently attached to the ground by a permanent foundation, crawl space or permanently attached to an on-grade slab. [Added 2-9-2000 by Ord. No. 127]
- B. No structure shall be occupied as a dwelling unless said structure is permanently attached to the ground by a permanent foundation, crawl space or permanently attached to an on-grade slab, except for mobile homes located in a mobile home park.
- C. No structure shall be used or occupied that is not in conformity with the Lower Yoder Township BOCA Basic Building Code, as amended, or the Lower Yoder Township BOCA Basic Fire Prevention Code, as amended, and Chapter 54, Buildings, Unsafe, or such other building codes as are now, or may hereafter be, in effect.

**§ 163-16. Uses requiring site plan approval.**

- A. Requirement; exceptions.
  - (1) Zoning approval issued for any purpose specified in § 163-30 in an R-3, C, L or M District shall require site plan approval by the Lower Yoder Township Planning Commission, except for any of the following:
    - (a) A change from a more restrictive permitted use to a less restrictive permitted use. For purposes of this section, a less restrictive permitted use is sought when the proposed use of the site plan would require less restrictive area and height limitations, parking requirements, storm sewer drainage requirements and/or floodplain requirements than those limitations and requirements applying to the site use existing at the time of the zoning approval.
    - (b) Signs.
    - (c) Plans for one single-family or one two-family residence.
  - (2) The Zoning Officer shall have discretion to waive the requirement of site plan approval for an addition to an existing structure or the construction of an accessory building where the addition or the accessory building does not exceed 150 square feet.

In exercising said discretion, the Zoning Officer shall evaluate the effect of the addition or accessory building considering all relevant factors set forth in Subsection B(1) through (11) below.

- B. Three copies of the site plan shall be submitted to the Commission at least seven days prior to the regularly scheduled or special meeting at which it is to be reviewed. The seven-day requirement may be waived by the Planning Commission if a majority of the members present at the meeting agree that they have had sufficient time to review the site plan. All site plans must be approved by a majority of members present, provided that three members must be present to constitute a quorum. In addition to conforming to any specific requirements set forth in this chapter, the Planning Commission may recommend changes in the site plan which are deemed necessary to promote orderly development of the area. In addition to specific requirements of the district regulations, the site plan, as defined in § 163-7, shall provide for and contain the following:
- (1) Location of the lot or lots with respect to adjacent streets and property owners.
  - (2) Critical dimensions of setback, yard area, paving, driveways, parking areas, landscape areas and other prominent features.
  - (3) Traffic circulation within the site.
  - (4) Location of vehicular access to the site.
  - (5) The height and bulk of structures.
  - (6) Location and size of signs, walls and fences to be constructed on the site.
  - (7) Provisions for storm drainage, including the drainage flow, catch-basin size and location of any storm sewers and discharge points from the site in conformity with § 163-20.
  - (8) Connections to all public utilities that are serving the site.
  - (9) Location, size and content of all underground storage tanks.
  - (10) Such additional information as may be required by Chapter 76, Floodplain Management, as amended.
  - (11) Such additional information as may be necessary to show compliance with Chapter 135, Stormwater Management, as enacted or amended.
  - (12) Parking calculations. **[Added 2-9-2000 by Ord. No. 127]**
- C. In considering any plan hereunder, the Planning Commission shall endeavor to ensure safety and convenience of traffic movement. In this connection, the Planning Commission shall refer to any traffic plan or study adopted by the Township of Lower Yoder. Likewise, the Planning Commission shall seek to assure harmonious and beneficial relationship of buildings and uses on the site as well as to contiguous properties and overall development in a manner not detrimental to the public at large. The Planning Commission shall report its findings and recommendations, in writing, to the Zoning Officer within 48 hours following the review meeting. The approval, for the purpose of obtaining zoning approval and a building permit, shall be valid for a period of 180 days, unless extended by the Planning Commission for reasonable cause shown.

**§ 163-17. Public utility uses.**

Public utility uses for the transportation, distribution and control of water, gas, electricity, oil, steam, telegraph and telephone communications, cable television and their supporting members other than buildings and railroads shall not be required to be located on a zoning lot nor be held to reduce yard dimensions for other buildings on a lot.

**§ 163-18. Nonconforming uses.<sup>1</sup>**

- A. When permitted. Subject to the provisions of this section, a use of building or land existing at the time of the legal adoption of this chapter may be continued even though such use does not conform with the provisions of this chapter for the district in which it is located.
- B. Abandonment. A nonconforming use of a building or land which has been abandoned shall not thereafter be returned to such a nonconforming use. A nonconforming use shall be considered abandoned when one or more of the following conditions exist:
  - (1) When the intent of the owner to discontinue the use is apparent.
  - (2) When the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within 90 days, unless other facts show intention to resume the nonconforming use.
  - (3) When a nonconforming use has been discontinued for a period of six months.
  - (4) When it has been replaced by a conforming use.
  - (5) When it has been changed to a permitted use under permit from the Zoning Hearing Board.
- C. Alterations. A nonconforming building or structure may be altered, improved or reconstructed, provided that such work does not exceed the fair market value of the building or structure or that the building or structure is changed to a conforming use.
- D. Changes. If no structural alterations are made, any nonconforming use can be changed to another nonconforming use, provided that the Zoning Hearing Board shall find that the proposed use is more appropriate to the district than the existing nonconforming use. Conversion of nonconforming buildings or structures into residential uses shall be permitted as a special exception under the following requirements:
  - (1) The minimum yard and area requirements are in accordance with the district in which said conversion is located.
  - (2) Each living unit contains a minimum of not less than 900 square feet of habitable living area.
  - (3) Each living unit contains not less than one bathroom and three habitable rooms, at least one of which shall be a bedroom.
  - (4) Separate and private sanitary facilities are provided for each living unit.

<sup>1</sup> Editor's Note: Original Subsection A, Definition, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See definitions in § 163-7.

- (5) Fire and safety provisions are certified to be adequate by the Chief of the fire department with jurisdiction.
- (6) A minimum of two off-street parking spaces are provided for each residential unit.
- E. Construction approved prior to legal enactment of this chapter. Nothing herein contained shall require any change in plans, construction or designated use of a building or structure for which a zoning permit has been issued or the construction of which shall have been diligently prosecuted within two months of the date of such permit and the ground story framework of which shall have been completed within four months of the date of the permit and which entire building shall be completed according to such plans as filed within one year from the date of legal enactment of this chapter.
- F. District changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any nonconforming uses existing therein.
- G. Extension.
  - (1) A nonconforming use may be extended as a special exception upon approval of the Zoning Hearing Board, subject to the following provisions:
    - (a) The extension becomes an attached part of the main structure and does not utilize additional or adjoining land area other than the original parcel.
    - (b) The extension does not encroach upon the yard or height requirements of the district in which the nonconforming use is presently located.
    - (c) The extension is for the purpose of expanding only that nonconforming use in existence at the time of the legal acceptance of this chapter.
    - (d) The expense of such an extension shall not exceed 80% of the fair market value of the building or structure existing at the time of enactment of this chapter.
  - (2) Extension of a lawful use to any portion of a nonconforming building or structure which existed prior to the enactment of this chapter shall not be deemed the extension of such nonconforming use.
- H. Recording. All nonconforming uses existing at the time of the legal enactment of this chapter shall be recorded and maintained for public use by the Zoning Officer.
- I. Restoration. Nothing in this chapter shall prevent the reconstruction, repairing, rebuilding and continued use of any nonconforming building or structure damaged or destroyed by fire, collapse, explosion or act of God subsequent to the date of legal acceptance of this chapter wherein reconstruction of the destroyed or damaged building is initiated within one year of the date of damage; said reconstruction, repairing or rebuilding does not cost more than 50% of the predamaged fair market value; and said reconstruction, repairing or rebuilding reduces the nonconformity of the structure to the extent feasible.
- J. Unlawful use not authorized. Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the illegal use of a structure or premises in violation of township regulations in existence at the time of the effective date of legal enactment of this chapter.

K. Unsafe structure. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority.

**§ 163-19. Site restoration bond.**

A site restoration bond to assure restoration of the site to an approved condition in the event that construction of a proposed development in accordance with the approved plan and zoning requirements does not occur may be required at any time in an amount to be determined and approved by the Township Supervisors.

**§ 163-20. Stormwater.**

Adequate stormwater drainage facilities shall be installed in order to ensure that stormwater does not flow onto abutting property or abutting sidewalks at a detrimental rate. The rate of stormwater runoff from a property after construction and/or development shall not exceed the rate or intensity of runoff prior to the construction and/or development. For the purpose of runoff rate calculation, a storm frequency of one in 100 years and a storm duration of 24 hours shall be used. Runoff calculations shall be submitted on forms provided by the township using formulas approved by the Lower Yoder Township Board of Supervisors in accordance with Chapter 135, Stormwater Management, as amended.

**§ 163-21. Safety limitations on fences and shrubbery.**

No fence shall be constructed or maintained nor shall any shrubbery be planted or maintained within the township in a manner or at a location which creates a traffic hazard by impairing visibility from or of a public highway.

ARTICLE V  
**Residential Districts**

**§ 163-22. R-1 Single-Family Residential District.**

The R-1 Single-Family Residential District is composed of certain quiet, low-density residential areas of Lower Yoder Township, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district; to protect the amenities of certain areas of Lower Yoder Township where the pattern has already been established with single-family developments on relatively large lots; to promote and encourage a suitable environment for family life and to prohibit all activities of a commercial nature except offices of doctors or ministers and certain home occupations, controlled by specific limitations governing the size and extent of such nonresidential activities. To these ends, development is limited to a relatively low concentration with relatively large lot sizes, permitted uses are limited basically to single-family dwellings providing homes for the residents, plus certain additional uses such as parks and certain public facilities which serve the residents of the district.

A. Use regulations. A building may be erected or used and a lot may be used or occupied for any of the following purposes:

(1) Permitted uses.

- (a) Single-family detached dwelling.
- (b) Accessory use on the same lot with and customarily incidental to any of the foregoing permitted uses and including but not limited to:
  - [1] Private garage.
  - [2] Fence or ornamental wall not over five feet in height as measured from the established grade level.
  - [3] Off-street parking and loading facility.
  - [4] Cultivation of plants, noncommercial.
  - [5] Private swimming pool appurtenant to a dwelling when meeting the requirements of Article XIV hereof.
  - [6] Signs as regulated herein, Article XIII.
  - [7] Parking of boats, boat trailers and trailers not used as dwellings on the premises.
  - [8] Such permitted accessory uses as listed in the definition of "accessory use" and which are incidental to residential use.
  - [9] Accessory buildings which are not a part of the main building may be built in a rear yard no less than five feet from any lot line or any side yard no less than the setback in that district.

(2) Uses by special exception.

- (a) Planned residential development.
- (b) Home occupation.
- (c) Day-care center as regulated by Article XV.

B. Area regulations.

- (1) Lot area and width. The minimum lot area for every building hereafter erected or altered shall be as follows:
  - (a) Single-family detached dwelling: a minimum of 9,600 square feet and a width at the building line of not less than 80 feet.
- (2) Building area. All buildings, including accessory uses, shall cover not more than 50% of the area of the lot. **[Amended 2-9-2000 by Ord. No. 127]**
- (3) Yard area setbacks. No building or structure shall be erected or enlarged unless the minimum yard areas and setbacks are provided as follows:
  - (a) Front yard: not less than 35 feet.

- (b) Side yard: not less than 10 feet.
- (c) Rear yard: not less than 25% of lot depth, but not to exceed 35 feet. **[Amended 2-9-2000 by Ord. No. 127]**
- (4) Corner lots.
  - (a) Front yard: not less than 35 feet.
  - (b) Side yard abutting side street: not less than 20 feet.
  - (c) Interior side yard: not less than 10 feet.
- (5) Exception. Where more than 50% of the lots within a block contain existing structures, the front yard and side yard setbacks may be reduced to conform to the setback lines of the existing structures. **[Amended 2-9-2000 by Ord. No. 127]**
- C. Height regulations. The maximum height of buildings hereafter erected or altered shall be as follows:
  - (1) Single-family detached dwelling: 35 feet, not to exceed 2½ stories.
  - (2) Accessory building: 20 feet.
- D. Dwelling standards. Every one-family dwelling hereafter erected shall have habitable living area of not less than 1,000 square feet. **[Amended 2-9-2000 by Ord. No. 127]**
- E. Off-street parking and loading facilities shall be provided as required or permitted under Article XII.

#### **§ 163-23. R-2 General Residential District.**

The purpose of the R-2 General Residential District is to promote the preservation and revitalization of the older residential areas within the township. Lot and yard requirements are less restrictive than in the R-1 District, and various types of dwelling units are allowed. In addition, selected nonresidential uses are permitted in recognition of the mixed use development common in older neighborhoods representing compatible mingling of single-unit and double-unit dwellings, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district; to promote and encourage a suitable environment for family life and to prohibit all activities of a commercial nature except home offices of doctors or ministers and certain home occupations, controlled by specific limitations governing the size and extent of such nonresidential activities. To these ends, development is limited to a relatively medium concentration and permitted uses are typically single and two-unit dwellings, providing homes for the residents in this choice of dwelling types, plus certain additional uses such as schools, parks, churches and certain public facilities which serve the residents of the district.

- A. Use regulations. A building may be erected or used and a lot may be used or occupied for any of the following purposes:
  - (1) Permitted uses.



- (a) Any use and accessory use permitted in the R-1 District.
- (b) Two-family dwellings.
- (c) Church and similar place of worship.
- (d) Public school or private school having a curriculum similar to that ordinarily given in a public school, including religious instruction in a parochial school.
- (e) Convent, monastery, rectory or parish house to be occupied by not more than 10 persons.
- (f) Farm, operating, not under five acres, including private stables.
- (g) Similar type uses not specifically listed herein when authorized by the Zoning Hearing Board according to the procedure outlined in § 163-37A(5).

(2) Uses by special exception.

- (a) Planned residential development.
- (b) Hospital and nursing home.
- (c) Rooming house.
- (d) Home occupation.
- (e) Day-care center as regulated by Article XV.
- (f) Funeral homes.

B. Area regulations.

- (1) Lot area and width. The minimum lot area for every building hereafter erected or altered shall be as follows:
  - (a) Single-family detached dwelling, convent, monastery, rectory or parish house: 5,200 square feet and a width at the building line of not less than 40 feet.
  - (b) Two-family dwellings: 6,000 square feet and a width at the building line of not less than 50 feet.
  - (c) Church and similar place of worship: 1½ acres and a width at the building line of not less than 200 feet.
  - (d) Public or private school.
    - [1] Elementary school: five acres plus one acre for every 100 students at design capacity.
    - [2] Junior high school: eight acres plus one acre for every 100 students at design capacity.
    - [3] High school: 12 acres plus one acre for every 100 students at design capacity.
- (2) Building area. All buildings, including accessory uses, shall cover not more than 50% of the area of the lot. **[Amended 2-9-2000 by Ord. No. 127]**

- (3) Yard area setbacks. No building or structure shall be erected or enlarged unless the minimum yard areas and setbacks are provided as follows:
  - (a) Front yard: not less than 20 feet.
  - (b) Side yard: not less than five feet.
  - (c) Rear yard: not less than 15% of lot depth, but not to exceed 20 feet. **[Amended 2-9-2000 by Ord. No. 127]**
- (4) Corner lots.
  - (a) Front yard: not less than 20 feet.
  - (b) Side yard abutting side street: not less than 15 feet.
  - (c) Side yard: not less than five feet.
- (5) Exception. Where more than 50% of the lots within a block contain existing structures, the front yard and side yard setback may be reduced to conform to the setback lines of existing structures. **[Amended 2-9-2000 by Ord. No. 127]**
- C. Height regulations shall be as permitted or required in the R-1 District, except as applies to churches and similar places of worship, when it shall be limited to 45 feet for the principal building and 75 feet for steeples or towers.
- D. Dwelling standards. Every one-family dwelling hereafter erected shall have a habitable living area of not less than 900 square feet; two-family structures shall have a minimum living area of 1,700 square feet. **[Amended 2-9-2000 by Ord. No. 127]**
- E. Off-street parking and loading facilities shall be provided as required or permitted under Article XII.

#### **§ 163-24. R-3 Multiple-Family Residential District.**

The R-3 Multiple-Family Residential District is composed of certain medium density residential areas of Lower Yoder Township representing a compatible mingling of single-unit and multiple-unit dwellings. The regulations of this district are designed to stabilize and protect the essential characteristics of the district; to promote and encourage a suitable environment for family life and to prohibit all activities of a commercial nature except those having also some aspects of residential use, such as home offices of doctors or ministers, funeral homes, rooming houses and tourist homes, controlled by specific limitations governing the size and extent of such semi-commercial activities. To these ends, development is limited to a medium concentration, and permitted uses are typically single- and two-unit dwellings, townhouses, plus certain public facilities which serve the residents of the district; however, high rise apartments, offices and medical laboratories, with corresponding proportions of open space, also may be developed under prescribed standards of density and open space.

- A. Use regulations. A building may be erected or used and a lot may be used or occupied for any of the following purposes:
  - (1) Permitted uses.

- (a) Any use and accessory use permitted in the R-1 or R-2 Districts.
- (b) Multiple-family dwelling.
- (c) Apartments and multistory, multiple-family dwellings.
- (d) Townhouses with not more than six dwelling units in one structure.
- (e) Funeral homes.
- (f) Mobile homes on individual lots.
- (2) Uses permitted by special exception.
  - (a) Planned residential development.
  - (b) Home occupation.
  - (c) Day-care center as regulated by Article XV.
  - (d) Mobile home park.
  - (e) Hospital and nursing home.
  - (f) Rooming house.
  - (g) Administrative offices of residential or commercial establishments.
  - (h) Medical laboratories which do not involve any emission of excessive noise, smoke, odors, gas or vibrations.
  - (i) Ancillary commercial uses in apartment complexes, administrative offices, hospitals and nursing homes or medical laboratories.

B. Area regulations.

- (1) **[Amended 2-9-2000 by Ord. No. 127]** Lot area and width. The minimum lot area for every building unit hereafter erected shall be as follows:
  - (a) One-family detached dwelling, mobile home on individual lot, convent, monastery, rectory or parish house: 20,000 square feet and width at the building line of not less than 100 feet.
  - (b) Two-family dwelling: 20,000 square feet of dwelling unit and a width at the building line of not less than 100 feet.
  - (c) Multiple-family dwelling: not less than 1,500 square feet per dwelling unit or apartment and a width at the building line of not less than 150 feet.
  - (d) Townhouses: not less than 2,700 square feet per unit and a width at the building line of not less than 75 feet for a row dwelling containing three or more dwelling units, but not to exceed six. If a row dwelling is arranged, designed or intended to be sold or owned in separate ownership between party walls, the minimum width of lot between center lines of party walls shall be 16 feet, and the seventy-five-foot minimum width of total site frontage shall apply for the entire structure. The minimum size lot for a row dwelling structure shall be ¼ acre, or 10,890 square feet per unit.

- (e) Church and similar place of worship: as required in the R-2 District.
- (f) Public or private school: as required in the R-2 District.
- (2) Building area. All buildings, including accessory uses, except multifamily dwellings, shall cover not more than 35% of the area of the lot. Multifamily dwellings shall cover not more than 40% of the area of the lot.
- (3) Yard area setbacks. No building or structure shall be erected or enlarged unless the minimum yard areas and setbacks are provided as follows:
  - (a) Single-family detached dwelling: two-family dwellings.
    - [1] Front yard: not less than 35 feet.
    - [2] Side yard: not less than 10 feet.
    - [3] Rear yard: not less than 20% of lot depth.
  - (b) Multiple-family dwelling, townhouses, multistory buildings: all yards to be equal to building height; or
    - [1] Front yard: not less than 30 feet.
    - [2] Side yard: not less than 10 feet.
    - [3] Rear yard: not less than 20% of lot depth.
  - (c) Church and similar place of worship.
    - [1] Front yard: not less than 40 feet.
    - [2] Side yard: not less than 40 feet.
    - [3] Rear yard: not less than 30 feet.
- (4) Corner lots. Corner lot setbacks shall conform to the front yard requirements set forth for this district.
- (5) Exception. Where more than 50% of the lots within a block contain existing structures, the front yard setback may be reduced to conform to the setback lines of existing structures.
- C. Height regulations shall be as permitted in the R-2 District, except for multiple-family dwellings, townhouses and multiple-story apartment buildings shall not exceed 60 feet in height, not to exceed six stories.
- D. Dwelling standards. Every one-family dwelling hereafter erected shall have a minimum habitable living area of not less than 900 square feet. Every mobile home in a mobile home park shall have a minimum habitable living area of not less than 800 square feet. Each townhouse dwelling unit shall have a minimum habitable living area of not less than 1,000 square feet. Each dwelling unit in a multifamily structure shall have a minimum habitable living area of not less than 800 square feet. All nonresidential structures hereafter erected or altered shall have a total minimum floor area of not less than 1,500 square feet.  
**[Amended 2-9-2000 by Ord. No. 127]**

- E. Recreational areas. At least 500 square feet per family unit shall be set aside and maintained for outdoor recreational area and maintained by the owner of the development if the development contains more than three dwelling units.
- F. Off-street parking and loading facilities shall be provided as required or permitted under Article XII.

## ARTICLE VI Commercial Districts

### § 163-25. C General Commercial District.

The C General Commercial District is intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods or by any nuisance factors other than occasioned by incidental light and noise or congregation of people and passenger vehicles. This includes such uses as retail stores, theaters and other amusement enterprises, business offices, newspaper offices and printing presses, restaurants, bars and community garages or community parking areas subject to special regulations. Residential and industrial use of land is prohibited, as well as any other use which would substantially interfere with the development or continuation of the commercial structures and uses in the district.

#### A. Use regulations.

- (1) A building may be erected or used and a lot used or occupied for any of the following purposes:
  - (a) Permitted uses.
    - [1] Administrative offices of industrial or commercial establishments.
    - [2] Amusement establishment, including bowling alleys, dance hall or similar place of recreation, when conducted wholly within a completely enclosed building.
    - [3] Animal hospital.
    - [4] Art, book, school supply and stationery store.
    - [5] Automobile repair, minor.
    - [6] Auto accessory store, automobile and truck sales and incidental service.
    - [7] Bakery shop, including the baking and processing of food products.
    - [8] Bank, financial institution, savings and loan association.
    - [9] Barbershop, beauty shop, chiropody or similar personal service.
    - [10] Bicycle repair, sales, rental.
    - [11] Blueprinting, photostating establishment.
    - [12] Bus passenger terminal.

- [13] Business, charitable, finance, professional and/or consulting offices.
- [14] Cabinet shop.
- [15] Camera and photographic supply shop, retail sales and service.
- [16] Candy, confection or ice cream store.
- [17] Club or fraternal organization.
- [18] Custom dressmaking, millinery, tailoring or shoe repair, when conducted for retail sales on a premises only.
- [19] Delicatessen.
- [20] Department store.
- [21] Drugstore, tobacco and sundries.
- [22] Dry cleaning and/or laundry, shoe repair.
- [23] Dry goods store, haberdashery, wearing apparel store.
- [24] Electrical appliances store, sales, service, repair, but excluding appliance assembly or manufacture.
- [25] Family day-care/group day-care homes and day-care center as regulated by Article XV.
- [26] Florist shop, conservatory for retail trade on the premises only, not including retail or wholesale greenhouse or outdoor planting beds for sale or nursery.
- [27] Food, fruit or vegetable store.
- [28] Funeral home.
- [29] Furniture store, upholstery when conducted as a secondary operation to the sale of furniture and furnishings.
- [30] Furrier, conducted as a retail operation for trade on the premises only.
- [31] Garden supplies, seed store, nursery.
- [32] Gift store.
- [33] Hardware store.
- [34] Health club or fitness center.
- [35] Hobby store.
- [36] Hotel, motor hotel, club, tearoom, cafe, cafeteria, snack bar, restaurant or tavern, including those which serve alcoholic beverages.
- [37] Household appliance store, sales and service.
- [38] Indoor swimming pool.

- [39] Interior decorating business, including upholstering and making of draperies, slip covers and similar articles when conducted as a part of the retail operations and secondary to the main use.
- [40] Jewelry store.
- [41] Laundry, self-service, including self-service dry-cleaning establishment.
- [42] Liquor store, including beer distributor.
- [43] Meat market.
- [44] Medical clinic.
- [45] Newsstand.
- [46] Office, business or professional, or broadcasting stations.
- [47] Paint, wallpaper sales.
- [48] Photographer's studio, art gallery, including the developing of film when conducted as a part of the retail business on the premises.
- [49] Plumbing, heating, similar business showroom, including shop or repair facilities.
- [50] Post office or post office substations.
- [51] Printing shop, duplicating or offset reproduction shop.
- [52] Service station, public garage or other motor vehicle services, provided that no repair work is performed outdoors; provided that all pumps, underground storage tanks, lubricating and other devices are located not less than 15 feet from any street right-of-way; provided that all fuel oil or similar substances are stored inside or underground; and provided that all automobile parts, dismantled or disabled vehicles awaiting repair or disposition during an insurance claim shall be stored within a building. Tank size shall not exceed 10,000 gallons and number of tanks will not exceed five.
- [53] Shoe repair.
- [54] Shoe store.
- [55] Sporting goods store.
- [56] Theater, indoor.
- [57] Tobacco store.
- [58] Travel agency.
- [59] Typewriter, office equipment sales and service.
- [60] Variety store.
- [61] Video rental and supply shop.

[62] Watch repair.

[63] Accessory uses customarily incidental to any of the above uses, and including:

[a] Off-street parking and loading facilities, Article XI.

[b] Fence or a metal wall not over six feet in height.

[c] Sign as regulated in Article XIII.

[d] Cultivation of plants, noncommercial, where used for landscaping or buffer areas.

[64] Similar-type retail or local service use not specifically listed herein when authorized by the Zoning Hearing Board, according to the procedure outlined in § 163-37A(5).

[65] Swimming pools as regulated by Article XIV.

(b) Uses by special exception.

[1] Storage yard and buildings.

[2] Billboards.

[3] Permitted ancillary residential uses: apartments located on floors above the ground floor, which ground floor is occupied by a use permitted in Subsection A(1)(a) above.

B. Area regulations.

(1) Lot area. The minimum lot area for every building hereafter erected or altered shall contain a minimum of 20,000 square feet.

(2) Building area. All buildings, including accessory buildings, shall cover not more than 40% of the area of the lot.

(3) Yard area setbacks.

(a) No building or structure shall be erected or enlarged unless the minimum yard areas and setbacks are provided as follows:

[1] Front yard: not less than 35 feet.

[2] Side yard: not less than 20 feet where abutting a street or alley. None required for interior lot, except where abutting upon an R District, where there shall be provided side yard of 20 feet of such abutting R District, plus a buffer area of not less than 20 feet.

[3] Rear yard: not less than 25 feet, plus a twenty-foot buffer when abutting an R District.

(b) A one-story accessory building may be located within a required rear yard, except for the 20 feet adjacent and parallel to the rear lot line or alley line but not upon any required buffer area, for the storage of motor vehicles, the loading or



unloading of vehicles under roof or the storage of stock and merchandise customarily associated with the principal use. For the purposes of this section, a trailer, van or any vehicle or structure which was transported to the site is not such a building and shall not be permitted to remain on the property for more than seven days in any fourteen-day period.

- (c) Where abutting an R District, there shall be provided, in addition to the rear yard requirement, an undeveloped buffer area of not less than 20 feet. **[Amended 2-9-2000 by Ord. No. 127]**

C. Height regulations. The maximum height of buildings hereafter erected, altered or enlarged shall not exceed 50 feet. **[Amended 2-9-2000 by Ord. No. 127]**

D. Conditions of use.

(1) Enclosures.

- (a) All activities except for accessory uses and a service station shall be conducted within a completely enclosed building.
- (b) All refuse, garbage and similar solid waste shall be enclosed in a masonry or equivalent structure of sufficient height, width and depth to prevent dispersal of the solid waste in the vicinity, with a solid gate sufficient to conceal the contents.

(2) The Township Planning Commission may recommend an occupancy permit or zoning approval issued for a general commercial district or lot therein in accordance with the provisions and procedures of this chapter and upon an affirmative finding that the following requirements have been met by the owner, owners, developer, developers or petitioners for the tract or lot proposed for commercial development:

(a) Traffic study.

- [1] To include a comparative analysis of present capacity of street(s) adjacent to the proposed business, with potential capacity and volumes generated by the proposed development, together with necessary points of access to off-street parking and loading. Traffic data available in the Lower Yoder Township Municipal Office may be utilized, provided that such data is deemed current by the Township Planning Commission.
- [2] To include a circulation plan for all streets in the vicinity, existing and proposed, which show the recommendations for controlling, signaling, channelizing, storing, warning and directing traffic.

(b) Landscape development plan.

- [1] To include a plan of landscape development, which shall include, among other considerations, an area of at least 10 feet in width along all streets, with the exception of approved entrances, to be planted and maintained with trees, shrubbery or other landscape material or ornamental fence or wall to serve as a visual screen for the parking areas and loading or servicing areas.
- [2] A buffer planting strip, five feet wide and no less than five feet high, consisting of suitable landscaping, maintained wherever the proposed

business abuts an R District or a residential dwelling. **[Amended 2-9-2000 by Ord. No. 127]**

- [3] The location, arrangement, size and effect of all outdoor advertising or other signs and lighting proposed to be erected.
- (c) Architecture. Architectural plans of the buildings and structures showing that the project has a unified design which will be in character and proper relationship to the surrounding areas shall be submitted to the Planning Commission for recommendation and approval.
- (d) Stormwater. Such information as required to show compliance with Chapter 135, Stormwater Management, as enacted or amended.
- (e) Any other authority approval required, when applicable, such as Department of Health, Department of Transportation, Department of Labor and Industry and similar organizations, shall be obtained before applying for a zoning approval or an occupancy permit. Said authorizations shall accompany plans at the time they are submitted to the Township Planning Commission. If the state or similar organization requires zoning approval prior to issuing its approval, the Planning Commission may issue site plan approval conditioned upon the applicant presenting the state or similar organization's approval to the Zoning Officer prior to the township issuing the building permit.

## ARTICLE VII Light Industrial Districts

### § 163-26. L Light Industrial District.

The L Light Industrial District is intended to permit and encourage industrial development that will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the township, provide opportunities for local employment close to residential areas, thus reducing travel to and from work, and otherwise further the purposes set forth in the initial sections of this chapter. The limitations on use, height and lot coverage are intended to provide for modern light industrial development in an urban environment. Uses which would substantially interfere with the development or continuation of the industrial uses and structures in the district are prohibited. Residential uses shall be strictly prohibited in the L Light Industrial District.

- A. Use regulations. In this district, the land and structures may be used and structures may be erected, altered, enlarged and maintained for light industrial uses listed hereunder, provided that:
  - (1) No explosive materials or processes are involved.
  - (2) No smoke, fumes, odor, dust, noise, vibration or glaring light is noticeable from outside any lot in this district.
  - (3) The use is not offensive by reason of emission of refuse matter or water-carried waste.

- (4) There may be retail sale of products on the premises, when such sale is clearly incidental to the permitted industrial use.

(a) Permitted uses.

- [1] Animal hospital and kennels.
- [2] Bakery.
- [3] Bottling work.
- [4] Building material yards or establishments.
- [5] Cabinetmaking establishments and carpenter shops.
- [6] Clothing factory.
- [7] Contractor's yard.
- [8] Dairy.
- [9] Dry-cleaning plant.
- [10] Dying plant.
- [11] Laundry.
- [12] Milk distribution station.
- [13] Motor vehicle repair, major.
- [14] Optical goods factory.
- [15] Paper box factory.
- [16] Pencil factory.
- [17] Printing publication and engraving plant.
- [18] Research and development organization.
- [19] Storage firm.
- [20] Trucking terminal.
- [21] Wholesale business.
- [22] Any other compatible type manufacturing/light industrial or commercial use not specifically listed herein when authorized by the Zoning Hearing Board according to the procedure outlined in § 163-37A(5).
- [23] Accessory use or building customarily incidental to the above permitted uses and as regulated by this chapter.
- [24] Business, charitable, professional and/or consulting offices.
- [25] Bank, financial institutions, savings and loan association, drive-in or main offices.
- [26] Broadcasting, radio or television station and any necessary related facilities.

[27] Family day-care/group day-care homes and day-care center as regulated by Article XV.

[28] Retail sales and service of trucks and automobiles.

[29] Surface mining, as defined by state and federal law, provided that the same is undertaken in accordance with applicable state and federal law. **[Added 1-29-1993 by Ord. No. 103]**

(b) Uses by special exception.

[1] Storage yard and building for contractors or excavating equipment.

[2] Billboards.

[3] Nursing homes.

B. Area regulations.

(1) Lot area and width. The minimum lot size for light industrial uses shall be one acre, with a minimum width at the building line of 100 feet.

(2) Yard area setbacks. No building or structure shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

(a) Front yard: not less than 35 feet.

(b) Side yard: not less than 15 feet; when abutting a street, not less than 20 feet; when butting an R District, not less than 40 feet. **[Amended 2-9-2000 by Ord. No. 127]**

(c) Rear yard: not less than 25 feet; when abutting a street, not less than 25 feet; when abutting an R District, not less than 40 feet.

(3) Building area. All buildings shall not cover more than 60% of the lot area.

C. Height regulations. The maximum height of buildings, including accessory buildings hereafter erected or altered, shall be 50 feet. **[Amended 2-9-2000 by Ord. No. 127]**

D. Off-street parking and loading facilities. Off-street parking and loading facilities shall be provided as required or permitted under Article XII.

E. Conditions of use.

(1) Traffic study.

(a) To include a comparative analysis of present capacity of street(s) adjacent to the proposed development, together with necessary points of access to off-street parking and loading. Traffic data available from the Lower Yoder Township Municipal Office may be utilized, provided that such data is deemed current by the Planning Commission.

(b) To include a circulation plan for all streets in the vicinity existing and proposed, which will show the recommendation for controlling, signalizing, channelizing, storing, warning and directing traffic.

## (2) Landscape and site development plan.

- (a) To include a plan of landscape development which shall include, among other considerations, an area of at least 10 feet in width along all streets, with the exception of approved entrances to be planted and maintained with trees, shrubbery or other landscaped material or ornamental fence or wall to serve as a visual screen for parking areas and loading or servicing areas.
- (b) A buffer planting strip, consisting of suitable landscaping maintained in a twenty-foot width by ten-foot height, shall be planted within a required buffer area wherever the proposed business abuts any other district.
- (c) The location, arrangement, size and effect of all outdoor advertising or other signs and lighting proposed to be erected.

(Cont'd on page 16335)



- (3) Architecture. Architectural plans of the buildings and structures showing that the project has a unified design which will be in character and proper relationship to the surrounding areas shall be submitted to the Planning Commission for recommendation and approval.
  - (4) Stormwater. Such information as required to show compliance with Chapter 135, Stormwater Management, as enacted or amended.
  - (5) Any other authority approval required, when applicable, such as Department of Health, Department of Transportation, Department of Labor and Industry and similar organizations, shall be obtained before applying for zoning approval or an occupancy permit. Said authorizations shall accompany plans at the time they are submitted to the Township Planning Commission. If the state or similar organization requires zoning approval prior to issuing its approval, the Planning Commission may issue site plan approval conditioned upon the application presenting the state or similar organization's approval to the Zoning Officer prior to the township issuing the building permit.
- F. Nonapplicability of regulations because of state preemption. Insofar as land in a light industrial district is to be used for surface mining, the provisions of Subsections B through E shall be inapplicable. Surface mining includes all aspects of the use, and any activity, matter or thing related thereto, which constitutes "surface mining" as that term is defined in the Surface Mining Conservation and Reclamation Act, 52 P.S. 1396.1 et seq., and the Noncoal Surface Mining Conservation and Reclamation Act, 52 P.S. § 3301 et seq., or which is a matter as to which the commonwealth has otherwise preempted local regulations or otherwise retained exclusive regulatory control. [Added 1-29-1993 by Ord. No. 104]

#### **§ 163-27. M Manufacturing District.**

The M Manufacturing District is established in a district in which the principal use of land may be for heavy industrial uses, except uses or industrial processes that may be noxious or injurious by reason of the excessive production or emission of dust, smoke, refuse matter, odor, explosives, gas, fumes, noise, vibration or similar conditions. This district is intended to provide for the kinds of industrial uses suited to the physical and geographical advantages of this region, therefore contributing to the economic base of the township and providing opportunities for employment. Residential and, in general, commercial uses, are prohibited, as well as any use which would substantially interfere with the development and continuation of the uses and structures in the district.

##### **A. Use regulations.**

- (1) A building may be erected or used and a lot used or occupied for any of the following purposes:
  - (a) Permitted uses.
    - [1] Agricultural activities, including greenhouse and nursery.
    - [2] Animal hospital and dog kennel.

- [3] Automobile repair, major.
- [4] Bakery.
- [5] Bottling work.
- [6] Building material yards or establishment.
- [7] Cabinetmaker establishments and carpenter shops.
- [8] Clothing factory.
- [9] Contractor's yard.
- [10] Dairy.
- [11] Dry-cleaning plant.
- [12] Dying plant.
- [13] Fruit canning and packing establishment.
- [14] Ice plant.
- [15] Laundry.
- [16] Machine shop.
- [17] Milk distribution station.
- [18] Optical goods factory.
- [19] Paper box factory.
- [20] Pencil factory.
- [21] Printing, publication and engraving plant.
- [22] Research and development organization.
- [23] Sheet metal shop.
- [24] Steel fabrication.
- [25] Storage firm.
- [26] Trucking terminal.
- [27] Welding shop.
- [28] Wholesale business.
- [29] Any other compatible type manufacturing/light industrial use not specifically listed herein when authorized by the Zoning Hearing Board according to the procedure outlined in § 163-37A(5).
- [30] Business, charitable, professional and/or consulting offices.
- [31] Family day-care/group day-care homes and day-care center as regulated by Article XV.



(b) Uses permitted by special exception.

- [1] Surface mining.
- [2] Sanitary landfill or similar waste disposal site.
- [3] Storage yard and buildings for contractors and excavating equipment.
- [4] Billboards.
- [5] Disposal of sewage sludge.

B. Area regulations.

- (1) Lot area and width. The minimum lot size for all manufacturing buildings hereafter erected or altered shall be one acre, a minimum width at building line of 100 feet.

(2) Yard area setbacks.

- (a) No building shall be hereafter erected or altered unless the minimum setback is met as follows:

- [1] Front: 35 feet.
- [2] Side: 15 feet.
- [3] Rear: 25 feet.

- (b) If the proposed structure is to be adjacent to a residential, commercial district or light industrial district, a buffer planting strip, 10 feet in height and 20 feet in width, will be installed and maintained.

- (c) For construction of a new structure adjacent to a railroad, no setback standards are required.

- (3) Building area. All buildings shall not cover more than 60% of the lot area.

C. Height regulations. The maximum height of buildings, including accessory buildings hereafter erected or altered, shall be 60 feet.

D. Off-street parking and loading facilities. Off-street parking and loading facilities shall be provided as required in Article XII.

E. Signs. Signs shall be provided as required in Article XIII.

F. Conditions of use. In addition to the site plan requirements, the following regulations shall apply:

(1) Traffic study.

- (a) To include a comparative analysis of present capacity of street(s) adjacent to the proposed development, together with necessary points of access to off-street parking and loading. Traffic data available from the Lower Yoder Township Municipal Office may be utilized, provided that such data is deemed current by the Planning Commission.

- (b) To include a circulation plan for all streets in the vicinity existing and proposed, which will show recommendations for controlling, signaling, channelizing, storing, warning and directing traffic.
- (2) Landscape and site development plan.
  - (a) To include a plan of landscape development, which shall include, among other considerations, an area of at least 10 feet in width along all streets, with the exception of approved entrances to be planted and maintained with trees, shrubbery or other landscaped material or ornamental fence or wall to serve as a visual screen for parking areas and loading or servicing areas.
  - (b) A buffer planting strip, consisting of suitable landscaping maintained at a twenty-foot width by a ten-foot height, shall be planted within a required buffer area wherever the proposed business abuts any other district.
  - (c) The location, arrangement, size and effect of all outdoor advertising or other signs and lighting proposed to be erected.
- (3) Architecture. Architectural plans of the buildings and structures showing that the project has a unified design which will be in character and proper relationship to the surrounding areas shall be submitted to the Planning Commission for recommendation and approval.
- (4) Stormwater. Such information as required to show compliance with Chapter 135, Stormwater Management, as enacted or amended.
- (5) Any other authority approval required, when applicable, such as Department of Health, Department of Transportation, Department of Labor and Industry and similar organizations, shall be obtained before applying for zoning approval or an occupancy permit. Said authorizations shall accompany plans at the time they are submitted to the Township Planning Commission. If the state or similar organization requires zoning approval prior to issuing its approval, the Planning Commission may issue site plan approval conditioned upon the applicant presenting the state or similar organization's approval to the Zoning officer prior to the township issuing the building permit.

## ARTICLE VIII

### Conservation Districts

#### § 163-28. CS Conservation District.

The purpose of the Conservation District is to conserve valuable open space within the township. Areas of the township that are unique and have special hazards for development are placed in the Conservation District. Development of any kind within the Conservation District is severely restricted.

#### A. Use regulations.

- (1) Permitted uses.
  - (a) Agriculture.

(b) Open spaces uses.

(2) Uses permitted by special exception. Any permitted or conditionally permitted use in the R-1 or R-2 Districts are permitted in the Conservation District by special exception, provided that the following standards are met:

(a) The water supply system is sufficient to meet the minimum national standards for fire protection.

(b) The post-development stormwater runoff at the site boundary complies with the provisions of Chapter 135, Stormwater Management, as enacted or amended, and specifically provided that such stormwater runoff following development is no different than the predevelopment stormwater runoff in quantity, location or time of concentration for all storm intensities up to and including the one-percent, one-hundred-year storm event.

(c) The increase in sewer flow will not require an increase in off-site sewer lines, unless the developer pays the full costs of off-site sewer line charges.

B. Area regulations.

(1) Lot area and width. The minimum lot size for all development within the Conservation District for all uses hereafter erected or altered shall be no less than two acres, and a minimum width at building line of 200 feet.

(2) Yard area setbacks. No building shall hereafter be erected or altered unless the minimum setback is met as follows:

(a) Front: 40 feet.

(b) Side: 25 feet.

(b) Rear: 60 feet.

(3) Height regulations. The maximum height of buildings, including accessory buildings hereafter erected or altered, shall be two stories, not to exceed 35 feet.

(4) Building area. All buildings shall not cover more than 10% of the lot area and shall not, in any event, exceed 20% lot coverage, including paved parking areas.

(5) Off-street parking and loading facilities. Off-street parking and loading facilities shall be provided as required in Article XII.

(6) Signs. Signs shall be provided as required in Article XIII.

(7) Conditions of use. In addition to the site planning requirements, the following regulations shall apply:

(a) Traffic study.

[1] To include a comparative analysis of present capacity of street(s) adjacent to the proposed development, together with necessary points of access to off-street parking and loading. Traffic data available from the Lower Yoder Township Municipal Office may be utilized, provided that such data is deemed current by the Planning Commission.

- [2] To include a circulation plan for all streets in the vicinity, existing and proposed, which will show the recommendations for controlling, signalizing, channelizing, storing, warning and directing traffic.
- (b) Landscape and site development plan.
  - [1] To include a plan of landscape development, which shall include, among other considerations, an area of at least 10 feet in width along all streets with the exception of approved entrances to be planted and maintained with trees, shrubbery or other landscaped material or ornamental fence or wall to serve as a visual screen for parking areas and loading or servicing areas.
  - [2] A buffer planting strip, consisting of suitable landscaping maintained at a twenty-foot width by a ten-foot height, shall be planted within a required buffer area wherever the proposed business abuts any other district.
  - [3] The location, arrangement, size and effect of all outdoor advertising or other signs and lighting proposed to be erected.
- (c) Architecture. Architectural plans of the buildings and structures showing that the project has a unified design which will be in character and proper relationship to the surrounding areas shall be submitted to the Planning Commission for recommendation and approval.
- (d) Stormwater. Such information as required to show compliance with Chapter 135, Stormwater Management, as enacted or amended.
- (e) Any other authority approval required, when applicable, such as Department of Health, Department of Transportation, Department of Labor and Industry and similar organizations, shall be obtained before applying for zoning approval or an occupancy permit. Said authorizations shall accompany plans at the time they are submitted to the Township Planning Commission. If the state or similar organization requires zoning approval prior to issuing its approval, the Planning Commission may issue site plan approval conditioned upon the applicant presenting the state or similar organization's approval to the Zoning Officer prior to the township issuing the building permit.

## ARTICLE IX

### Administration and Enforcement

#### § 163-29. Zoning Officer.

- A. Zoning enforcement. A Zoning Officer shall be appointed by the Lower Yoder Township Supervisors to administer and enforce this chapter.
- B. Duties and powers of Zoning Officer. It shall be the duty of the Zoning Officer to enforce literally the provisions of this chapter, as amended, and he shall have such duties and powers as are conferred on him by this chapter and as are reasonably implied for that purpose. The Zoning Officer's duties shall include, but are not limited to, the following:
  - (1) Receive applications for and issue zoning and sign approvals.

- (2) Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this chapter and of the action taken consequent on each such complaint. All such records shall be open to public inspection. File copies of all applications received, approvals issued and reports and inspections made in connection with any structure, building, sign and/or land shall be retained as long as they remain in existence.
  - (3) Make inspections as required to fulfill his duties. He shall have the right to enter any building or structure or enter upon any land at any reasonable hour in the course of his duties.
  - (4) Issue approvals for special exception uses and for variances only after such uses and/or buildings have been approved by the Zoning Hearing Board in accordance with the regulations of this chapter.
  - (5) Be responsible for keeping this chapter and the Zoning Map up to date as to include amendments thereto.
- C. Notice of violations. The Zoning Officer shall serve a notice of violation on any person, firm, corporation or partnership responsible for violating any of the provisions of this chapter, or in violation of a detailed statement or a plan approved thereunder. Notice of violation shall be in writing, indicating the nature of the violation and action necessary to correct the same. If the notice of violation is not complied with, the Zoning Officer shall order the discontinuance of such unlawful use of structure, building, sign and/or land.

**§ 163-30. Approvals required.**

- A. Zoning approval. No building, structure or sign shall be erected, constructed, moved, added to or structurally altered nor shall land be put to any use without approval therefor, issued by the Zoning Officer. No such approval shall be issued except in conformity with the provisions of this chapter or upon written order from the Zoning Hearing Board in the form of an administrative review, special exception or variance as provided by this chapter or by the Court.

(1) Form of application.

- (a) All applications shall be made in writing and shall be accompanied by two sets of plans showing at least the following information:
  - [1] Actual dimensions stated and the shape of the lot to be built upon, drawn to scale.
  - [2] The exact size and location on the lot of buildings, structures or signs existing and/or proposed extensions thereto, as staked on the ground by a registered surveyor or registered engineer, with seal affixed.
  - [3] The number of dwelling units, if any, to be provided.
  - [4] Methods of sewage and solid waste disposal, plus information on quantity and quality of sewage involved, and proposed method of treatment, if required.

- [5] Parking spaces provided and/or loading facilities.
  - [6] Statement indicating the existing or proposed use.
  - [7] Height of structure, building or sign.
  - [8] Compliance with § 163-16 for all applications in R-3, C, L or M Districts.
  - [9] All other information necessary for such Zoning Officer to determine conformance with and provide for enforcement of this chapter.
- (b) One copy of the plans shall be returned to the applicant by the Zoning Officer after he shall have marked such copies either as approved or disapproved and attested to the same by his signature on such copy.
  - (c) One copy of all such plans shall be retained by the Zoning Officer for his permanent records.
  - (d) Such approval shall be issued or refused, in writing, not more than 30 days from the date of application. In case of refusal, the applicant shall be informed to the reasons for the refusal and of his rights to appeal. The application for approval shall be submitted in such form as the Zoning Officer may prescribe.
- (2) Expiration of zoning approval.
- (a) Zoning approval shall expire within 90 days from the date of issuance, if work described in any approval has not begun. If work described in any approval has begun, said approval shall expire after two years from the date of issuance thereof.
  - (b) A written request for an extension of a zoning approval beyond the two-year period shall be accepted, but shall be granted only in extraordinary cases where the construction delay has been occasioned by causes solely within the control of persons or entities other than the applicant.
- B. Building permit. In addition to obtaining zoning approval as provided for above, an applicant is hereby notified that application must be made for a building permit on such form as the Zoning Officer may prescribe and shall be accompanied by the required fee as prescribed by the Schedule of Fees established by Lower Yoder Township Supervisors.
- C. Property survey. Prior to all new construction, the owner and/or developer must have each lot or lots properly field surveyed by a certified surveyor or professional engineer and the location of the proposed building and/or buildings corners staked (drawn to scale) indicated on said survey map.
- D. Floodplain ordinance. If the proposed structure or use is located in a floodplain as defined by Chapter 76, Floodplain Management, then, in addition to the information required herein, the applicant must comply with said chapter, as amended.

**§ 163-31. Certificate of use and occupancy.**

A certificate of use and occupancy shall be required upon the completion of the work contemplated. It shall be unlawful to use and/or occupy any structure, building and/or land or portions thereof in any manner until a certificate of use and occupancy has been issued.

A. Form of application. The application and inspection fee for a certificate of use and occupancy shall be submitted in such form as the Zoning Officer may prescribe.

B. Issuance of certificate of use and occupancy.

(1) The Zoning Officer or his designee shall inspect any structure, building, sign and/or land or portions thereof and shall determine its conformity with this chapter. If he is satisfied that the completed work is in conformity with this chapter and with the work listed in the zoning approval, he shall issue a certificate of use and occupancy.

(2) A certificate of use and occupancy shall be granted or refused, in writing, not more than 10 days from the date of receipt of the application.

C. Inspection fee. Each application for a certificate of use and occupancy shall be accompanied by cash, check or money order made payable to Lower Yoder Township in the amount designated by the Township Supervisors in accordance with § 163-32, hereinafter set forth.

**§ 163-32. Schedule of fees, charges and expenses.<sup>22</sup>**

The Township Supervisors shall, by resolution, establish a schedule of fees, charges and expenses and a collection procedure for zoning permits, amendments, appeals, variances, conditional use permits, plan approvals and other matters pertaining to the administration and enforcement of this chapter requiring investigations, inspections, legal advertising, postage and other expenses. The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended only by the Supervisors. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

**§ 163-33. Remedies.**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained; or any building or structure is used; or any hedge, tree, shrub or other growth is maintained in violation of this chapter or any regulations made pursuant thereto, the proper township authorities, in addition to other remedies provided by law, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the use of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

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<sup>22</sup> Editor's Note: Appendix A, Schedule of Fees, is on file and available for public inspection in the township offices.

**§ 163-34. Violations and penalties.<sup>23</sup>**

- A. Any person, partnership or corporation who or which has violated 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 other court costs, including reasonable attorney fees incurred by the township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this chapter to have believed that there was no such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation.
- B. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment 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.

**§ 163-35. Power of amendment.**

- A. The Board of Township Supervisors may, from time to time, amend, supplement, change, modify or repeal this chapter, including the Zoning Map, by proceeding in the following manner:
  - (1) The Planning Commission may initiate action by filing a written report to the Township Supervisors;
  - (2) The Board of Township Supervisors may initiate action on their own; or
  - (3) A landowner may file a petition for a curative amendment in accordance with Section 609.1 of the Code.<sup>24</sup>
- B. Petition for amendment.
  - (1) Form and content. Petitions for amendment, supplement, change, modification or repeal of the regulations prescribed or, if the Zoning Map, including the district or any part thereof, shall be on forms supplied by the Planning Commission, which shall include a narrative description which: defines the limits of the requested change by street name or recognizable physical feature; states the specific reason for the requested amendment; and states the specific use, type of development and type of structure to be erected under the proposed amendment. A map and/or preliminary site

<sup>23</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>24</sup> Editor's Note: See 53 P.S. § 10609.1.



plan of the area to be affected by the petition shall also be submitted to the Commission for reference and review by the Commission.

- (2) Preliminary review by Planning Commission. After the facts presented and the data and information from the petition are reviewed and studied by the Planning Commission, the Commission shall, within 15 days after the regularly or specially scheduled meeting, submit the petition with its preliminary recommendations to the Township Supervisors. The preliminary report by the Planning Commission is not intended to establish final approval by the Commission, but rather to serve as a means of providing a format of action and review by the Township Supervisors.

C. Action by Township Supervisors.

- (1) Subsequent to the introduction of the petition for Zoning Change and Preliminary Report by the Planning Commission to the Township Supervisors, the Supervisors shall fix a time for a public hearing.
- (2) Notice of the time and place of the public hearing for consideration of the proposed amendment stating when and where a copy of the proposal will be available for public inspection and briefly describing the change proposed shall be given by the following method:
  - (a) By publishing a 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 60 days nor less than seven days from the date of the hearing.<sup>25</sup>
  - (b) By mailing a notice thereof to every resident or association of residents in the township who have registered their names and addresses for this purpose with the Zoning Hearing Board.
  - (c) Posting of a similar notice at the Township Office.

D. Conduct of public hearings. The Township Supervisors, or an examining officer appointed by the Township Supervisors, shall be responsible for the conduct of the public hearing.

- (1) The purpose of the public hearing is to receive relevant facts, data and other material desirable and necessary for a decision on the petition for change.
- (2) The Chair or Acting Chair of the Board or hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- (3) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

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<sup>25</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (4) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (5) The Board or the hearing officer, as the case may be, shall keep a record of the proceedings, either stenographically or by sound recording, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.

E. Final report by Planning Commission.

- (1) Within 30 days following the public hearing, the Planning Commission shall review all material, data, testimony and facts submitted for consideration in the petition for change. The Commission shall make a final report on each bill, setting forth in detail reasons wherein public necessity, convenience and general welfare do or do not justify the proposed change, and determining that the change is or is not in accord with the general objectives of the Comprehensive Plan and good zoning practices, and shall forward its findings and recommendations to the Township Supervisors.
- (2) If the Planning Commission fails to file such a report within the specified time in the specified manner, it shall be presumed that the Planning Commission has approved the proposed amendment, supplement or change. In any event, the recommendation of the Planning Commission shall be regarded as advisory in nature and shall not be binding on the Township Supervisors or other parties to the issue.

F. Final action by the Township Supervisors.

- (1) The passage of an ordinance amending, supplementing or changing the regulations, district boundaries or classification of property, now or hereafter established by this chapter, shall require the affirmative vote of two members of the Board of Township Supervisors.
- (2) Any ordinance amending, supplementing or changing the regulations, district boundaries or classifications of property hereafter established by this chapter, if not passed by the Supervisors within 60 days after the required public hearing, shall require a new public hearing as prescribed under Subsection C of this section.

G. Curative amendments.

- (1) Landowners who desire to challenge, on substantive grounds, the validity of this chapter or Zoning Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Township Supervisors with a written request that his challenge and proposed amendment be heard and decided as provided in Subsection C hereof. The Township Supervisors shall commence a hearing thereon within 60 days of the request. The curative amendment shall be referred to the Planning Commission and the Cambria County Planning Commission.
- (2) Notice of the curative amendment application shall be given in accordance with Subsection B hereof.

H. Fees. Any person other than the Township Supervisors or Planning Commission requesting an amendment of this chapter (including a curative amendment) shall pay a fee of as set

from time to time by resolution of the Board of Supervisors at the time the request is filed to the Secretary of the Township. The cost of advertising of the aforesaid notice, the cost of stenographic service and any other expenses incurred in connection with such application shall be applied against the deposit. In the event that the total of the aforesaid costs and expenses does not exceed the amount provided, any difference shall be refunded to the applicant. In the event that the aforesaid costs and expenses exceed the fee set by the Board of Supervisors, the applicant shall reimburse the Secretary of the Township for such excess.

## ARTICLE X Zoning and Hearing Board

### § 163-36. Creation, appointment and organization.

- A. A Zoning Hearing Board is hereby established. The Board shall consist of three members selected from among township residents and who shall be appointed by the Township Supervisors. The members of the first Board appointed shall serve respective terms of one year, two years and three years. Thereafter, each member shall be appointed for a three-year term. Vacancies shall be filled for the unexpired term only. Members may be removed by the Township Supervisors in compliance with Section 905 of the Pennsylvania Municipalities Planning Code, as amended.<sup>26</sup>
- B. The Board shall elect its own Chair, Vice Chair and Secretary, who shall serve for one year. The Board shall adopt such rules and regulations as it may deem necessary to effect the provisions of this chapter.
- C. Meetings of the Board shall be held at the call of the Chair and at such times as the Board may determine. Such Chair or, in his absence, the Acting Chair, may administer oaths and command the attendance of witnesses. The Board shall keep a complete record of its business, the minutes of its proceedings, including the attendance of each member and the vote or failure to vote of each upon each issue, and records of its examinations and other official actions, all of which shall be filed immediately as a public record in the office of the Board. At its discretion, the Board may appoint a hearing officer from its own membership to conduct hearings in conformity with Section 906 and 908 of the Pennsylvania Municipalities Planning Code, as amended.<sup>27</sup>
- D. The Board shall submit an annual report of its activities to the Supervisors.
- E. Members of the Board shall hold no other office in the township.<sup>28</sup>
- F. The Board may employ secretaries, counsel and other personnel within the limit of funds appropriated to the Board by the Supervisors.

<sup>26</sup> Editor's Note: See 53 P.S. § 10905.

<sup>27</sup> Editor's Note: See 53 P.S. §§ 10906 and 10908.

<sup>28</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- G. The members of the Board shall not receive compensation for their services unless the Supervisors fix a rate of compensation as permitted under Section 907 of the Pennsylvania Municipalities Planning Code, as amended.<sup>29</sup>

**§ 163-37. Powers and duties.**

- A. General statement of powers. The Zoning Hearing Board shall function in strict accordance with and pursuant to the Municipalities Planning Code<sup>30</sup> and shall have all powers set forth therein, including but not limited to the following:
- (1) To hear and decide appeals where it is alleged that the Township Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of a valid ordinance or map of the township or any valid rule or regulation governing the action of the Zoning Officer.
  - (2) To hear and decide requests for special exceptions authorized by this chapter in accordance with the standards or criteria set forth below. The Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the code and this chapter.
  - (3) To hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. A variance may be granted only after the Zoning Hearing Board has made the findings required in Section 912 of the Municipal Planning Code.<sup>31</sup> In granting a variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the code and this chapter.
  - (4) To conduct hearings and make such decisions and findings in connection with challenges to the validity of any provision of this chapter as authorized by Section 910 of the Code.<sup>32</sup>
  - (5) To hear and decide requests for uses as authorized by §§ 163-22A(2)(b), 163-23A(1)(g), 163-25A(1)(a)[64], 163-26A(4)(a)[22] and 163-27A(1)(a)[29]. The applicant shall first appear at a hearing held in accordance with § 163-37 before the Zoning Hearing Board to establish that the proposed use is compatible with the inherent purposes and uses described in the applicable use district. If the Zoning Hearing Board determines that the proposed use is permitted within the applicable use district, and subject to any conditions imposed upon the applicant by the Zoning Hearing Board, the applicant shall, except for §§ 163-22A(2)(b) and 163-23A(1)(g) uses, submit to the Planning Commission a site plan containing the information required in § 163-16 and the district in which the property is located. The Planning Commission shall thereafter act upon the site plan in accordance with § 163-16 and its

<sup>29</sup> Editor's Note: See 53 P.S. § 10907.

<sup>30</sup> Editor's Note: See 53 P.S. § 10101 et seq.

<sup>31</sup> Editor's Note: Said section was repealed by the Act of December 21, 1988, P.L. 1329. See now 53 P.S. § 10910.2.

<sup>32</sup> Editor's Note: Said section was repealed by the Act of December 21, 1988, P.L. 1329. See 53 P.S. § 10909.1.

rules and procedures and shall, in addition, require that the site plan show an intent to comply with all conditions, if any, imposed by the Zoning Hearing Board.

- B. The standards for review of proposed variance, special exception or uses in §§ 163-22A(2)(b), 163-23A(1)(g), 163-25A(1)(a)[64], 163-26A(4)(a)[22] and 163-27A(1)(a)[29].
- (1) In any instance where the Zoning Hearing Board is required to consider a request for variance, special exception or use grant as authorized in §§ 163-22A(2)(b), 163-23A(1)(g), 163-25A(1)(a)[64], 163-26A(4)(a)[22] and 163-27A(1)(a)[29], the Zoning Hearing Board shall determine that the following guidelines are met before granting the request:
    - (a) The size scope, extent and character of the special exception, variance or use requested is consistent with the Comprehensive Plan of the township and promotes the harmonious and orderly development of the zoning district involved.
    - (b) The proposed changes or modification constitutes an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter or detract from the use of surrounding property or the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the area; the number, extent and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition of use for which the applicant seeks approval.
    - (c) The proposed use is suitable with respect to traffic and highways in the area and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard.
    - (d) Major street and highway frontage will be developed so as to limit the total number of access points and encourage the frontage of building on parallel marginal roads or on roads perpendicular to the major street or highway.
    - (e) The proposed change is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police, fire protection and public schools, and assure adequate arrangements for sanitation in specific instances.
    - (f) All commercial or industrial parking, loading, access or service areas will be adequately illuminated at night while in use and arranged so as to comply with the requirements of Article XII dealing with special regulations and relating to access and highway frontage.
    - (g) Conditions are being imposed on the grant of the request necessary to ensure that the general purpose and intent of this chapter is complied with and that the use of the property adjacent to the area included in the proposed change or modification is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping,

hours of operation, lighting, numbers of persons involved in allied activities, ventilation, noise, sanitation, safety, smoke and fumes, and the control and minimizing of noxious, offensive or hazardous elements.

- (h) The proposed change protects and promotes the safety, health, morals and general welfare of the township.
- (2) For further provisions relating to special exceptions, see Article XI hereof.
- (3) In addition, to approve a proposed variance, the Board must also find, where relevant to given causes, that:
  - (a) There are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
  - (b) Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - (c) Such unnecessary hardship has not been created by the appellant.
  - (d) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the last modification possible of the regulation in issue.
- C. Powers relative to items not included in this chapter. The Zoning Hearing Board shall have the power to make a ruling on all land use items not specifically detailed in this chapter.
- D. Exercise of powers. In exercising the above powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and such order, requirement, decision or determination as ought to be made and, to that end, shall have all powers of the officer from whom the appeal is taken. Every change granted or denied by the Board shall be accompanied by a written finding of fact, based on sworn testimony and evidence, specifying the reason for granting or denying the variation. The decision of the Board shall be made a part of any building permit in which variation is allowed.
- E. Required action. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to allow any variation of this chapter.
- F. Appeal from action of the Board. Any party before the Board or any office or officer of the township or the Supervisors may appeal to the Court of Common Pleas. All zoning appeals shall be filed with the Prothonotary not later than 30 days after issuance of the notice of the

decision or report of the Board. The appellant's procedure shall follow the requirements of the Pennsylvania Municipalities Planning Code, as amended.<sup>33</sup>

- G. Fees. Any person other than the Township Supervisors or Planning Commission requesting a hearing before the Zoning Hearing Board shall pay fees in accordance with the Schedule of Fees established by resolution of the Supervisors, pursuant to § 163-32, hereinabove.

**§ 163-38. Procedure.**

- A. Rules. The Zoning Hearing Board may make, alter and rescind rules and form for its procedure, including but not limited to exceptions and variances.
- B. Appeals and requests to the Zoning Hearing Board. Appeals to the Zoning Hearing Board may be filed by the landowner affected, any officer or agency of the township or any person aggrieved. Such appeal shall be taken within the time required by the Pennsylvania Municipalities Planning Code<sup>34</sup> or as provided by the rules of the Zoning Hearing Board by filing with the Zoning Officer and with the Zoning Hearing Board a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Zoning Hearing Board all the papers constituting the record upon which the action appealed from was taken. Requests for a variance or special exception may be filed by any landowner or any tenant, with permission of the landowner. The appropriate fee, established by the township, shall be paid in advance for each appeal or application for a special exception or variance to cover advertising costs, mailing notices and charges of the stenographer for taking the notes of testimony, provided that, if more than 10 pages of testimony are taken in any case, the appellant or applicant shall reimburse the township for the cost of such additional testimony.
- C. Hearings and notices.
- (1) Upon the filing with the Zoning Hearing Board of an appeal or an application for a special exception or variance from the terms of this chapter, the Zoning Hearing Board shall fix a reasonable time and place for a public hearing thereon and shall give public notice thereof, as well as due notice to the parties in interest, and shall decide the same, in writing, within 45 days after the hearing. Each written decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons thereupon in accordance with Section 908(9) of the Municipalities Planning Code.<sup>35</sup> If the Zoning Hearing Board does not make a written decision within 45 days after the hearing, or continued hearing, it shall be deemed that the Zoning Hearing Board has decided in favor of the applicant. Any party may appear at a public hearing in person or by agent or attorney. 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:

<sup>33</sup> Editor's Note: See 53 P.S. § 10101 et seq.

<sup>34</sup> Editor's Note: See 53 P.S. § 10101 et seq.

<sup>35</sup> Editor's Note: See 53 P.S. § 10908(9).

- (a) By publishing a notice thereof once a week for two successive weeks in a newspaper of general circulation in the township and not more than 60 days nor less than seven days prior to the hearing.<sup>36</sup>
  - (b) By mailing a notice thereof to the applicant, the Zoning Officer, Township Secretary and any person who has made timely request for the same.
  - (c) By mailing a notice thereof to every resident or association of residents in the township who shall have registered their names and addresses for this purpose with the Zoning Hearing Board.
  - (d) By mailing notice thereof to the owner, every lot on the same street within 500 feet of the lot in question and of every lot not on the same street within 150 feet of said lot, provided that failure to mail the notice required by this section shall not invalidate any action taken by the Zoning Hearing Board. All hearings shall be conducted in accordance with Section 908 of the Code, as amended.<sup>37</sup>
  - (e) Notice of the hearing shall be conspicuously posted on the affected tract of land.
- (2) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

#### **§ 163-39. Expiration of special exceptions and variances.**

Unless otherwise specified by the Zoning Hearing Board, a special exception, variance or use approved pursuant to § 163-37A(5) which has been authorized by the Zoning Hearing Board shall expire automatically, without further notice by the township to the applicant, if the applicant fails to obtain the zoning approval or use certificate issued by the Zoning Officer and/or the building permit issued by the Zoning Officer within six months from the date of authorization thereof.

### **ARTICLE XI Special Exceptions**

#### **§ 163-40. General provisions.**

- A. The following special exceptions are permitted in specific district classifications. They are subject to the general criteria against which all requests for special exceptions are evaluated which are located in Article X, § 163-37. In addition, approval of such special exceptions is subject to the following conditions:

<sup>36</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>37</sup> Editor's Note: See 53 P.S. § 10908.



- (1) Such use shall be one which is specifically authorized as a special exception use in the district in which it is to be located.
  - (2) Such permits shall only be granted subject to any applicable conditions and safeguards required by this chapter.
  - (3) Such permit may be granted subject to any additional conditions and safeguards as may be deemed by the Board to be advisable and appropriate.
  - (4) Such use shall be found by the Board to be in harmony with the general purposes and intent of this chapter.
  - (5) Such use shall not adversely affect the character of the district nor the conservation of property values nor the health and safety of residents or workers on adjacent properties and in the general neighborhood.
  - (6) Such use shall be of such appropriate size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and from such use will not create undue congestion or hazards prejudicial to the general neighborhood.
  - (7) Such use shall not conflict with the direction of building developments in accordance with any Comprehensive Plan or portion thereof which has been adopted by the Planning Commission or Supervisors.
- B. Within five days after an application for a special exception is filed, the application and accompanying plans shall be submitted to the Township Supervisors for their review and recommendations. If the Township Supervisors fail to file their recommendations within five days of receipt of the application by them, it shall be presumed that they have no recommendation. In any event, the recommendation of the Township Supervisors shall be regarded as advisory only to the Zoning Hearing Board and shall not be binding under any circumstances.

**§ 163-41. Special exception conditions.**

The following conditions shall apply to special exceptions that are permitted in certain specified districts.

- A. Planned residential development. A planned residential development may be permitted as a special exception in the R-1, R-2 and R-3 Residential Districts subject to the requirements set forth in this chapter and as provided by Article VII, Pennsylvania Municipalities Planning Code, as amended.<sup>38</sup>
- (1) Minimum lot size. The minimum lot size for any planned residential development shall be 20 acres.
  - (2) Permitted uses.
    - (a) Single-family detached dwellings.
    - (b) Two-family detached dwellings.

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<sup>38</sup> Editor's Note: See 53 P.S. 10701 et seq.

- (c) Multiple-row dwellings, townhouses and garden apartments with a maximum of eight units per building.
  - (d) Multistory apartments not to exceed six stories or 60 feet above ground in height.
  - (e) Community buildings which are for the social, cultural or recreational use of the residents of the development.
  - (f) Open space and recreation facilities developed and maintained principally for use of residents of the development.
  - (g) Certain nonresidential uses, such as buildings for convenience shopping and personal services, provided that such uses, along with required parking, occupy not more than 5% of the total land area of the development. In the event that development of the entire project is proposed to be divided into several phases, the Supervisors may require the construction of all or part of the open space/recreation facilities, community buildings or nonresidential uses in the initial phase of development.
- (3) Density. The dwelling unit density shall conform to the following:
- (a) Single-family: five units per acre.
  - (b) Two-family: 10 units per acre.
  - (c) Row dwelling: 15 units per acre.
  - (d) Multistory dwellings: 29 units per acre.
  - (e) For mixed types of structure, the overall density may not exceed 12 units per acre.
- (4) Public open space required. At least 250 square feet per family unit shall be set aside and maintained for an outdoor recreation area by the owner of the development, his successors and assigns, of which a one-hundred-square-foot unit shall be developed with recreation equipment and playground area. In lieu of maintenance by the developer, an association of homeowners in the development may provide such maintenance, but documents creating such an association shall be approved by the Township Solicitor before final approval is given for the Planned Residential Development. Should neither the developer nor an approved homeowners' association maintain the public open space required in this subsection, then the township shall have the option to maintain the public open space and, if it chooses to do so, impose a lien on the individual properties in the development to collect the costs of such maintenance.
- (5) Setback requirements and minimum distance between buildings.
- (a) Setback. The setback requirements for all buildings erected in a planned residential development shall be as follows:
    - [1] A minimum setback of 70 feet shall be observed around the entire perimeter of tract or lot used for the planned residential development. No main or accessory building may be erected within the setback area. However,

outdoor recreation facilities and parking lots may be constructed in the area, provided that they are a minimum of 40 feet from the perimeter lot lines.

- [2] A front yard setback of 35 feet shall be observed for all buildings erected adjacent to streets within the planned residential development.
- (b) Minimum distance between buildings. When more than one multiple-family dwelling building is erected on a single site, lot or tract, the minimum distances between buildings shall be as follows:
  - [1] Front to front: 70 feet; front to rear: 60 feet.
  - [2] Side to side:  $\frac{1}{2}$  of the height of the tallest building, but not less than 25 feet.
  - [3] Front to side or rear to side: the height of the tallest building, but not less than 35 feet.
  - [4] Rear to rear: 50 feet.
- (6) Percentage of lot coverage. All buildings, including accessory buildings, shall cover not more than 40% of the area of the lot.
- (7) Site improvement standards. The developer or owner of any planned residential development shall be responsible for the engineering, construction, installation and maintenance of site improvements as follows:
  - (a) Engineering site plan required. An engineering site plan shall be prepared by a registered architect, professional engineer or registered surveyor and filed with the Township Supervisors prior to the start of any construction of an approved planned residential development. The site plan shall be drawn at a minimum scale of one inch equals 50 feet and shall indicate the exact location and dimensions of all buildings, streets, sidewalks, roads, parking areas, water lines, sanitary sewer lines, telephone lines, recreation areas, landscaping, walls, fences, right-of-way lines, property lines and any other features to be constructed or installed on the site. A topographic map shall be prepared at a minimum scale of one inch equals 50 feet with a contour interval of five feet and shall indicate all existing and final grades for the site; spot elevations shall be indicated for streets, storm and sanitary sewers and other elevation features as deemed appropriate and necessary by the Zoning Officer.
  - (b) Perimeter survey. A perimeter survey of the parcel to be developed as a planned residential development shall be prepared by a registered surveyor. Permanent concrete markers, with a minimum standard of six inches by six inches by 30 inches with a copper rod, shall be installed on all corners around the perimeter of the site. The survey shall tie directly into adjoining property.
  - (c) Street paving. The engineering, construction, installation and maintenance of all streets within the planned residential development shall be the sole responsibility of the developers and shall be in accord with minimum township standards as set forth in Chapter 141, Subdivision and Land Development, as hereafter enacted and amended.

- (d) Street signs and streetlights. Street signs and streetlights shall be installed and maintained by the developer as required by Chapter 141, Subdivision and Land Development, as hereafter enacted and amended.
  - (e) Water lines and fire plugs. The installation of all water lines, including fire plugs, shall be in accord with requirements and specifications of the Greater Johnstown Water Authority. Detailed engineering plans and specifications shall be filed with the Township Supervisors, the Lower Yoder Municipal Authority and the Greater Johnstown Water Authority or their successors.
  - (f) Sanitary sewers. The installation of all sanitary sewers shall be in accord with plans and specifications submitted to and approved by the Lower Yoder Municipal Authority or its successors.
  - (g) Storm sewers. The installation of a storm sewer system shall be in accord with plans and specifications filed with and approved by the Zoning Officer.
  - (h) Curbing. To township specifications and approved by the Zoning Officer.
  - (i) Off-street parking and loading facilities. Shall be provided as required or permitted under Section § 163-43 herein.
  - (j) A final plat as described in Chapter 141, Subdivision and Land Development, as hereafter enacted and amended.
  - (k) Such further information required to show compliance with Chapter 135, Stormwater Management, as hereafter enacted or amended.
- B. Hospital and nursing home. A hospital or nursing home may be permitted as a special exception in an R-2 or an R-3 Residential District with the minimum requirements as hereinafter set forth.
- (1) Height: as permitted in each district.
  - (2) Lot area: The minimum lot area shall be two acres.
  - (3) Yard areas: as required in each district.
  - (4) Percentage of lot coverage: as permitted in each district.
  - (5) Site plan: as required under Article IV, § 163-16, herein.
  - (6) Off-street parking facilities: as required under Article XII herein.
- C. Administrative offices and laboratories. Administrative offices for commercial or industrial uses and certain laboratory facilities may be permitted in an R-3 Residential District with the minimum requirements herein set forth.
- (1) Height: as permitted for multistory dwellings in the district.
  - (2) Lot area: The minimum lot area shall be five acres.
  - (3) Yard areas: all yards shall be equal to building height, but not less than requirements for multiunit residential dwellings.
  - (4) Building area: shall not cover more than 35% of the lot.

- (5) Site plan: as required for similar structures under Article IV, § 163-16, herein.
  - (6) Off-street parking facilities: as required for similar structures in C Districts under Article XII herein.
  - (7) Signs shall comply with § 163-50 herein.
  - (8) Conditions of use, as required for similar use in the C District under § 163-25D herein.
- D. Ancillary commercial uses in commercial complexes, administrative offices, hospitals and nursing homes or medical laboratories. The Zoning Hearing Board, in appropriate cases, may authorize ancillary commercial uses within structures which are permitted uses or permitted by special exception in the R-3 District subject to the limitations and minimum requirements as hereinafter set forth.
- (1) Permitted ancillary commercial uses. Within a structure permitted as of right or by special exception within the R-3 Residential District, the following uses may be permitted in appropriate cases:
    - (a) Barbershop.
    - (b) Beauty shop.
    - (c) Duplicating or offset reproduction shop.
    - (d) Confections.
    - (e) Drugs, tobacco and sundries.
    - (f) Flowers.
    - (g) Gifts.
    - (h) Cafeteria or snack bar, excluding sale of alcoholic beverages.
  - (2) Conditions which apply to ancillary commercial uses. The foregoing uses are permitted in appropriate situations subject to the following conditions:
    - (a) Ancillary commercial uses shall be located on the ground floor and shall occupy no more than 10% of the total structure.
    - (b) The principal entrance to the ancillary commercial use shall be from the inside of the building housing the permitted principal use, except where the place of business of the ancillary commercial use is located at least 75 feet from the nearest public street.
    - (c) No display of wares for sale shall be visible outside the building, unless the place of business is at least 75 feet from the nearest public street.
  - (3) Signs shall comply with the requirements of § 163-50 herein.
  - (4) The uses permitted shall be subject to the restrictions governing permitted uses or special exceptions within the district.

- E. Rooming house. A rooming house may be permitted as a special exception in an R-2 or an R-3 Residential District, provided that it does not accommodate more than four boarders and meets the requirements of a single dwelling in the district.<sup>39</sup>
- F. Sanitary landfill or similar waste disposal site. A sanitary landfill or similar waste disposal site may be permitted in the M Manufacturing District, provided that the operator meets all regulations and requirements of the Pennsylvania Solid Waste Management Act,<sup>40</sup> the Cambria County Solid Waste Management Study and the Pennsylvania Department of Environmental Protection.
- G. Storage yard and buildings for contractor or excavating equipment. A storage yard and buildings for contractor or excavating equipment may be permitted as a special exception in L, M and C Districts on a tract of land greater than two acres, as follows:
- (1) Storage yard for trucks, tractors, earth-moving equipment and similar types of equipment, provided that the equipment or storage yard is set back a minimum distance of 25 feet from the nearest property line and the area is properly screened from adjacent properties.
  - (2) Storage of materials and supplies customarily incidental to the operation of a contractor's business, provided that all materials are stored within an enclosed building or structure.
- H. Billboards. A billboard, not to exceed 300 square feet, may be permitted by the grant of a special exception by the Zoning Hearing Board, provided that it shall:
- (1) Not be located closer than 50 feet to a public right-of-way.
  - (2) If attached to a building, not project above the ridgeline of a sloping roof nor the eaveline of a flat roof.
  - (3) If freestanding, not exceed 20 feet in height, measured from the ground to the top of the sign.
  - (4) Be on a parcel or lot not abutting or opposite a frontage in an R District, unless the advertising face is not visible from the R District.
  - (5) Be no nearer than 300 feet to any R District, if illuminated, unless the advertising face is not visible from the R District.
  - (6) Be no nearer than 300 feet to any church, school, park, playground or recreational area owned and operated by a public body.
  - (7) Be no nearer than 400 feet to the center line of any restricted or limited access highway or the access ramps thereto, if the face of the sign is visible therefrom.
- I. Surface mining. **[Amended 1-29-1993 by Ord. No. 104]**

<sup>39</sup> Editor's Note: During the codification process, original Subsection F, Mobile Home Park, was moved to Ch. 141, Subdivision and Land Development, as required by the Municipalities Planning Code.

<sup>40</sup> Editor's Note: See 35 P.S. § 6018.101 et seq.

- (1) State and federal regulations. No mining operations shall be conducted in this township unless the mine operator shall have a currently valid permit to conduct surface mining operations issued by the appropriate state or federal agency having regulatory authority over the conduct of the surface mining operations. The applicant must also comply with all state and federal regulations of surface mining operations.
- J. Home occupations. A home occupation shall be permitted as a special exception in R-1, R-2 and R-3 Residential Districts where the following criteria are satisfied.
- (1) The proposed use shall be consistent with the definition of a "home occupation" set forth in § 163-7 of this chapter.
  - (2) Off-street parking relating to the home occupation shall be limited to not more than three spaces for motor vehicles in excess of the number of motor vehicles registered to the occupants residing at the residence in which the home occupation is conducted.
  - (3) The Zoning Hearing Board may impose such other reasonable conditions upon the home occupation as may be necessary or as may be reasonably related to the guidelines set forth in § 163-37B of this chapter.
- K. Sewage sludge.
- (1) Definitions. As used in this subsection, the following terms shall have the meanings indicated:

DISPOSAL — The discharge, deposit, injection, dumping, spilling, leaking or placing of any sewage sludge from a municipal or private treatment plant into or on any land in the township, provided that the spreading of poultry and livestock manure generated from conventional agricultural activities on cropland or farmland for agricultural purposes shall not be included within this term, and such activity shall not be regulated by this chapter.

SEWAGE SLUDGE — As defined in Chapter 75, Page 3, of the Pennsylvania Department of Environmental Protection, Solid Waste Management Rules and Regulations, i.e.,: "The coarse screenings, grit and dewatered or air-dried sludges, septic tanks and holdings tank pumping and other residues from sewage collection and treatment systems which require disposal."
  - (2) Regulations of sewage sludge disposal by special use permit in order to protect public health, safety and welfare by controlling the location of sewage sludge disposal in relation to other land activities. Use and occupancy of land for sewage sludge disposal in the M Manufacturing District shall be permitted as a special exception, provided that the applicant can show, by sufficient substantial evidence, that the disposal operation:
    - (a) Will not substantially injure or detract from the lawful existing or permitted uses of neighboring properties.
    - (b) Will not injure any public, private residential or agricultural water supply source.
    - (c) Will not adversely affect any public land or land used for a public purpose.

- (d) Will not adversely affect the logical, efficient and economical extension of public services and facilities throughout the municipality.
  - (e) Will serve the best interest of the municipality, the convenience of the community and the public welfare.
  - (f) Will result in the land area subject to the application being placed in a condition which will allow the use of that land for economically and ecologically productive uses of the type permitted in the zoning district or districts in which that land is located upon completion of the disposal operation.
- (3) Applications for use permit. Acquisition of a special use permit shall be subject to an application petition. The applicant must submit with its petition the following information, in writing:
- (a) A copy of its application to or permit from the Department of Environmental Protection (DEP).
  - (b) Copies of any and all materials, documents or drawings submitted with said application to the DEP.
  - (c) A description of the proposed application program, including the sources of the sludge and how it is to be transported to the site, a timetable for application, a description of any storage operations, the proposed utilization rate, the total acreage involved and the useful life of the proposed site.
  - (d) Topographical drawing, prepared by a registered engineer, to a scale no greater than one inch to 200 feet, showing the:
    - [1] Location of the site relative to public roads.
    - [2] Identity of owners of adjacent properties.
    - [3] Boundaries of the area to be used for land application.
    - [4] Location of public and private water supplies, wells, springs, streams, swamps or other bodies of water, within  $\frac{1}{4}$  of one mile of the boundaries of the proposed land application site.
    - [5] Soil classifications of the land application area.
    - [6] Vegetation.
  - (e) A soils and geologic report indicating the physical characteristics of the site with respect to its suitability for application of sludge. The report shall be based on available soil survey and geologic data and accompanied by field test analysis. Field tests shall include: soil borings by a soil scientist to confirm that soil profile characteristics are consistent with published soil survey data.
  - (f) A chemical analysis of the sludge from each proposed source. The analysis shall involve a minimum of 10 samples. The analysis shall include the following items:
    - [1] Total moisture content.



- [2] Percent total nitrogen (wet and dry weight).
  - [3] Percent ammonia nitrogen (wet and dry weight).
  - [4] Percent organic nitrogen (wet and dry weight).
  - [5] Biochemical oxygen demand.
  - [6] pH.
  - [7] Percent, on a dry weight basis, of Cyanide, Sodium, Cadmium, Zinc, Copper, Nickel, Lead, Chromium, Mercury, Molybdenum, Potassium, Phosphorus, Calcium, Manganese, Iron, Aluminum, Magnesium and Cobalt and other toxic substances and enteric pathogens may be required by the Zoning Hearing Board.
  - [8] Total solids.
- (g) For all applications, there shall be an application fee accompanying an application in the minimum nonrefundable amount set forth in the Schedule of Fees established by the Lower Yoder Township Supervisors. Said application fee shall be used to offset all township costs, including township engineering fees, and when said costs exceed the scheduled payment, the applicant shall pay as additional application fee the additional costs incurred upon presentation of statements by the township to the applicant.
  - (h) A copy of the agreement between the generator of the sludge or the hauler and applicator and the landowner showing provisions as to the term of the agreement, the operation to be carried out in spreading sludge and the keeping of records.
  - (i) Where the proposed applications of sludge involves a leasehold arrangement between the owner of the property and the party applying the sludge, a land development plan shall be prepared and filed in accordance with the provisions of the Pennsylvania Municipalities Planning Code<sup>41</sup> and Chapter 141, Subdivision and Land Development, as hereafter enacted and amended.
  - (j) All monitoring reports required by the Department of Environmental Protection.
  - (k) Information sufficient to show that the disposal site complies with the standards set forth in Subsection K(4) below.
- (4) Standards for issuance of special use permits.
    - (a) Application of sludge to the land shall be in accordance with the currently adopted standards of the Pennsylvania Department of Environmental Protection as set forth in Title 25, Pennsylvania Code, Chapter 75, Rules and Regulations, Department of Environmental Protection.
    - (b) Area. No site shall be approved which contains less than 10 contiguous acres.
    - (c) Setback requirements.

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<sup>41</sup> Editor's Note: See 53 P.S. § 10101 et seq.

- [1] Sludge shall not be applied within 500 feet of a stream or water supply.
- [2] Sludge shall not be applied within 50 feet of adjoining property lines.
- [3] Sludge shall not be applied within 300 feet of occupied dwellings.
- (d) Slope concentrations. Sludge applications shall not take place on slopes exceeding 20%.
- (e) Soil coverage. Sludge applied to land shall be injected under the surface of the soil or, if spread on the surface, shall be plowed under within 24 hours.
- (f) Weather conditions. Sludge shall not be applied when the ground is saturated, snow-covered, frozen or during periods of rain.
- (g) Waste material storage. Waste materials shall be applied to the land immediately upon delivery to the site and shall not, under any circumstances, be stored upon the site for any purpose or for any period of time in excess of five days.
- (h) Sources of sewage sludge. No sewage sludge shall be permitted to be applied anywhere within the township unless its source is from a municipal or private treatment facility located within Cambria County, Pennsylvania.
- (5) Preliminary hearing. The application shall be subject to a two-step hearing before the Zoning Hearing Board. The preliminary hearing shall be to establish the prerequisites to the granting of the special exception. The preliminary hearing shall be held within 45 days of the submission of the application, the application fee and the information required by Subsection K(3) above. The applicant must show, by substantial evidence on the record as a whole, that the disposal operations comply with the requirements set out in Subsection K(3) and (4) above. The hearing shall be open to the public, and all interested parties shall be permitted to present testimony, unless such testimony is merely cumulative.
- (6) Application to be reviewed by the Planning Commission.
  - (a) The Zoning Hearing Board shall forward one copy of all applications for a special use permit for sewage sludge and a copy of the record of the hearing to the Planning Commission immediately upon receipt, for review and comment by that agency on all aspects of the application as they relate to the purposes and requirements of this chapter. The Planning Commission shall prepare a report on the application within 45 days of the original hearing. The report shall be presented to the Zoning Hearing Board by an authorized representative of the Planning Commission. The report shall contain recommendations and any conditions which the Planning Commission feel are necessary for accomplishment of the purposes of the ordinance.
  - (b) Such conditions may include, but shall not be limited to:
    - [1] Establishment of a monitoring well to test water quality prior to, during and after the application program, along with subsequent quarterly monitoring during the application program. The location of the monitoring well shall be approved by the Zoning Officer prior to the drilling. In the event that

groundwater is found to flow in several directions, a monitoring well for each direction may be required.

- [2] As part of the monitoring program, a quarterly chemical analysis and laboratory testing of the sludge to be paid for at the applicant's expense to ensure that the sludge content remains within the limits established by the Pennsylvania Department of Environmental Protection and this chapter, which results shall be furnished to the township.
- [3] As part of the monitoring program, semiannual soil analysis, to be paid for at the applicant's expense, to ensure that the sludge content pH remains above 6.0.
- [4] Keeping and maintaining of records of the quantity, dates, sources and location of the sludge application, which records are to be supplied to the township upon request.
- [5] Posting of a performance bond in order to assure that the various tests and duties imposed upon the applicant are fully performed. The applicant shall assure the township by means of a corporate bond or the deposit of funds or securities in escrow sufficient to cover the costs as estimated by the Zoning Officer of performing the various tests and duties imposed upon him by the ordinance over the expected useful life of the site plus five years. The bond shall be furnished under such conditions and form and with surety as are approved by the Township Solicitor to guarantee and secure that all such tests and duties are fully and adequately performed and are paid for by the applicant and that the township shall, in no event, be held liable for the cost of any such duties or tests. In lieu of a bond, the applicant may deposit cash or securities with the township or a bank or trust company to guarantee and secure the same requirements as set forth above. In the event that such cash or securities are deposited, said deposit must be made pursuant to an escrow agreement prepared and approved by the Township Solicitor. The escrow agent for the deposit of such cash or security shall be located in Cambria County and shall be subject to approval by the Township Solicitor.
- [6] Deliver to the township a liability indemnification with bond good for the useful life of the proposed site plus five years, on a form to be prepared by or approved by the Township Solicitor, pursuant to the terms of which the applicant, individually and with surety, specifically agrees to fully indemnify and hold harmless the township and all of its officers, agents and employees from any and all liability, expense or damages whatsoever and litigation defense costs accruing to any of the same as a result of any use or any land in the township pursuant to the provisions hereof. The amount of the indemnification bond shall be equal to the costs of removal and/or cleanup of any site and any engineering or legal fees pertaining thereto as estimated by the Zoning Officer and Township Solicitor at the time of issuance of any permit plus 15% per year thereof for the useful life of the site plus five years.

- [7] Submit to the township an insurance policy covering liability for any harm to persons and/or damage to properties resulting from the aforesaid activities. Said insurance policy shall be in full force and effect for the entire duration of the above operations and for at least two years following the termination of said operations. The amount of said insurance coverage shall be specified by the Board of Supervisors based upon its judgment as to the potential for harm or damage.
- (7) Final order of the Zoning Hearing Board. Within 20 days of receipt of the report and recommendation of the Planning Commission, the Zoning Hearing Board shall make a final order either denying the application or granting the application subject to those recommendations of the Planning Commission which the Board believes are required to effectuate the policies and purposes of this chapter.
- (8) State and federal regulations. No operation shall be conducted under a special use permit issued pursuant to this chapter unless the applicant shall have a currently valid permit to dispose of sewage sludge issued by the appropriate state or federal agency having regulatory authority over the disposal of sewage sludge. The applicant must also comply with all state and federal regulations concerning the disposal of sewage sludge.
- (9) Time limit of special use permits. Special use permits for disposal of sewage sludge granted by the Zoning Hearing Board shall remain in effect for two years; at the end of this time, the holder of a special use permit must reapply for an extension of two years for the permit from the Zoning Officer. The holder shall pay a renewal fee set forth in the Schedule of Fees established by the Lower Yoder Township Supervisors. If the Zoning Officer is not satisfied that the permit holder has complied with all conditions of the permit and all applicable regulations, he may refuse the renewal. The decision to grant or refuse the extension of the permit shall be made in not less than three nor more than 10 days from the date of receipt of the application for the extension. The permit holder shall have 10 days from the denial of renewal to appeal the decision of the Zoning Officer to the Zoning Hearing Board and shall pay the sum set forth in the Schedule of Fees established by the Lower Yoder Township Supervisors to defray the cost of the appeal proceedings. Should the cost of the appeal proceedings exceed the scheduled fee, the permit holder shall pay those costs in excess of the scheduled fee.<sup>42</sup>
- (10) Enforcement of requirements of this chapter. The Zoning Officer shall, on his own motion or upon receipt of any information concerning the violation of the permit conditions of this chapter or of any applicable state or federal regulation, conduct an investigation. If the Zoning Officer determines there is a violation, he may order a revocation of the permit and a termination of disposal activities. The order shall be sent to the permit holder's principal place of business. The permit holder may appeal an adverse order of the Zoning Officer to the Zoning Hearing Board within 10 days and shall pay the sum set forth in the Schedule of Fees established by the Lower Yoder Township Supervisors to defray the cost of the appeal proceedings. Should the

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<sup>42</sup> Editor's Note: Appendix A, Schedule of Fees, is on file and available for public inspection in the township offices.

cost of the appeal proceedings exceed the scheduled fee, the permit holder shall pay those costs in excess of the scheduled fee.

- (11) Zoning Hearing Board appeals. When a permit holder appeals an adverse order of the Zoning Officer under Subsection K(9) and (10), he must be granted a hearing within 30 days of the filing of his appeal. At that hearing, the Zoning Hearing Board shall take testimony from all interested parties unless the testimony is cumulative. The Zoning Hearing Board shall reverse, modify or affirm the order of the Zoning Officer within 30 days after the hearing.

## ARTICLE XII

### Off-Street Parking and Loading

#### § 163-42. General requirements.

- A. As a general requirement, each use in the township shall provide sufficient off-street parking area to serve its users.
- B. Procedure. An application for a building permit for a new or enlarged building, structure or use shall include therewith a plot plan, drawn to scale and fully dimensioned, showing any off-street parking or loading facilities to be provided in compliance with the requirements of this chapter.
- C. Extent of control. The off-street parking and loading requirements of this chapter apply as follows:
- (1) All buildings and structures erected and all land uses initiated after the effective date of this chapter shall provide accessory off-street parking or loading facilities as required hereinafter for the use thereof.
  - (2) When a building or structure erected, altered or enlarged prior to or after the effective date of this chapter shall undergo a decrease in number of dwelling units, gross floor area, seating capacity, number of employees or other unit of measurement specified hereinafter for required off-street parking or loading facilities, and, further, when said decrease would result in a requirement for fewer total off-street parking or loading spaces through application of the provisions of this chapter thereto, off-street parking and loading facilities are so decreased only when the facilities remaining would least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this chapter to the entire building or structure as modified.
  - (3) When a building or structure undergoes any increase in number of dwelling units, gross floor area, seating capacity or other unit of measurement specified hereinafter for required off-street parking or loading facilities, and, further, when said increase would result in a requirement for additional total off-street parking or loading spaces through application of the provision of this chapter, parking and loading facilities shall be increased so that the facilities will at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this chapter to the entire building or structure as modified.

- D. Existing off-street parking and loading spaces. Accessory off-street parking and loading spaces in existence on the effective date of this chapter may not be reduced in number unless already exceeding the requirements of this article for equivalent new construction, in which event said spaces shall not be reduced below the number required herein for such equivalent new construction.

**§ 163-43. Design and maintenance.**

- A. Parking space description. A required off-street parking space shall be an area of not less than 180 square feet nor less than nine feet wide by 20 feet long, measured perpendicularly to the sides of the parking space, exclusive of access drives or aisles, ramps, columns or office and work areas, accessible from streets or alleys or from private driveways or for the storage or parking of passenger automobiles or commercial vehicles under one-and-one-half-ton capacity. Aisles between vehicular parking spaces shall be not less than 18 feet in width when serving automobiles parked at an angle of 45° in one direction; not less than 20 feet in width when serving automobiles marked particularly for two-way aisle movement; and not less than 20 feet in width when serving automobiles parked perpendicularly for one-way aisle movement.
- B. Fractional spaces. When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction up to and including  $\frac{1}{2}$  may be disregarded, and fractions over  $\frac{1}{2}$  shall be interpreted as one parking space.
- C. Access. Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such manner as will least interfere with the movement of traffic. No driveway or curb cut in any district shall exceed 25 feet in width for one-way movement or 35 feet in width for two-way movement.
- D. Signs. No signs shall be displayed in any parking area within any residential district, except such as may be necessary for the orderly use of the parking facilities. All signs in other parking areas shall conform to Article XIII herein.
- E. Striping. All parking spaces shall be properly marked and maintained by durable paint in stripes a minimum of four inches wide and extending the length of the parking space.
- F. Required setbacks. No parking space or portion thereof established on a lot shall be located within a required front yard, except in R-3, C and M Districts, where off-street parking areas may be installed and maintained in the required front yard, provided that such parking areas do not occupy the first 10 feet of front yard nearest the street or alley, which shall be landscaped and maintained as a buffer area.
- G. Surfacing. All open off-street parking areas, except those accessory to single-family dwellings, shall be improved with a compacted base surfaced with all-weather dustless material of adequate thickness to support the weight of fully loaded vehicles which customarily park or travel on it.
- H. Lighting. Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from all adjoining properties and streets.

- I. Stormwater. Adequate stormwater drainage facilities shall be installed in order to ensure that stormwater does not flow onto abutting property or abutting sidewalks in such a way or quantity that pedestrians using the sidewalk would be detrimentally affected or inconvenienced. The Zoning Officer shall approve all such facilities to assure minimum compliance with the Chapter 135, Stormwater Management, as hereafter enacted or amended, and § 163-20.
- J. Walls or planting strip. Whenever a parking lot abuts onto a public street, sidewalk or alley, a structurally sound wall or planting strip, approved by the Zoning Officer, shall be installed and maintained. Adequate retaining walls and other walls shall also be constructed and maintained along abutting property to provide proper solid retention and screening from abutting properties, subject to the approval of the Zoning Officer.
- K. Maintenance. Parking spaces shall be kept clean of debris, refuse and garbage and maintained so as to be free of potholes and other defects which might constitute danger to persons or property.

**§ 163-44. Minimum standards.**

Subject to the general requirement for off-street parking, off-street parking space, with proper access from a street, alley or driveway, shall be provided in all districts in the amounts indicated below. Such parking space shall be provided on any lot on which a dwelling is hereafter erected or converted or, in the case of any other use, on or near the lot on which any main building is hereafter erected or converted. Nothing in this section shall be construed to prevent the collective provision of off-street parking facilities for two or more buildings or uses, provided that the total of such off-street parking facilities, provided collectively, shall be not less than the sum of the requirements for the various individual uses computed separately. In no case shall the number of parking spaces provided, or the area devoted to parking, be less than the minimum requirements of this section.

- A. One- and two-family dwellings: one parking space for each family dwelling unit.
- B. Three- or more family dwellings: two parking spaces for each family dwelling unit, plus one visitor's parking space for every two (or fraction thereof) dwelling units.
- C. Recreation centers, swimming pools, skating rinks, outdoor commercial recreation enterprise and other recreation and amusement facilities: one parking space for every four customers computed on the basis of maximum servicing capacity at any one time, plus one additional space for every two persons regularly employed on the premises during peak shift.
- D. Clubhouses and meeting places of veterans business, civic, fraternal, labor and similar organizations: one parking space for every 50 square feet of aggregate floor area in the auditorium, assembly hall and dining room of such building, plus one additional space for every two persons regularly employed on the premises during peak shift.
- E. Bowling alley: one parking space for every two customers computed on the basis of maximum servicing capacity at any one time, plus one additional space for every two persons regularly employed on the premises during peak shift.

- F. Drive-in facilities: five parking spaces per 100 square feet of floor space.
- G. Funeral homes and undertaking establishments: parking or storage space for all vehicles used directly in the conduct of such business, plus one parking space for every two persons regularly employed on the premises during peak shift and 30 parking spaces for each designated viewing room at full capacity.
- H. Hospital: one parking space for every four beds intended for patients, excluding bassinets, plus one parking space per doctor, one parking space per two persons regularly employed on the premises during peak shift and one parking space per hospital vehicle.
- I. Indoor retail businesses: parking or storage space for all vehicles used directly in the conduct of such business, plus one parking space for every 250 square feet of total floor area.
- J. Industrial plants and facilities: parking or storage space for all vehicles used directly in the conduct of such industrial use, plus one parking space for every three persons regularly employed on the premises during peak shift.
- K. Junior and senior high school: one parking space for every six seats available in the assembly hall, auditorium, stadium or gymnasium during maximum capacity on the high school grounds or campus. If the school has no assembly hall, auditorium, stadium or gymnasium, one parking space shall be provided for each person regularly employed at such school, plus two additional spaces for each classroom.
- L. Libraries, museums, post offices and similar establishments: parking or storage space for all vehicles used directly in the operation of such establishment, plus one parking space for every 250 square feet of total floor area.
- M. Medical and dental clinics: three parking spaces for each doctor, plus one additional space for every two persons regularly employed on the premises.
- N. Nursing homes: one parking space for every two beds occupied at maximum capacity. This requirement is in addition to the parking space requirements for hospitals set forth herein.
- O. Offices: one parking space for each employee. One parking space for every 500 square feet of office space.
- P. Public and private elementary schools: one parking space for each person regularly employed at such school, plus one additional space for each classroom.
- Q. Public garages: indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business, plus three parking spaces for each person regularly employed on the premises.
- R. Repair shops, plumbing shops, electrical shops, roofing shops and other service establishments: parking or storage space for all vehicles used directly in the conduct of such business, plus two parking spaces for each person regularly employed on the premises.
- S. Restaurants, indoor, and other eating and drinking establishments: one parking space for each table or booth, plus one parking space for every two stools at the bar or counter and



one parking space for every two persons regularly employed on the premises during peak shift.

- T. Service stations: parking or storage space for all vehicles used directly in the conduct of such business, plus one parking space for each gas pump, three spaces for each grease rack or similar facility and one space for every two persons regularly employed on the premises during peak shift.
- U. Theaters, auditoriums, churches, stadiums and other places of public assembly: one parking space for every six seats available at maximum capacity.
- V. Motels and hotels: one parking space for each sleeping room offered for tourist accommodation, plus one space for each dwelling unit on the premises and one additional space for every two persons regularly employed on the premises during peak shift.
- W. Transportation terminals: one parking space for every 100 square feet of waiting room space, plus one additional space for every two persons regularly employed on the premises during peak shift.
- X. Academies, training and other technical post secondary educational institutions.
  - (1) One parking space for every six seats occupied in the assembly hall, auditorium, stadium or gymnasium during maximum capacity on the campus.
  - (2) Parking space shall be provided for each person regularly employed at such institution, plus five additional spaces for each classroom.
- Y. Warehouses, freight terminals and trucking terminals: parking or storage space for all vehicles used directly in the conduct of such business, plus two parking spaces for each person regularly employed on the premises during peak shift.

**§ 163-45. Location of parking areas.**

Off-street automobile parking facilities shall be located as hereinafter specified. Where distance is specified, such distance shall be walking distance measured from the nearest point of the parking area to the nearest entrance of the building that said parking area is required to serve.

- A. One- and two-family dwellings: on the same lot with the building they are required to serve.
- B. Three- and four-family dwellings not over two stories in height and row dwellings not over 1½ stories in height: on the same lot or parcel of land as the building they are required to serve. For the purpose of this requirement, a group of such uses constructed and maintained under a single ownership or management shall be assumed to be on a single lot or parcel of land.
- C. Clubs, hospitals, sanitariums orphanages, homes for the aged convalescent homes and other similar uses: on the same lot or parcel of land as the main building or buildings being served or upon properties contiguous to the zoning lot upon which is located the building or buildings they are intended to serve.

- D. Multiple-family dwellings containing more than four dwelling units and all other uses: on the same lot or parcel of land as the building they are required to service or on a separate lot or parcel of land not more than 300 feet from the nearest entrance to the main use being served, provided that the lot or parcel of land selected for the parking facilities is located in an R-3, C or L District.

**§ 163-46. Special regulations relating to access and highway frontage.**

In order to minimize traffic congestion and hazard, control street access in the interest of public safety and encourage the appropriate development of street or highway frontage, the following shall apply:

- A. No parking lot or area for off-street parking or for the storage or movement of motor vehicles shall abut directly a public street or highway unless separated from the street or highway at least 10 feet by a raised curb, barrier planting strip, wall or other effective barrier against traffic, except for necessary accessways, and each parking lot shall have not more than two accessways to any one public street or highway for each 500 feet of frontage. Where practicable, access to parking areas shall be provided by a common service driveway or minor street in order to avoid direct access on a major street or highway. No such accessway shall be more than 35 feet in width.
- (1) All parking, loading or service areas used by motor vehicles shall be located entirely within the lot lines of the property.
  - (2) All buildings shall front upon a marginal street, service road, common parking lot or similar area and not directly upon a public street or highway.
  - (3) All accessways to a public street or highway shall be located not less than 100 feet from the intersection of any street lines.
  - (4) All streets and accessways shall be designed in a manner conducive to safe exit and entrance and shall conform to the highway specifications and subdivision requirements of the township.
- B. All driveways, aisles, maneuvering spaces, vehicular service areas or spaces between or about buildings, other than those relating to a dwelling, shall be adequately illuminated.
- C. All outside lighting, including sign lighting, shall be directed in such a way as not to create a nuisance in any residential district, and in every district all such lighting shall be arranged so as to protect the street or highway and adjoining property from direct glare or hazardous interference of any kind. Any luminary shall be equipped with some type of glare shielding device approved by the Zoning Officer. The height of any luminary shall not exceed 25 feet.
- D. Except in a commercial district, no parking, loading or service area shall be located within front yard setbacks unless authorized as a variance by the Zoning Hearing Board, provided that the restriction against such use is clearly impracticable. In no case, however, shall the distance between the street right-of-way line and the portion of a lot used for parking be less than 10 feet.

**§ 163-47. Additional parking regulations.**

- A. Use of off-street facilities. Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this article shall be used solely for the parking of passenger automobiles, commercial and service vehicles of not more than one ton gross vehicle weight owned or operated by occupants of dwelling structures to which such facilities are accessory or by guests of said occupants.
- B. Joint parking facilities.
- (1) Off-street parking facilities for different buildings, structures or uses or for mixed uses may be provided collectively in any zoning district in which separate off-street parking facilities for each constituent use are permitted, provided that the total number of spaces so located together are not less than the sum of the separate requirements for each use of which normal hours of operation coincide and not more than 300 feet from and contiguous to the lot on which the main building is located.
  - (2) In any case, where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereto, assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form and execution by the Township Solicitor, and filed with the application for a building permit.
  - (3) Not more than 50% of the parking spaces required for theaters and places of amusement, and up to 100% of the parking spaces required for a church or school, may be provided and used jointly by banks, office, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as said theaters, places of amusement, churches or schools, provided that written agreement assuring the retention for such purposes is properly drawn by the Township Solicitor and filed with the application for a building permit.
- C. Control of off-site facilities. When required accessory off-street parking facilities are provided other than on the lot on which the principal use is located, they shall be in the same possession, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by covenants of record filed in the office of the Township Secretary, requiring the owner and his or her heirs, successors and assigns to maintain the required number of off-street parking spaces during the existence of said principal use. Use of such off-site facilities is subject to approval by the Township Engineer.

**§ 163-48. Design, maintenance and schedule of off-street loading space.**

- A. Design.
- (1) Loading space, description. An off-street space shall be a hard-surfaced area of land, open or enclosed other than a street or public way, used principally for the standing, loading or unloading of motor trucks, tractors and trailers so as to avoid undue interference with the public use of streets and alleys. A required loading space shall be not less than 10 feet in width, 14 feet in height and of adequate length to suit the

specific use exclusive of access aisles and maneuvering space, except as otherwise specifically dimensioned herein.

- (2) Location. No permitted or required loading space shall be closer than 50 feet to any property in a residential district unless completely enclosed by building walls or an ornamental fence or wall, or any combination thereof, not less than six feet in height. No permitted or required loading space shall be located within 25 feet of the nearest point of intersection of any two streets. Loading space open to the sky may be located in any required yards.
  - (3) Measurement of spaces. When determination of the number of required off-street loading spaces results in a requirement of a fractional space, any fraction up to and including  $\frac{1}{2}$  may be disregarded, and any fraction over  $\frac{1}{2}$  shall be interpreted as one loading space.
  - (4) Surfacing. All open off-street loading spaces shall be improved with a compacted base and surfaced with all-weather dustless material of adequate thickness to support the weight of fully loaded vehicles which customarily use said spaces.
- B. Schedule of required loading and unloading space. Every building or structure used for business trade or industry shall provide space as herein indicated for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley or, if there are no alleys to a street. Off-street loading and unloading space shall be in addition to the requirements for off-street parking space listed herein. Off-street loading and unloading space shall not be designed, intended, constructed or used in a manner such as to obstruct or interfere with the free use of any street, alley or adjoining property. The specific use requirements for off-street loading and unloading spaces are provided for as follows.
- (1) Multistory multiple-family dwellings: one off-street loading and unloading space at least 10 feet wide for every 3,000 square feet of total floor area.
  - (2) Industrial plants: one off-street loading and unloading space at least 12 feet by 50 feet for every 10,000 square feet of total area.
  - (3) Warehouses and wholesale storage facilities: one off-street loading and unloading space at least 12 feet by 50 feet for every 7,500 square feet of total floor area.
  - (4) Freight terminals and trucking terminals: one off-street loading and unloading space at least 12 feet by 50 feet for every 5,000 square feet of total floor area.

## ARTICLE XIII

### Signs

#### § 163-49. General requirements.

- A. Any sign hereafter erected or maintained shall conform with the provisions of this article and any other ordinance or regulations of the township relating hereto.
- B. Zoning approval shall be required for all signs and billboards.

- C. All signs shall be erected and maintained in safe, orderly condition. The Zoning Officer may order the repair or removal of any sign which he has declared unsafe. In the event that the owner fails to remove or repair an unsafe sign within 10 days following such notification by the Zoning Officer, it may be removed by the township at the owner's expense.
- D. All signs shall be erected in a manner which will not obstruct vision or in any way impede the safe movement of vehicular and/or pedestrian traffic.
- E. Each face of a double-faced sign may have a surface area not exceeding 50 square feet. When a sign has more than two faces, the total area of all faces combined shall not exceed 100 square feet.
- F. No sign mounted on a building shall project above the ridgeline of a sloping roof nor above the eaveline of a flat roof.

**§ 163-50. Signs permitted in residential districts.**

- A. The following types of signs and no other shall be permitted in residential districts, except as otherwise provided in the district regulations:
  - (1) Traffic control signs. Installed and maintained by the township, Cambria County, Commonwealth of Pennsylvania or any other governmental authority.
  - (2) Professional, accessory use or name signs. Indicating the name, profession or activity of the occupant of the dwelling, provided that:
    - (a) The size of any such sign shall not exceed 144 square inches.
    - (b) Not more than one such sign shall be erected for each permitted use or dwelling.
    - (c) No such sign shall be illuminated.
    - (d) No such sign shall stand more than 10 feet from ground level to the top of the sign.
  - (3) Identification signs. For farms or estates, schools, churches, hospitals and similar permitted uses other than dwellings, provided that:
    - (a) The size of any such sign shall not exceed 20 square feet.
    - (b) Not more than one sign shall be placed on premises held in single and separate ownership, unless such premises front on more than one street, in which case one such sign may be erected on each street frontage.
    - (c) No such sign shall be illuminated except by concealed or indirect light attached to the sign itself.
    - (d) No such sign shall stand more than 10 feet from the ground level to the top of the sign.
  - (4) Real estate signs. Including:
    - (a) Signs advertising the sale or rental of premises, provided that:

- [1] The size of any such sign shall not exceed 12 square feet.
  - [2] Not more than two such signs shall be erected for any property held in single and separate ownership.
  - [3] No such signs shall be illuminated.
  - [4] No such sign shall stand more than 10 feet from the ground level to the top of the sign.
- (b) Signs indicating the location and direction of premises in the process of development, provided that:
- [1] The size of any such sign shall not exceed 12 square feet.
  - [2] Not more than two such signs shall be erected on each 500 feet of street frontage.
  - [3] No such sign shall be illuminated.
  - [4] All such signs shall be removed on completion or when active work on the development ceases.
- (5) No-trespassing sign or sign indicating the private nature of a driveway or premises: one, provided that the size of any such sign shall not exceed two square feet.
- (6) Temporary signs. Of mechanics and artisans, provided that:
- (a) Such signs shall be erected only on the premises where such work is being performed.
  - (b) The size of any such sign shall not exceed 12 square feet.
  - (c) Such signs shall not be illuminated, except those attached to the sign itself.
  - (d) Such signs shall be removed promptly upon completion of active work.
- (7) Directional sign: one, not exceeding 1 1/2 square feet.
- (8) Directional signs in connection with a parking facility: not to exceed eight square feet.
- (9) Any use other than specified in Subsection A(1) through (8) herein, which use is a permitted use in a residential district, and signs for uses which are preexisting, nonconforming uses, provided that:
- (a) The size of any such sign shall not exceed 20 square feet.
  - (b) Not more than one sign shall be placed on premises held in single and separate ownership, unless such premises front on more than one street, in which case one such sign may be erected on each street frontage.
  - (c) No such sign shall be illuminated except by concealed or indirect light attached to the sign itself.
- (10) Nonconforming use signs, provided that:

- (a) The total area of such signs relating to a single use at the effective date of this chapter or at the effective date of any amendment of this chapter by which any sign shall be made nonconforming shall not be increased.
  - (b) No such signs shall be changed or replaced except when such change or replacement results in a new sign being in conformity with the sign regulations in a residential district unless the change or replacement is authorized as a special exception by the Zoning Hearing Board.
- B. Any signs in any residential district. Shall be nonflashing and nonanimated; those not attached to a building shall be set back at least 15 feet from a lot or right-of-way line, and no signs shall project above the roof or mounted on a building above the eaveline of a roof.

**§ 163-51. Signs permitted in all Nonresidential Districts C, L, and M.**

- A. The following types of signs shall be permitted in the C, L and M Districts.
  - (1) Any sign permitted in a residential district which relates to a use permitted in the district.
  - (2) Real estate signs. Advertising the sale or rental of premises, provided that:
    - (a) The size of any such sign shall not exceed 24 square feet.
    - (b) Not more than two such signs shall be erected for any property held in single and separate ownership.
  - (3) Freestanding business or related signs. Freestanding business or related signs shall be permitted as follows:
    - (a) Any sign permitted in a residential district.
    - (b) One freestanding business sign or identification sign, not to exceed 50 square feet for any one business, except as provided in Subsection A(3)(c).
    - (c) Where a group of three or more businesses are located on one parcel or tract, one freestanding business or identification sign shall be permitted per street, and no such sign shall exceed 100 square feet per street.
    - (d) Temporary/portable signs which shall not exceed 12 square feet, and not more than two such signs shall be placed on any 100 feet of street frontage, and no temporary/portable sign shall be on display for a period of more than 30 days in any one calendar year. "Temporary/Portable sign" shall be defined as a sign which is not permanent and is capable of being carried and/or easily moved.
    - (e) Signs not attached to a building shall be set back at least five feet from a lot or street line or any required buffer area. Signs located on a corner lot shall be set back a minimum of 15 feet from the front and side street lines. A freestanding sign shall not exceed 40 feet in height, as measured from the ground to the top of the sign. No sign mounted on a building shall project above the ridgeline of a sloping roof nor above the eaveline of a flat roof.

- (f) All signs in any C, L or M District shall be stationary, nonrevolving, nonflashing and nonanimated; if illuminated, they shall utilize reflected or refracted light in such manner as shall not detrimentally affect any property in another zoning district.
- B. The total area on one side of all signs attached to a building and facing any one street frontage on any one premises shall not exceed 8% of the area of the wall surface, including window and door areas on which they are displayed or two square feet for each lineal foot of building frontage, whichever is the greater; provided, further that, in the case of a lot which is vacant, or on which any building is clearly an incidental or accessory to the use of the lot, the total area of all signs attached to the building and facing any one street frontage of any one premises shall not exceed one square foot for each two additional linear feet of building frontage.

#### **§ 163-52. Billboards.**

Billboards shall be allowed by special exception in C, L and M Districts.

#### **§ 163-53. General sign regulations.**

The following restrictions shall apply to all permitted sign uses:

- A. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring view.
- B. No sign other than signs authorized by § 163-51A shall be erected within the lines of any public street or public sidewalk or shall be closer to a curb than 10 feet unless specifically authorized by other ordinances and regulations of Lower Yoder Township.
- C. No stringing of light bulbs, no animated sign nor signs that revolve, swing or have movable parts or have flashing lights or reflectors shall be permitted after the effective date of this chapter, except when authorized as a special exception by the Zoning Hearing Board, and no advertising signs, banner, pennant, baffle, spinners or display constructed of cloth, canvas, wallboard or other like materials shall be erected, suspended or hung on any property except as follows. The Zoning Officer may permit the use of any such advertising signs, banners or displays constructed of cloth, light fabric or other like materials for a period of not more than 30 days in any one calendar year, provided that:
  - (1) No such sign or display shall exceed in the size the area permitted for permanent signs as provided for each zoning district.
  - (2) No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.
  - (3) No such sign or display shall be permitted within the lines of any public street or public sidewalk, or shall be closer to a curb than 10 feet, unless specifically authorized by other ordinances and regulations of Lower Yoder Township.
  - (4) No sign or display shall be permitted to be placed across a public street or highway.



- D. No sign shall project over a public sidewalk unless authorized as a special exception by the Zoning Hearing Board.
- E. Wall signs shall not project over 12 inches from the face of a building.
- F. Each sign must be maintained in good condition and repair.
- G. No commercial building, including multiple dwellings or apartments in any residential district, shall be illuminated on the exterior by floodlighting or spotlighting or similar-type lighting.
- H. All signs shall be made a part of the architectural design of a new commercial construction or major alterations of existing buildings. Drawings submitted for sign permits shall show size, location and illumination in detail.
- I. All nonconforming signs and billboards at the effective date of this chapter shall not be altered, expanded or enlarged without approval of the Zoning Hearing Board.

#### ARTICLE XIV Swimming Pools

##### § 163-54. Private swimming pools.

- A. A private swimming pool in the ground or prefabricated installation above the ground shall be any pool, lake or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than three feet. [Amended 2-9-2000 by Ord. No. 127]
- B. No such swimming pool shall be allowed in an R or a C District, except as a permitted or accessory use, shall be constructed or used unless it complies with the following conditions and requirements:
  - (1) It may not be located, including accessory structures, except the required fence adjacent thereto, closer than eight feet to any property line from the property on which it is located. [Added 2-17-1999 by Ord. No. 122; 2-9-2000 by Ord. No. 127<sup>2</sup>]
  - (2) Pools shall conform to the Pennsylvania Department of Health standards. Existing pools shall conform in 90 days to the requirements set forth in this section as a public safety measure.
  - (3) The swimming pool or the entire property on which it is located shall be so walled or substantially fenced so as to prevent uncontrolled access by children from the street or from adjacent properties, said fence or wall to be not less than four feet in height and maintained in good condition. An aboveground pool may be used to comply with all or part of this requirement. [Added 2-9-2000 by Ord. No. 127]

<sup>2</sup> Editor's Note: Original Subsection B(2), regarding fences or walls, which immediately followed this subsection, was deleted 2-17-1999 by Ord. No. 122. The BOCA National Building Code regulates such matters; see Ch. 51.

**§ 163-55. Community or club swimming pools.**

A community or club swimming pool shall be any pool constructed by an association of property owners or by a private club solely for use and enjoyment by members of the association or club and their families and guests or members. Community and club swimming pools shall comply with the following conditions and requirements: the pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than 100 feet to any property line from the property on which it is located.<sup>3</sup>

**ARTICLE XV****Day-Care Centers, Family Day-Care Homes  
and Group Day-Care Homes****§ 163-56. Definitions.**

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

**CHILD** — A person under 16 years of age.

**DAY-CARE CENTER** — A facility in which care is provided for seven or more children at any one time where the child-care areas are not being used as a family residence.

**FAMILY DAY-CARE HOME** — Any premises, other than the child's own home, operated for profit or not for profit, in which child day-care is provided at any one time to four, five or six children, who are not relatives of the caregiver.

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

**§ 163-57. Department of Public Welfare certification.**

The day-care facilities defined in § 163-56 must hold an approved Pennsylvania Department of Public Welfare registration certificate or license, as appropriate, and meet all current Department of Public Welfare regulations, including those standards governing adequate indoor space, accessible outdoor play space and any applicable state or local building and fire safety codes.

**§ 163-58. Smoke detectors.**

All day-care homes and facilities shall be fully protected by smoke detectors and fire extinguishers.

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<sup>3</sup> Editor's Note: Original Subsection B, regarding fences or walls, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The BOCA National Building Code regulates such matters; see Ch. 51.

**§ 163-59. Standards for family day-care and group day-care homes.**

Where permitted, family day-care homes and group day-care homes shall be operated subject to the following safeguards:

- A. **Parking.** The following standards shall govern parking:
  - (1) The general provisions of §§ 163-42 and 163-43 shall apply to all family day-care homes and group day-care homes.
  - (2) In all districts, in addition to any other parking spaces required in relation to other uses of a building, there shall be one off-street parking space for each nonresident employee or nonresident/full-time volunteer and one safe-passenger unloading space, measuring at least nine feet by 20 feet.
  - (3) In all districts where a nonresidential structure is used, the standards of § 163-44P shall apply.
- B. **Fencing.** The required outdoor play area shall be surrounded by a safety fence or natural barrier, provided that any fence shall conform to the height limitations relating to fences in the zoning district in which it is located.
- C. **Hours.** Outside play shall be limited to the hours between 8:00 a.m. and 7:00 p.m.
- D. **Signs.** Any sign shall comply with standards governing signs as below:
  - (1) In residential districts the standards of § 163-50B shall apply.
  - (2) In all other areas, the sign shall not exceed 24 square feet and shall comply with § 163-51A(3)(e) and (f).
- E. **Floor area.** When day care is provided in a home, the amount of floor area devoted to such purposes shall not exceed 30% of the total floor area of the dwelling, and there shall be no change to the exterior of the building for the purpose of accommodating the day-care use.
- F. **Lot size.** The lot size of any family day-care home shall not be less than 7,500 square feet, and the lot size of any group day-care home shall not be less than 15,000 square feet. Any such home shall conform to the setback, height and building area requirements of the zoning district in which it is located.

**§ 163-60. Location of day-care centers.**

Day-care centers may be located in residential districts by special exception and in any other district by right, after review by the Planning Commission, and shall be subject to the regulations of the zoning district in which it is located and the following additional standards, whichever is more restrictive.

- A. **Parking.** The general provisions of §§ 163-42 and 163-43 shall apply to all day-care centers. In addition, there shall be one off-street parking space provided for each employee or full-time volunteer and one safe-passenger unloading space measuring nine feet by 20 feet for each 10 children that the facility is licensed to accommodate.

- B. Fence. The outdoor play area required by state licensing shall be surrounded by a safety fence or natural barrier, provided that any fence shall conform to the height limitations for fences in the zoning district in which it is located.
- C. Play area setback. No portion of the outside play area shall be less than 30 feet from an existing occupied dwelling.
- D. Hours. Outside play shall be limited to the hours between 8:00 a.m. and 7:00 p.m.
- E. Signs. Any sign shall comply with the following requirements:
  - (1) In residential districts, the requirements of § 163-50B shall apply.
  - (2) In all other districts, the sign shall not exceed 24 square feet and shall comply with § 163-51A(3)(e) and (f).
- F. Concentration. No day-care center shall be established within 500 feet from another day-care center in any residential district.
- G. Lot size. The minimum site or lot area shall be determined by the following table, when centralized water and sewage service is provided:

<b>License Capacity</b>	<b>Minimum Lot Size (square feet)</b>
7 to 11 children	20,000
12 and above	20,000, plus 500 square feet for each additional child (e.g., 50 children equals 45,000 square feet)

**ARTICLE XVI**  
**Wireless Telecommunications Towers and Antennas**  
**[Added 12-8-1999 by Ord. No. 125]**

**§ 163-61. Purpose.**

The purpose of this article is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this article are to: protect residential areas and land uses from potential adverse impacts of towers and antennas; encourage the location of towers in nonresidential areas; minimize the total number of towers throughout the community; strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; encourage users of towers and antennas to configure them in a way that minimizes 1 the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; consider the public health and safety of communication towers; and avoid

potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Township of Lower Yoder shall give due consideration to the Township of Lower Yoder's Master Plan, Zoning Map, existing land uses and environmentally sensitive areas in approving sites for the location of towers and antennas.

#### **§ 163-62. Definitions.**

As used in this article, the following terms shall have the meanings set forth below:

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

**ANTENNA** — Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

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

**FAA** — The Federal Aviation Administration.

**FCC** — The Federal Communications Commission.

**HEIGHT** — When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

**PREEXISTING TOWERS and PREEXISTING ANTENNAS** — Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this article, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

**TOWER** — Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. The term includes the structure and any support thereto.

#### **§ 163-63. Applicability.**

- A. New towers and antennas. All new towers or antennas in the Township of Lower Yoder shall be subject to these regulations, except as provided in § 163-63B through D, inclusive.
- B. Amateur radio station operators/receive only antennas. This article shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and

operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

- C. Preexisting towers or antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this article, other than the requirements of § 163-64F and G.
- D. AM array. For purposes of implementing this article, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

**§ 163-64. General requirements.**

- A. Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- B. Lot size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- C. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the Zoning Officer an inventory of its existing towers, antennas or sites approved for towers or antennas that are either within the jurisdiction of the Township of Lower Yoder or within one mile of the border thereof, including specific information about the location, height and design of each tower. The Zoning Officer may share such information with other applicants applying for administrative approvals or special use permits under this article or other organizations seeking to locate antennas within the jurisdiction of the Township of Lower Yoder; provided, however, that the Zoning Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- D. Aesthetics. Towers and antennas shall meet the following requirements:
  - (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
  - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

- E. Lighting. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- F. State or federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- G. Building codes; safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Township of Lower Yoder concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- H. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Township of Lower Yoder irrespective of municipal and county jurisdictional boundaries.
- I. Not essential services. Towers and antennas shall be regulated and permitted pursuant to this article and shall not be regulated or permitted as essential services, public utilities or private utilities.
- J. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communications system in the Township of Lower Yoder have been obtained and shall file a copy of all required franchises with the Zoning Officer.
- K. Public notice. For purposes of this article, any special use request, variance request or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in § 163-67B(5)(b), Table 2, in addition to any notice otherwise required by the Zoning Code.
- L. Signs. No signs shall be allowed on an antenna or tower.
- M. Buildings and support equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of § 163-68.
- N. Multiple antenna/tower plan. The Township of Lower Yoder encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or

antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

**§ 163-65. Permitted uses.**

- A. General. The uses listed in this section are deemed to be permitted uses and shall not require administrative approval or a special use permit.
- B. Permitted Uses The following uses are specifically permitted:
  - (1) Antennas or towers located on property owned, leased or otherwise controlled by the Township of Lower Yoder, provided that a license or lease authorizing such antenna or tower has been approved by the Township of Lower Yoder.

**§ 163-66. Administratively approved uses.**

- A. General. The following provisions shall govern the issuance of administrative approvals for towers and antennas:
  - (1) The Zoning Officer may administratively approve the uses listed in this section.
  - (2) Each applicant for administrative approval shall apply to the Zoning Officer providing the information set forth in § 163-67B(1) and (3) of this article and a nonrefundable fee as established by resolution of the Supervisors of the Township of Lower Yoder to reimburse the Township of Lower Yoder for the costs of reviewing the application.
  - (3) The Zoning Officer shall review the application for administrative approval and determine if the proposed use complies with §§ 163-64 and 163-67B(4) and (5) of this article.
  - (4) The Zoning Officer shall respond to each such application within 60 days after receiving it by either approving or denying the application. If the Zoning Officer fails to respond to the applicant within said 60 days, then the application shall be deemed to be approved.
  - (5) In connection with any such administrative approval, the Zoning Officer may, in order to encourage shared use, administratively waive any zoning district setback requirements in § 163-67B(4) or separation distances between towers in § 163-67B(5) by up to 50%.
  - (6) In connection with any such administrative approval, the Zoning Officer may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
  - (7) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to § 163-67 prior to filing any appeal that may be available under the Zoning Code.
- B. List of administratively approved uses. The following uses may be approved by the Zoning Officer after conducting an administrative review:



- (1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or heavy commercial zoning district.
- (2) Locating antennas on existing structures or towers consistent with the terms of Subsections B(2)(a) and (b) below.
  - (a) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Officer as an accessory use to any commercial, industrial, professional, institutional or multifamily structure of eight or more dwelling units, provided that:
    - [1] The antenna does not extend more than 30 feet above the highest point of the structure;
    - [2] The antenna complies with all applicable FCC and FAA regulations; and
    - [3] The antenna complies with all applicable building codes.
  - (b) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Zoning Officer and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided that such collocation is accomplished in a manner consistent with the following:
    - [1] A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower unless the Zoning Officer allows reconstruction as a monopole.
    - [2] Height.
      - [a] An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the towers existing height, to accommodate the collocation of an additional antenna.
      - [b] The height change referred to in Subsection B(2)(b)[2][a] may only occur one time per communication tower.
      - [c] The additional height referred to in Subsection B(2)(b)[2][a] shall not require an additional distance separation as set forth in § 163-67. The tower's premodification height shall be used to calculate such distance separations.
    - [3] On-site location.
      - [a] A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on site within 50 feet of its existing location.
      - [b] After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

- [c] A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to § 163-67B(5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of § 163-67B(5).
  - [d] The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in § 163-67B(5) shall only be permitted when approved by the Zoning Officer.
- (3) New towers in nonresidential zoning districts. Locating any new tower in a nonresidential zoning district other than industrial or heavy commercial, provided that a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Officer concludes the tower is in conformity with the goals set forth in § 163-61 and the requirements of § 163-64; the tower meets the setback requirements in § 163-67B(4) and separation distances in § 163-67B(5); and the tower meets the following height and usage criteria:
    - (a) For a single user, up to 90 feet in height;
    - (b) For two users, up to 120 feet in height; and
    - (c) For three or more users, up to 150 feet in height.
  - (4) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the Zoning Officer is in conformity with the goals set forth in § 163-61 of this article.
  - (5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

#### **§ 163-67. Special use permits.**

- A. General. The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission:
  - (1) If the tower or antenna is not a permitted use under § 163-65 of this article or permitted to be approved administratively pursuant to § 163-66 of this article, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
  - (2) Applications for special use permits under this section shall be subject to the procedures and requirements of Chapter 163 of the Code, except as modified in this section.
  - (3) In granting a special use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

- (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.
- (5) An applicant for a special use permit shall submit the information described in this section and a nonrefundable fee as established by resolution of the Supervisors of the Township of Lower Yoder to reimburse the Township of Lower Yoder for the costs of reviewing the application.

B. Towers.

- (1) Information required. In addition to any information required for applications for special use permits pursuant to Chapter 163 of the Code, applicants for a special use permit for a tower shall submit the following information:
  - (a) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in § 163-67B(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the Zoning Officer to be necessary to assess compliance with this article.
  - (b) Legal description of the parent tract and leased parcel (if applicable).
  - (c) The setback distance between the proposed tower and the nearest residential unit, planned residentially zoned properties and unplatted residentially zoned properties.
  - (d) The separation distance from other towers described in the inventory of existing sites submitted pursuant to § 163-64C shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - (e) A landscape plan showing specific landscape materials.
  - (f) Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
  - (g) A description of compliance with §§ 163-64C, D, E, F, G, J, L and M and 163-7B(4) and (5) and all applicable federal, state or local laws.
  - (h) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
  - (i) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
  - (j) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

- (k) A description of the feasible location(s) of future towers or antennas within the Township of Lower Yoder based upon existing physical, engineering, technological or geographical limitations in the event that the proposed tower is erected.
- (2) Factors considered in granting special use permits for towers. In addition to any standards for consideration of special use permit applications pursuant to Chapter 163 of the Code, the Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this article are better served thereby.
  - (a) Height of the proposed tower;
  - (b) Proximity of the tower to residential structures and residential district boundaries;
  - (c) Nature of uses on adjacent and nearby properties;
  - (d) Surrounding topography;
  - (e) Surrounding tree coverage and foliage;
  - (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (g) Proposed ingress and egress; and
  - (h) Availability of suitable existing towers, other structure, or alternative technologies not requiring the use of towers or structures, as discussed in § 163-67B(3) of this article.
- (3) Availability of suitable existing towers, other structures or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
  - (a) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
  - (b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing

towers or structures would cause interference with the applicant's proposed antenna.

- (e) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - (g) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (4) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this article would be better served thereby.
- (a) Towers must be set back a distance equal to at least 75% of the height of the tower from any adjoining lot line.
  - (b) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (5) Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this article would be better served thereby.
- (a) Separation from off-site uses/designated areas.
    - [1] Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
    - [2] Separation requirements for towers shall comply with the minimum standards established in Table 1.

**Table 1**

<b>Off-site Use/Designated Area</b>	<b>Separation Distance</b>
Single-family or duplex residential units <sup>1</sup>	200 feet or 300% height of tower, whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower, <sup>2</sup> whichever is greater

**Table 1**

<b>Off-site Use/Designated Area</b>	<b>Separation Distance</b>
Vacant unplatted residentially zoned lands <sup>3</sup>	100 feet or 100% height of tower, whichever is greater
Existing multifamily residential units greater than duplex units	100 feet or 100% height of tower, whichever is greater
Nonresidentially zoned lands or nonresidential uses	None; only setbacks apply

<sup>1</sup>Includes modular homes and mobile homes used for living purposes.

<sup>2</sup>Separation measured from base of tower to closest building setback line.

<sup>3</sup>Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily residentially zoned land greater than duplex.

(b) Separation distances between towers.

- [1] Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

**Table 2:****Existing Towers – Types**

	<b>Lattice</b>	<b>Guyed</b>	<b>Monopole 75 Feet in Height or Greater</b>	<b>Monopole Less Than 75 Feet in Height</b>
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750	750	750	750

- (6) Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided,

however, that the Planning Commission may waive such requirements as it deems appropriate.

- (7) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals or this article would be better served thereby.
  - (a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
  - (b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - (c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

**§ 163-68. Buildings or other equipment storage.**

- A. Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:
  - (1) The cabinet or structure shall not contain more than 80 square feet of gross floor area or be more than eight feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over 80 square feet of gross floor area or eight feet in height, shall be located on the ground and shall not be located on the roof of the structure.
  - (2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 20% of the roof area.
  - (3) Equipment storage buildings or cabinets shall comply with all applicable building codes.
- B. Antennas mounted on utility poles or light poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following;
  - (1) In residential districts, the equipment cabinet or structure may be located:
    - (a) In a front or side yard, provided that the cabinet or structure is no greater than four feet in height or 32 square feet of gross floor area and the cabinet/structure is located a minimum of 10 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42 to 48 inches and a planted height of at least 36 inches.
    - (b) In a rear yard, provided that the cabinet or structure is no greater than eight feet in height or 80 square feet in gross floor area. The cabinet/structure shall be

screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.

- (2) In commercial or industrial districts, the equipment cabinet or structure shall be no greater than eight feet in height or 80 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence eight feet in height or an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.
- C. Antennas located on towers. The related unmanned equipment structure shall not contain more than 80 square feet of gross floor area or be more than eight feet in height and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
- D. Modification of building size requirements. The requirements of § 163-68A through C may be modified by the Zoning Officer or in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by special use to encourage collocation.

#### **§ 163-69. Removal of abandoned antennas and towers.**

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Township of Lower Yoder notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

#### **§ 163-70. Nonconforming uses.**

- A. Not expansion of nonconforming use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this article.
- C. Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding § 163-9, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in § 163-67B(4) and (5). The type, height and location of the tower on site shall be of the same type and intensity as the



original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in § 163-69.

**ARTICLE XVII**  
**Special Exception for Timber Harvesting**  
**[Added 2-9-2000 by Ord. No. 126]**

**§ 163-71. Purpose.**

The purpose of this article is to provide for the regulation of such activity to ensure:

- A. That long-term production of timber crops is encouraged.
- B. That the right to harvest trees is exercised with due regard for the protection of the physical property of adjacent landowners.
- C. That the potential for negative environmental impacts resulting from improper tree harvesting is minimized, such as excessive stormwater runoff, excessive erosion and sedimentation and landslides.

**§ 163-72. Definitions.**

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

**FELLING** — The act of cutting a standing tree so that it falls to the ground.

**FORESTRY** — Managing and using for human benefit forest lands and natural resources that occur on and in association with forest lands, including trees, other plants, animals, soil and water. It includes, but is not limited to, the planting, cultivating, harvesting, transporting and selling of trees for commercial purposes.

**LANDING** — A place where logs, pulpwood or firewood are assembled for transportation to processing facilities.

**LANDOWNER** — An individual, partnership, company, firm, association or corporation that is in actual control of forest land, whether such control is based on legal or equitable title or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner, and any agents thereof acting on their behalf, such as forestry consultants, who set up and administer timber harvesting.

**LITTER** — Discarded items not naturally occurring on the site such as tires, oil cans, equipment parts and other rubbish.

**LOP** — To cut tops and slash into smaller pieces to allow the material to settle close to the ground.

**OPERATOR** — An individual, partnership, company, firm, association or corporation engaged in timber harvesting, including the agents, subcontractors and employees thereof.

**PRECOMMERCIAL TIMBER STAND IMPROVEMENT** — A forest practice, such as thinning or pruning, which results in better growth, structure, species composition or health for the residual stand but which does not yield a net income to the landowner, usually because any trees cut are of poor quality, too small or otherwise of limited marketability or value.

**SKIDDING** — Dragging trees on the ground from the stump to the landing by any means.

**SLASH** — Woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps and broken or uprooted trees or shrubs.

**STAND** — Any area of forest vegetation whose site conditions, past history and current species composition are sufficiently uniform to be managed as a unit.

**STREAM** — Any natural or artificial channel of conveyance for surface water with an annual or intermittent flow within a defined bed and banks.

**TIMBER HARVESTING, TREE HARVESTING or LOGGING** — The process of cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood products.

**TOP** — The upper portion of a felled tree that is unmerchantable because of small size, taper or defect.

**WETLAND** — Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

### **§ 163-73. Applicability.**

The provisions and requirements of this ordinance shall apply to all tree harvesting operations within the township, except that:

- A. No permit or plan submission shall be required for:
  - (1) Removal of individual trees for landscaping around permanent structures.
  - (2) Cutting trees for creation of a product where the use is noncommercial and intended to be utilized on the property.
  - (3) Removal of trees posing a hazard to life or property.
  - (4) Removal of individual decayed or diseased trees.
- B. Submission of a plan prior to the start of operations is required but no specific approval or permit shall be required for:
  - (1) Timbering operation on a tract of ground less than five acres.

**§ 163-74. Responsibility.**

It shall be the responsibility of each operator and landowner on whose land tree harvesting is to be carried out to develop or have developed the logging plan and submit notification as required in this ordinance. It shall be the joint responsibility of the landowner and the operator to see that they carry out the provisions of the logging plan.

**§ 163-75. Regulations.**

- A. A logging plan shall be prepared for each tree harvesting operation within Lower Yoder Township.
  - (1) Features shall be shown on at least either a one inch equals 660 feet scale map or aerial photograph.
- B. Such plan will address all applicable erosion and sedimentation control and stream crossing regulations under Chapter 102, Erosion Control Rules and Regulations issued under Act of June 22, 1937, P.L. 1987 (Clean Streams Law), and Chapter 105, Dam and Waterway Management Rules and Regulations issued under Act of 1978, P.L. 1375, No. 325 (Dam Safety and Encroachments Act).
- C. Points that shall be addressed by the logging plan including the following as a minimum:
  - (1) Plan of the road system.
  - (2) Water control structures.
  - (3) Stream crossings.
  - (4) Log landings.
  - (5) Haul roads, skid roads and skid trails.
  - (6) Maintenance.
  - (7) Road use.
  - (8) Road and log landing retirement.
  - (9) The general location of the anticipated operation in relation to municipal and state highways on a topographic base.
  - (10) The location of property boundaries and adjoining property owners for the tract on which the logging will take place and the boundaries of the proposed harvest area.
  - (11) Location of all streams, wetlands and drainageways within and immediately adjacent to the timber area.
  - (12) Location and description of any devices that will be utilized for work in and around wetlands.
  - (13) The logging plan shall contain a statement under signature of a qualified forester that the plan complies with "sound timber management practice" and except for circumstances governed by the provisions herein, will result in a continuing timber resource on the property; provided, however, that when the timber is being removed

to prepare the land for another permitted use, no such representation shall be required, provided that the applicant provides copies of all required permits to the Zoning Officer with the logging plan.

- (14) The logging plan shall contain a representation under signature of the operator that he will comply with all provisions of the ordinance and maintain erosion and sedimentation controls until all disturbed areas are revegetated.
- (15) The logging plan shall describe the methods which will be utilized in revegetating log landings and side trails at the conclusion of operations.
- (16) The logging plan shall identify all public thoroughfares in the township over which logs will be hauled from landing to mill.
- (17) The landowner and the operator shall be responsible for repairing any damage to township roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic. Pursuant to 67 Pennsylvania Code, Chapter 189, the township will require the landowner or operator to furnish a bond to guarantee the repair of such damages.

#### **§ 163-76. Filing of plan.**

The plan shall be filed with the township except for operations exempted under § 163-63 above.

#### **§ 163-77. Erosion and sediment control and stream crossing requirements.**

All erosion and sediment control and stream crossing requirements shall be followed at all times during the operation unless the Zoning Officer approves an amendment.

#### **§ 163-78. General operational requirements.**

The following requirements shall govern all timber harvesting activity:

- A. Felling or skidding on or across any public thoroughfare is prohibited.
- B. No tops or slash shall be left within 25 feet of any public thoroughfare.
- C. All tops and slash between a distance of 25 feet and 50 feet from a public thoroughfare shall be lopped to a maximum height of four feet above the surface of the ground.
- D. No tops or slash shall be left on or across a property boundary without the consent of the adjoining landowner.
- E. Litter resulting from any logging operation shall be cleaned up and removed from the site before it is vacated by the operator.
- F. Because streams are an important natural resource which need special protection, logging within 75 feet of streams is prohibited unless all of the following conditions are met:

- (1) The basal area of trees in that area within the seventy-five-foot zone shall not be reduced below 50% of the basal area present before cutting or below 65 square feet per acre, whichever is higher.
  - (2) Trees to be cut within the seventy-five-foot zone described shall be marked above and below stump height with tree marking paint prior to the issuance of permit.
  - (3) Trees or logs shall not be skid or transported within 50 feet of stream beds or drainageways except at planned crossings.
- G. On all properties except those utilized as single-family, owner-occupied residential dwellings, a barrier coextensive with the building setback zone in areas bordering residential and commercial districts shall be established in which no more than 50% of the basal area of trees (at 4.5 feet) shall be removed. Trees cut in the setback area shall be marked above and below stump height with tree paint prior to the start of logging. Tops and slash shall be cut to no more than four feet in the setback area.

#### **§ 163-79. Permit.**

- A. No operator shall begin any timber harvesting operation in Lower Yoder Township without first securing a timber permit, except as exempted therefrom in § 163-63 above.
- B. The Zoning Officer shall promptly issue a permit upon submission of a complete application consisting of:
- (1) Logging plan as specified in § 163-63.
  - (2) Proof of insurance by the operator of state workmen's compensation for all employees or employees of subcontractors and public liability insurance in an amount of at least \$300,000 and including damage to streams and public property.
  - (3) Payment of a permit fee in the following amount:
    - (a) Areas five acres to 10 acres: \$100.
    - (b) Ten dollars per acre: permit fee for all acres over 10 acres.
- C. Permits shall be effective for a period of 12 months from issuance.

#### **§ 163-80. Bond.**

In the event of violation of the requirements of this ordinance during a timbering operation, the landowner or operator shall, before resuming work or initiating new work, post a bond in the amount of \$100 per acre in cash or surety bond for faithful performance of future obligations under this ordinance.

#### **§ 163-81. Appeals.**

Any person aggrieved by the decision of the Zoning Officer shall have the right of appeal to the Lower Yoder Township Zoning Hearing Board. This Board shall have authority to reverse or

modify any decision made by the Zoning Hearing Officer under the same procedure as provided for under Lower Yoder Township Zoning Ordinance.

**§ 163-82. Violations and penalties.**

Any person, firm, corporation or association or other entity who shall violate this ordinance shall, for each and every violation or noncompliance, upon conviction thereof before any District Magistrate or court of competent jurisdiction in Cambria County, Pennsylvania, be sentenced to pay a fine of not more than \$500 for each offense and costs, and in default of payment of said fine and costs, be imprisoned for a period not exceeding 30 days.

**§ 163-83. Severability.**

If any sentence, clause or section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections or parts of this ordinance. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof, not been included herein.