

# Use Definitions Review/Consolidation & Review of Uses by Zone

*December 5, 2025*

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**Consolidated and Uniform Use Table**  
December 5, 2025

	R-1	R-2	R-3	TND-1	MU	CS/LI	IR	VC
Accessory Dwelling Unit	SE	SE	SE	BR				SE
Accessory Use	BR	BR	BR	BR	BR	BR	BR	BR
Age Qualified Residential Community		CU <sup>3</sup>	CU <sup>3</sup>					
Agriculture	BR	BR	BR		BR		BR	
Animal Hospital					BR	BR	BR	BR
Bank					BR			BR
Bed & Breakfast Facility	SE	SE	SE	BR				SE
Car Wash					CU	BR		
Cemetery	SE	SE					BR	
Club	BR	BR						
Clustered Residential Development	BR	BR	BR				CU	
Continuing Care Facility			CU		CU		CU	
Convenience Store						CU		CU
Conversion	SE	SE	SE	BR				SE
Crematorium					BR	BR		
Day-Care Facility		CU <sup>4</sup>	BR <sup>8</sup>	CU	CU			CU
Dispensary, Medical Marijuana					CU	CU		
Dwelling, Single-Family Detached	BR	BR	BR	BR	BR	BR	BR	BR
Dwelling, Two-Family		CU <sup>4</sup>	BR <sup>8</sup>	CU <sup>5</sup>	BR			
Dwelling, Multifamily		CU <sup>4,5</sup>	BR <sup>8</sup>	CU <sup>5</sup>	CU			
Electric Substation						BR		
Farm & Landscaping Equipment and Supplies					CU			
Flex-Space				BR	BR			
Forestry	BR	BR	BR	BR	BR	BR	BR	BR
Funeral Parlor					BR			
Gasoline Station, Non-Retail						BR		
Grower/Processor, Medical Marijuana						CU		
Home Occupation, Major	CU	CU	CU	CU	CU	CU	CU	CU
Home Occupation, No-Impact	BR	BR	BR	BR	BR	BR	BR	BR
Hotel				CU	CU			
Industrial Use						BR		
Inn				CU				BR
Institution	SE							
Junkyard						CU		
Kennel					BR <sup>7</sup>			
Laboratory					BR	BR	BR	
Library				CU	BR		BR	BR
Ministorage Facility					BR	BR	BR	
Mobile Home Park	CU <sup>1</sup>							
Motel				CU	CU			
Motor Vehicle Services						BR		
Museum				CU	BR		BR	BR
Office			CU <sup>8</sup>	BR	BR	BR	BR	BR
Planned Village Commercial Center								CU
Recreation Facility				BR	BR		BR	
Recycling Dropoff/Collection Center						BR		
Religious Use	SE	SE	SE	CU			BR	SE
Restaurant		CU <sup>4</sup>	CU <sup>8</sup>	BR	BR			BR
Restaurant, Fast Food				BR	BR			
Restaurant, Fast Food with Drive-Through					BR			
Retail		CU <sup>4</sup>	CU <sup>8</sup>	BR	BR	BR		BR
Retail Sale of Consumer Fireworks						BR		
School	CU	CU	CU		CU		CU	
Solar Farm	CU	CU				CU		
Studio				BR	BR	BR		BR
Tenant House	BR <sup>7</sup>	BR <sup>7</sup>	BR <sup>7</sup>		BR <sup>7</sup>		BR <sup>7</sup>	
Traditional Neighborhood Development		CU <sup>2</sup>						
Theater				CU	BR		BR	
Vehicle Sales					CU			
Vehicle Towing Service						BR		
Warehousing					BR			
Wireless Communication Facility (Non-Tower)	BR <sup>6</sup>	BR <sup>6</sup>	BR <sup>6</sup>	BR <sup>6</sup>	BR <sup>6</sup>	BR <sup>6</sup>	BR <sup>6</sup>	BR <sup>6</sup>
Wireless Communication Facility (Tower)					CU <sup>6</sup>	CU <sup>6</sup>		

- BR - Use by Right
- CU - Use by Conditional Use (BOS)
- SE - Use by Special Exception (ZHB)

- <sup>1</sup> - Use is Limited to MHP Overlay District Shown on Zoning Map
- <sup>2</sup> - Use is Limited to TND-2 Overlay District Shown on Zoning Map
- <sup>3</sup> - Use is Limited to AQRC Overlay District Shown on Zoning Map
- <sup>4</sup> - Use is Limited to Approved Traditional Neighborhood Developments
- <sup>5</sup> - Use is Limited to Approved Age-Qualified Residential District
- <sup>6</sup> - Subject to Regulations in §399-101
- <sup>7</sup> - Consistent with the Provisions of 399-85(C)
- <sup>8</sup> - Permitted Within Clustered Residential Development

**EAST BRANDYWINE TOWNSHIP**  
**CHESTER COUNTY, PENNSYLVANIA**  
**ORDINANCE NO. \_\_ of 2026**

**AN ORDINANCE OF THE TOWNSHIP OF EAST BRANDYWINE, CHESTER COUNTY, PENNSYLVANIA, AUTHORIZED BY THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE AMENDING THE EAST BRANDYWINE TOWNSHIP CODE, CHAPTER 300, TITLED “LAND USE” AND CHAPTER 399, TITLED “ZONING,” BY AMENDING DEFINITIONS, AMENDING CERTAIN USES PERMITTED IN THE VARIOUS ZONING DISTRICTS AND AMENDING SUPPLEMENTAL REGULATIONS**

**IT IS HEREBY ENACTED** by the Board of Supervisors of East Brandywine Township, Chester County, Pennsylvania, that the Code of the Township of East Brandywine is amended as set forth in Section 1 hereinbelow:

**SECTION 1.** Chapter 300, titled “Land Use”, and Chapter 399 titled “Zoning”, of the Code are amended as set forth in Exhibit A attached hereto and incorporated herein by reference, specifically by deleting text indicated by ~~strikethrough~~ and adding text indicated by underlining.

**SECTION 2.** Severability. If any sentence, clause, 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, sections, or parts hereof. 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.

**SECTION 3.** Repealer. All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

**SECTION 4.** Effective Date. This Ordinance shall be effective immediately upon enactment.

**ENACTED this \_\_\_\_ day of \_\_\_\_\_, 2026.**

**BOARD OF SUPERVISORS  
EAST BRANDYWINE TOWNSHIP**

**ATTEST:**

\_\_\_\_\_  
Francis X. Taraschi, Chairman

\_\_\_\_\_  
Lisa Taraschi, Secretary

\_\_\_\_\_  
Kyle P. Scribner, Vice Chairman

\_\_\_\_\_  
Emily E. Keller, Member

### § 300-17. Definitions.

As used in any chapter or section of Part III, Land Use Legislation, of the Code of the Township of East Brandywine, the following terms shall have the meanings as indicated below. For specific definitions regarding floodplain management or the Flood Hazard District, see § 300-18, Flood Hazard District definitions.

**ABANDONMENT** — An intentional and absolute relinquishment and cessation of a use with no intention to resume such use.

**ACCELERATED EROSION** — The removal of the surface of the land through the combined action of man's activities and natural processes at a rate greater than would occur from natural processes alone.

**ACCESSORY DWELLING** — A self-contained dwelling unit, resulting from the conversion of an existing single-family detached dwelling into two units, or the creation of a dwelling unit within an accessory structure, which is complete with kitchen and bath facilities, has direct access to the outdoors or to a hall from which there is direct access to the outdoors, and is physically subordinate to the primary dwelling unit that exists on the property.

**ACCESSORY USE OR STRUCTURE** — A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. An accessory structure shall not be permitted to become an additional principal structure on the lot.

**ACT 167** — The Stormwater Management Act of 1978 (Act of Oct. 4, 1978, P.L. 864, No. 167), 32 P.S. § 680.1 et seq., as amended.

**ACT 170** — The Pennsylvania Municipalities Planning Code of December 21, 1988, 53 P.S. § 10101 et seq., as amended from time to time.

**ACT 247** — The Pennsylvania Municipalities Planning Code of July 31, 1968, 53 P.S. § 10101 et seq., as amended from time to time.

**AGE-QUALIFIED RESIDENTIAL COMMUNITY** — A community comprised of any combination of permitted residential dwelling types that qualifies as housing for older persons pursuant to the Fair Housing Act, 42 U.S.C. § 3601 et seq., or subsequent amendments thereto.

**AGRICULTURAL ACTIVITY** — Activities associated with agriculture, as defined in this chapter, such as agricultural cultivation, agricultural operation, and animal-heavy use areas. This includes the work of producing crops, including tillage, plowing, disking, harrowing, planting, or harvesting crops; pasturing and raising of livestock; and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

**AGRICULTURE** — The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry. Explicitly not included as a use in Agriculture is Grower/Processor, Medical Marijuana. This definition Agriculture includes the cultivation, processing, and sale of agricultural products directly to consumers from the premises where the products are grown. It explicitly permits the operation of Community Supported Agriculture (CSA) programs where members of the community receive agricultural products directly from the farm. Additionally, it allows for the retail sale of farm-grown products either on-site or through farm stand operations. Facilities for the processing of products grown on the farm may also be included, provided that such processing is incidental accessory to the primary principle agricultural use of the land. The cultivation of the soil, the raising and harvesting of the products of the soil, and the keeping, breeding, and management of livestock for use on the property or raised for sale and profit.

AGRICULTURAL BUILDING — A structure designed and used primarily for agriculture activities. This can include buildings for housing livestock, storing crops, sheltering machinery, and other purposes related to agriculture. An Agricultural Building shall not include a kennel.

ALLEY — See "street; service street (alley)."

ALTERATION — A modification to the exterior of a building or structure, including rearrangement, renovation, or enlargement, that results in changes to the facade and/or to structural or supporting parts.

ANCHORING — The securing of a mobile home to its foundation, in accordance with applicable requirements of the Township Building Code or any successor ordinance or code.

ANIMAL HOSPITAL — A place used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention, and may include overnight stays accessory to Animal Hospital use.

ANIMAL UNIT (AU) — One thousand pounds live weight of livestock or other animals, regardless of the actual number of individual animals comprising the unit.

ANTENNA — Any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An "antenna" may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An "antenna" shall not include tower-based wireless communications facilities as defined herein.

APARTMENT — See "dwelling; dwelling unit."

APPLICANT — A landowner, developer, or other person, including his/her heirs, successors, and assigns, who has filed an application to the Township for approval to engage in any activity regulated under the terms of the Land Use Code of East Brandywine.

APPLICATION FOR DEVELOPMENT — Every application, whether preliminary or final, required to be filed and approved prior to start of construction or development, including but not limited to an application for a building permit, and for the approval of a subdivision plan, for the approval of a land development plan.

AS BUILT — See "as-built plans (drawings)."

AS-BUILT PLANS (DRAWINGS) — Engineering or site plans or drawings that document the actual locations, dimensions, and elevations of the improvements, and building components, and changes made to the original design plans. The final versions of these documents, or a copy of same, are signed and sealed by a qualified licensed professional and submitted to the municipality at the completion of the project, as per the requirements of § 345-502, as "final as- built plans."

~~ASSISTED CARE FACILITY — A facility licensed or not as such by the Commonwealth of Pennsylvania operated by a full-time staff in which supervised around-the-clock services are provided for a period exceeding 24 hours, for three or more individuals who require only intermittent care to maintain the basic needs of daily living in the areas of hygiene, cooking, cleaning, eating, nutrition, ambulatory care, recreation, community activities and mobility, general safety, and similar activities of everyday living.~~

AUTOMOBILE SERVICE STATION — Buildings and land, the principal use of which is the retail dispensing or sale of vehicular fuels and including, as permissible accessory uses, the sale of related automotive products and parts, the servicing of vehicles, and the leasing of vehicles. No temporary or seasonal sales shall be conducted outside a building.

**BANK** — A financial business that is engaged in financial transactions including the deposit and withdrawal of funds, making loans, handling investments, and similar fiduciary activities.

**BANKFULL** — The channel at the top-of-bank or point from where water begins to overflow onto a floodplain.

~~**BASAL AREA** — The cross-sectional area of all stems of a species or all stems in a stand, measured at breast height (4.5 feet above the ground) and expressed on a per-acre basis.~~

**BASEFLOW** — Portion of stream discharge derived from groundwater; the sustained discharge that does not result from direct runoff or from water diversions, reservoir releases, piped discharges, or other human activities.

**BASEMENT** — An enclosed area partly or completely below grade. It shall be considered a building story if more than 33.3% of the perimeter walls are five feet or more above grade and if the net area of the door or window openings in the exterior walls is at least equal to 10% of the enclosed floor area. For purposes of compliance with Chapter 399, § 399-13, Floodplain District, any area of the building having its floor below ground level on all sides.

**BED-AND-BREAKFAST FACILITY** — A single-family detached dwelling occupied by the owner containing guest rooms available for short-term overnight rental and providing breakfast service to overnight guests.

**BIORETENTION** — A practice whereby planted open space (possibly with soil enhancements) is utilized as a stormwater management technique for holding, infiltrating, evaporating, and transpiring water.

**BLOCK** — A tract of land bounded entirely by streets; by streets and a watercourse; by streets and a railroad; by streets and the corporate boundaries of the Township; by streets and public land or other park or recreation area; or any combination of the above.

**BMP (BEST MANAGEMENT PRACTICE)** — Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to provide water quality treatment, infiltration, volume reduction, and/or peak rate control, to promote groundwater recharge, and to otherwise meet the purposes of Chapter 345. Stormwater BMPs are commonly grouped into one of two broad categories or measures: "structural" or "nonstructural." For Chapter 345, the following should be applied: Nonstructural BMPs or measures include certain low-impact development and conservation design practices used to minimize the contact of pollutants with stormwater runoff. These practices aim to limit the total volume of stormwater runoff and manage stormwater at its source by techniques such as protecting natural systems and incorporating existing landscape features. Nonstructural BMPs include, but are not limited to, the protection of sensitive and special value features such as wetlands and riparian areas, the preservation of open space while clustering and concentrating development, the reduction of impervious cover, and the disconnection of rooftops from storm sewers. Structural BMPs are those that consist of a physical system that is designed and engineered to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, a wide variety of practices and devices from large-scale retention ponds and constructed wetlands to small-scale underground treatment systems, infiltration facilities, filter strips, bioretention, wet ponds, permeable paving, grassed swales, riparian buffers, sand filters, detention basins, and manufactured devices. Structural and nonstructural stormwater BMPs are permanent appurtenances to the site. [See also "stormwater management facility" and "stormwater control measure" (SCM).

**BOARD** — The Board of Supervisors of East Brandywine Township.

**BUFFER** — A strip of required yard space adjacent to a use or facility within a property, or to the boundary of a property or district, on which is located a visual barrier of sufficient height and density

to appropriately limit views of the property or use.

**BUFFER, RIPARIAN** — See "riparian buffer."

**BUILD-TO LINE** — The line which defines the placement of the building from the street on which the building fronts, also recited as the minimum front yard. The build-to line of the building forms the street wall line. On a corner lot, the build-to line is located on each side of a lot abutting a street. A build-to line may have a recess or projection up to four feet in order to promote variations of building placement on a block.

**BUILDING** — Any structure which is erected on the ground, consisting of at least three walls and a roof, and designed, intended, or arranged for the housing, sheltering, enclosure, or structural support of persons, animals, or property of any kind. A combination of materials used to form a permanent structure having walls and a roof. Any mobile home, manufactured home, or similar structure constructed off site prior to placement on the ground also is a building.

**BUILDING COVERAGE** — The relation of the total ground floor area of all buildings on a lot to the total area of the lot on which they are located.

**BUILDING PERMIT** — The permit required for new construction and additions pursuant to Article XVIII of Chapter 399, Zoning, of the Land Use Code of the Township of East Brandywine. The term "building permit," as used herein, shall not be deemed to include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided there is no increase in gross floor area or number of dwelling units resulting therefrom.

**BUILDING SETBACK LINE** — An established line within a property defining the minimum required distance between any principal building and the adjacent right-of-way line of the street on which it fronts, to provide the front yard specified by Chapter 399.

**BUILDING, PRINCIPAL** — A structure in which is conducted, designed to be conducted, or intended to be conducted the primary use of the lot on which it is located.

**CALIPER** — A measurement of the diameter of newly installed trees. The diameter of a tree is measured at a point six inches above the ground line if the resulting measurement is no more than four inches. If the resulting measurement is more than four inches, the measurement is made at a point 12 inches above the ground line. (See also the definition of "diameter at breast height.")

**CAR WASH** — A facility for cleaning the exterior and interior of motor vehicles including self-service, full-service, and automated operating facilities.

**CARBONATE GEOLOGY or CARBONATE ROCK FORMATIONS** — See "karst."

**CARTWAY** — The portion of a street right-of-way, paved or unpaved, customarily used by vehicles in the regular course of travel over the street.

**CEMETARY** — Land used for the interment of human and animal remains or cremated remains, including mausoleums and columbariums.

**CERTIFIED HISTORIC DISTRICT** — An historic district which has been delineated by East Brandywine Township and certified for historical significance by the Pennsylvania Historical and Museum Commission in accordance with PA Act 167.

**CERTIFIED HISTORIC RESOURCE** — A building, site, structure, or object listed in the National Register of Historic Places or located within a National Register historic district and certified by the Secretary of the Interior as being of historical significance to the district.

CFS — Cubic feet per second.

CHANGE OF USE — Any use which increases p.m. peak hour trips generated by an approved development. A change of use request will require a reassessment of impact fees.

CHANNEL — A natural or artificial open drainage feature that conveys, continuously or periodically, flowing water and through which stormwater flows. Channels include, but shall not be limited to, natural and man-made drainageways, swales, streams, ditches, canals, and pipes flowing partly full.

CHECKLIST — The official list (DEP Form 3640FM-WQ0353 Rev. 10/95) to be contained in the sewage facilities planning module submission. The checklist, when signed and dated, becomes the official confirmation that the requirements of § 71.53(d)<sup>2</sup> have been met and that the municipality has completed its review within the allotted review period.

CLEAR SIGHT TRIANGLE — An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of the street centerlines.

~~CLEAR CUTTING — The felling of all trees on a tract of land, or any portion thereof, at one time. Clear-cutting shall be deemed to occur when a lot has been cleared to a basal area of less than 30 feet per acre.~~

~~CLUB — Buildings and facilities owned or operated by a corporation, association, person or persons, or other entity for swimming, riding, golfing (excluding golf driving range or miniature golf course as a principal use), or similar recreational use, provided that no gunning shall be permitted a social, educational, or recreational purpose, to which membership is required for participation.~~

CLUSTERED RESIDENTIAL DEVELOPMENT — A tract or tracts of land, controlled by one applicant, to be developed as a single entity for residential purposes, in which the otherwise applicable minimum lot size for the zoning district is reduced in exchange for the retention and permanent protection of common open space.

CN — Curve number.

CO-LOCATION — The mounting of one or more WCFs, including antennae, on an existing tower-based WCF, or on any structure that already supports at least one non-tower WCF.

COMMERCIAL USE — A nonresidential principal use of a property, including but not limited to retail sales; convenience store; personal services; restaurant; sales, service, and/or repair of equipment and vehicles; and uses deemed by the Township to be similar in character. Commercial use shall not include office, industrial, institutional or nonprofit uses.

~~COMMERCIAL USE OF WATER RESOURCES — The use of naturally occurring water when 5,000 gallons or more of such water is used on site per day; or 5,000 gallons or more of such water is transported for use off site. "Naturally occurring water" shall mean any and all water above and below the ground surface.~~

COMMON OPEN SPACE — See "open space, common." COMMONWEALTH — Commonwealth of Pennsylvania.

COMMUNITY CENTER — A building and related amenities within a uniform planned community or residential condominium community that provides a central location for information sharing, socializing, recreation, and conducting meetings by residents of the community.

COMPLETELY DRY SPACE — A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

COMPREHENSIVE TRAIL SYSTEM — A system of interlinking trails throughout the Township,

designated for transportation and recreation purposes, as delineated on the East Brandywine Township Official Map or Parks, Recreation and Trails Map, including subsequent additions or amendments thereto.

**CONDITIONAL USE** — A use permitted in a particular zoning district pursuant to the provisions of Article VI of the MPC and the terms of Chapter 399.

**CONDOMINIUM** — A form of ownership of real property, as defined in the Pennsylvania Uniform Condominium Act of 1980; an undivided interest in a portion of a parcel, together with a separate interest in a space within a structure.

**CONSERVATION AREAS, PRIMARY** — Sensitive natural features that perform important environmental functions within the landscape and which, when located on a site proposed for development, should remain undisturbed and protected under the terms of Chapter 399, Chapter 350, and other applicable regulations. Such features, as defined by this chapter and displayed on the East Brandywine Township Primary Conservation Areas Map, shall include:

- A. Any area overlaid by the Steep Slope Conservation District, as contained in Chapter 399;
- B. Any area overlaid by the Floodplain District, as contained in Chapter 399;
- C. Any area designated as wetland;
- D. Any area of water hazard soil;
- E. Any area overlaid by the Riparian Corridor Conservation District, as contained in Chapter 399.

**CONSERVATION AREAS, SECONDARY** — Natural and man-made features important to the natural, historic, and/or visual character of the Township and which, when located on a site proposed for development or, with respect to scenic viewsheds, where visible on or from the site, should be protected against disturbance to the maximum extent feasible under the terms of Chapter 350, Chapter 399, and other applicable regulations. Such features, as defined by this chapter and displayed on the East Brandywine Township Secondary Conservation Areas Map, shall include:

- A. Woodlands;
- B. Scenic road corridors, scenic viewsheds, and scenic accents, as documented in the East Brandywine Township Comprehensive Plan;
- C. Historic sites and structures, as defined by this chapter and/or as listed as an historic resource in the East Brandywine Township Comprehensive Plan, and any associated historic setting or landscape as may be determined appropriate by the Board of Supervisors.

**CONSERVATION DESIGN** — A series of holistic land development design goals that maximize protection of key land and environmental resources, preserve significant concentrations of open space and greenways, evaluate and maintain site hydrology, and ensure flexibility in development design to meet community needs for complimentary and aesthetically pleasing development. Conservation design encompasses the following objectives: conservation/enhancement of natural resources, wildlife habitat, biodiversity corridors, and greenways (interconnected open space); minimization of environmental impact resulting from a change in land use (minimum disturbance, minimum maintenance); maintenance of a balanced water budget by making use of site characteristics and infiltration; incorporation of unique natural, scenic and historic site features into the configuration of the development; preservation of the integral characteristics of the site as viewed from adjoining roads; and reduction in maintenance required for stormwater management practices. Such objectives can be

met on a site through an integrated development process that respects natural site conditions and attempts, to the maximum extent possible, to replicate or improve the natural hydrology of a site.

CONSERVATION DISTRICT — The Chester County Conservation District.

CONSERVATION PLAN — A plan, written by a planner certified by the Natural Resources Conservation Service, that identifies conservation practices and includes site specific BMPs for agricultural plowing or tilling activities and animal heavy use areas.

CONSERVATION PRACTICES — Practices installed on agricultural lands to improve farmland, soil and/or water quality which have been identified in a current conservation plan.

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

CONSUMER FIREWORKS — Shall be defined as provided in § 2401 of Act 43 of 2017<sup>3</sup> as follows:

- A. Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CPR (relating to commercial practices) or any successor regulation and complies with the provisions for "consumer fireworks" as defined in APA 87-1 or any successor standard, the sale, possession and use of which is permitted throughout the commonwealth.
- B. The term does not include devices such as ground and hand-held sparkling devices, novelties or toy caps in APA 87-1 or any successor standard, the sale, possession and use of which is permitted throughout the commonwealth.

**CONTINUING CARE DEVELOPMENT FACILITY —**

- A. A residential ~~development facility~~ designed, developed and maintained to serve the housing and personal care needs of persons ~~aged 55 or older (provided that nothing herein shall preclude residency by any person under age 55 who is handicapped)~~. A "~~continuing Care development Facility~~" shall consist of ~~at least two~~ one or more of the following ~~three components~~:
  - (1) A ~~skilled care facility~~ nursing home or hospice care facility licensed by the Commonwealth of Pennsylvania;
  - (2) An assisted-~~care facility~~ living residence or personal care home licensed ~~or not~~ by the Commonwealth of Pennsylvania; and/or
  - (3) Independent living housing units for persons aged 55 or older requiring no state-issued license.
- B. With the exception of those of any age suffering from senile dementia and Alzheimer's disease, a ~~continuing Care development Facility~~ shall not include any facility providing housing, custodial, treatment, habilitative, or rehabilitative services to those afflicted with drug or alcohol addiction or dependence, mental illness or emotional illness, or for those detained for, charged with, or convicted of any act punishable under any state or federal penal statute or detained, adjudicated delinquent or dependent under any juvenile code.

**CONVENIENCE STORE** — A ~~retail~~ use structure and associated facilities providing convenience items and services to the general public, including but not limited to the sale of food, beverages,

personal care items, automotive fuel and lubricants, and similar items, and automatic teller machine banking facility.

**CONVERSION** — The creation of two or more dwelling units within an existing single-family detached dwelling, with the resulting units each having independent kitchen, bath, and sleeping facilities.

CONVEYANCE — A natural or man-made stormwater management facility, feature, or channel, existing or proposed, used for the transportation or transmission of stormwater from one place to another. For the purposes of Chapter 345, "conveyance" shall include pipes, drainage ditches, channels and swales (vegetated and other), gutters, stream channels, and like facilities or features.

**CREMATORIUM** — A facility that cremates the remains of humans or animals.

CUL-DE-SAC — A local street intersecting another street at one end and terminated at the other end by a permanent vehicular turnaround.

**DAY-CARE FACILITY** — A facility providing supervision of minors or adults by individuals other than family members, for which a fee may or may not be charged. A day-care facility shall not provide overnight accommodations. A day-care facility shall not be a school as defined by this chapter, except as noted herein.

- A. ADULT DAY CARE — A use providing supervised care and assistance to persons who are 16 years of age or older. This use shall not include persons who need oversight because of behavior that is criminal or violent.
- B. CHILD DAY CARE — A use involving the supervised care of children under age 16 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to state-required education, including a nursery school. Such use shall comply with all applicable federal and state laws. The care of children by their own relatives is permitted without regulation by Chapter 399.
- C. FAMILY DAY CARE — A type of day-care use, located in a single-family detached dwelling that provides care for six or fewer children at one time, in addition to children who are relatives of the caregiver, when permitted by special exception as a home occupation.
- D. DAY CARE AS A PRINCIPAL USE — A type of day-care use that provides care for seven or more persons at any one time, in addition to persons who are relatives of the primary operator; such facility shall constitute the principal use of the property.
- E. DAY CARE AS AN ACCESSORY USE — A type of day-care use where the provision of day-care service is incidental and secondary to the principal use of a lot. (e.g., a church nursery or employee day-care facility).

DBH — See "diameter at breast height."

DEMOLITION — The razing or destruction, whether entirely or in significant part, of a building, structure, site, or object. "Demolition" includes the removal of any building, structure, or object from its site, or the removal or destruction of the facade or surface. As applied to a Class I or Class II historic resource under the terms of Chapter 399, "significant part" shall mean 50% or more of the gross area of that part of the structure's facade, including the area delineated by porches, that is deemed by the East Brandywine Historical Commission to be historically significant and contributing to the basis upon which the structure is classified as a historic resource.

DEMOLITION BY NEGLECT — A change to a Class I or Class II historic resource that results from the absence of routine maintenance and repair leading to structural weakness, decay, and deterioration, resulting or potentially resulting in the effective demolition of the historic resource.

DENSITY, GROSS — The total area of a tract divided by the total number of dwelling units, expressed in units per acre.

DESIGN STORM — The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a five-year storm) and duration (e.g., 24 hours), used in the design and evaluation of stormwater management systems. See also "return period."

DETENTION BASIN — An impoundment designed to collect and retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely shortly after any given rainfall event.

DETENTION or TO DETAIN — Capture and temporary storage of runoff in a stormwater management facility for release at a controlled rate.

DETENTION VOLUME — The volume of runoff that is captured and released into the waters of the commonwealth at a controlled rate.

DETERMINATION OF ELIGIBILITY (DOE) — An historic resource determined by the Secretary of the Interior as meeting the National Register criteria, but not listed in the National Register.

DEVELOPER —

- A. Any landowner, agent of such landowner, or tenant with the permission from a landowner, who makes or causes to be made the improvements associated with a subdivision or land development; such developer may also be the subdivider, as defined herein; and/or
- B. A person who seeks to undertake any regulated activities at a site in the Township.
- C. For purposes of Chapter 370, Transportation Impact Fee, any person, partnership or corporation, landowner, subdivider, or applicant responsible for any undertaking which requires a building, zoning, or conditional use permit.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of mobile homes; streets and other paving; utilities; filling, grading, and excavation; mining, dredging; drilling operations; storage of equipment or materials; and the subdivision of land. For purposes of Chapter 370, Transportation Impact Fee, that which is to be done pursuant to a ~~building, zoning, conditional use, or occupancy permit, including, but not limited to, a~~ subdivision or land development as defined by this chapter.

DEVELOPMENT AGREEMENT — A written contract between a subdivider or developer and the landowner on one hand, and the Township on the other, specifying the conditions of final approval by the Township.

DIAMETER AT BREAST HEIGHT (DBH) — The outside bark diameter of a tree at breast height which is defined as 4.5 feet above the forest floor on the uphill side of the tree.

**DISPENSARY, MEDICAL MARIJUANA** — A person, including a natural person, corporation, association, trust, or other entity, or any combination thereof, which holds a permit issued from the Pennsylvania Department of Health under Act 16 of 2016,<sup>4</sup> the Medical Marijuana Act, to dispense medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19 of the Act.

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

**DISTURBED AREA** — Land area disturbed by or where an earth disturbance activity is occurring or has occurred.

**DRAINAGE AREA** — That land area contributing runoff to a single point (including but not limited to the point/line of interest used for hydrologic and hydraulic calculations) and that is enclosed by a natural or man-made ridgeline.

**DRIPLINE** — A generally circular line, the circumference of which is determined by the outer reaches of a tree's widest branching points.

**DRIVEWAY** — A private means of vehicular access from a public or private street to a single lot.

**DRIVEWAY, COMMON** — A driveway (lane) providing access to not more than three contiguous lots which is established and maintained in accordance with all applicable requirements of Chapters 350 and 399, and all other applicable laws and regulations.

**DUPLEX** — See "dwelling; dwelling unit."

**DWELLING; DWELLING UNIT** — A building or entirely self-contained portion thereof, designated for or occupied exclusively for residential purposes, containing complete housekeeping facilities, for occupancy by only one family (including any domestic servants living or employed on the premises) with no enclosed space (other than vestibules, entrance or other hallways or porches) in common with any other dwelling unit. With the exception of a mobile home or an accessory dwelling, each dwelling unit shall contain a minimum of 950 square feet of floor area. Dwellings may be classified as follows:

- A. **SINGLE-FAMILY DETACHED** — A building having only one dwelling unit from ground to roof, independent outside access, and open space on all sides.
- B. **TWO-FAMILY** — A building containing two dwelling units (detached or semidetached), including but not limited to:
  - (1) **TWIN** — A building containing two dwelling units, separated by a party wall, each having independent outside access and open space on three sides.
  - (2) **DUPLEX** — A building containing two dwelling units from ground to roof, each of which has independent outside access and open space on all sides.
- C. **MULTIFAMILY** — A building containing three or more dwelling units, including but not limited to four-family dwelling (fourplex, quadraplex), townhouse (single-family attached), and apartment buildings.
  - (1) **FOUR-FAMILY DWELLING** (fourplex, quadraplex) — A building containing four dwelling units, each of which has independent outside access, two nonparallel walls in common with adjacent dwelling units, and open space on two nonparallel sides.
  - (2) **TOWNHOUSE** (single-family attached) — A building containing dwelling units separated by parallel party walls, each of which has only one dwelling unit from ground to roof, independent outside access, not more than two walls in common with adjoining units, and open space to the front and rear (internal units) or front, rear, and one side (end units).
  - (3) **APARTMENT** — A building containing three or more dwelling units separated by party walls, and which may have more than one dwelling unit from ground to roof, common

outside accesses, and hallways.

**EARTH DISTURBANCE or EARTH DISTURBANCE ACTIVITY** — A construction or other human activity which disturbs the surface of the land, including, but not limited to, clearing and grubbing; grading; excavations; embankments; road maintenance; land development; building construction; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

**EARTHMOVING ACTIVITY** — Activity resulting in the movement of earth or stripping of vegetative cover from the earth, not including the clearing of land for agricultural purposes.

**EASEMENT** — A permanent right granted for limited use of private land, normally for a public purpose (e.g., utility, drainage, stormwater management, public access). The owner of the property shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

**EASEMENT, CONSERVATION** — A legal agreement between a property owner and an appropriate conservation organization or governmental entity, through which the property owner establishes certain use restrictions over all or portions of the property for conservation purposes.

**ELECTRIC SUBSTATION** — A facility part of an electric distribution system that transforms voltage levels for transmission, distribution, or modification of electricity. It includes the substation equipment, safety zones, and access areas necessary for operation and maintenance.

**ELECTRONIC NOTICE** — Notice given by a municipality through the Internet of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

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

**ENGINEER** — A professional engineer, registered in Pennsylvania.

**ENLARGEMENT** — An addition to the floor area of an existing building, an increase of size of another structure, or an increase in that portion of a lot occupied by an existing use.

**EQUIVALENT LOT SIZE** — For multifamily townhouse dwellings in an age-qualified residential community, the area inclusive of all multifamily townhouse dwelling building footprints and adjacent limited common elements divided by the total number of multifamily townhouse dwellings. Any area not included in the calculation of equivalent lot size shall be designated as common open space subject to the requirements of § 399-102.6I herein.

**EROSION** — The process by which the surface of the land, including water/stream channels, is worn away by water, wind, or chemical action.

**EROSION AND SEDIMENT (E&S) CONTROL PLAN** — A plan required by the Conservation District or the Township to minimize accelerated erosion and sedimentation, and that must be prepared and approved per the applicable requirements.

**EQUIVALENT LOT SIZE** — For attached dwellings in an age-qualified residential community, the area inclusive of all attached dwelling building footprints and adjacent limited common elements divided by the total number of attached dwellings. Any area not included in the calculation of equivalent lot size shall be designated as common open space subject to the requirements of § 399-102.6I herein.

**ESSENTIALLY DRY SPACE** — A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

EVAPOTRANSPIRATION (ET) — The combined processes of evaporation from the water or soil surface and transpiration of water by plants.

~~EVEN AGED STAND — A stand of trees composed of a single age class in which the range of ages is usually +/- 20% of the total stand rotation.~~

FAMILY — A family is:

- A. A single person occupying a dwelling unit; or
- B. Two or more individuals living together on a nontransient basis as a single housekeeping unit and doing their cooking on the premises, when said individuals are related by blood, marriage, or adoption, including foster children and including not more than two boarders, roomers, or lodgers; or
- C. A maximum of three children or adults requiring special care or supervision who are under the twenty-four-hour or full-time care of resident "parents" or persons acting in loco parentis (i.e., the occupants of a group home as defined in this chapter); or
- D. No more than three unrelated individuals living together as a single housekeeping unit and doing their cooking in one kitchen on the premises.

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

**FARM AND LANDSCAPING EQUIPMENT AND SUPPLIES** — Establishments selling, renting, or repairing agricultural and landscaping machinery, equipment, and supplies.

FCC — Federal Communications Commission.

FEED LOT — An outside confined area designated and used for feeding or holding of more than 25 head of livestock, not including general pasture areas.

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

FEMA — Federal Emergency Management Agency.

FENCE — Any freestanding and uninhabited structure consisting of wood, glass, metal, plastic, wire, wire mesh, or masonry, singly or in combination with other materials, 2 1/2 feet high or higher, erected to secure or divide one property from another or part of a property from a remaining part, to assure privacy, to protect the property so defined, or to enclose all or part of the property; a freestanding masonry wall is considered a fence.

FILL — Material, exclusive of structures, placed or deposited so as to form an embankment or raise the surface elevation of the land.

**FLEX-SPACE** — A multipurpose, nonresidential building under single ownership, generally containing office, light industrial/assembly, and/or shipping and distribution uses, constructed so that interior space is readily adaptable to the particular needs of the occupant.

FLOOD — A temporary condition of partial or complete inundation of land areas from the overflow of streams, rivers, and other waters of this commonwealth.

FLOODPLAIN — Any land area susceptible to inundation by water from any natural source or delineated by applicable FEMA maps and studies as being a special flood hazard area.

FLOODWAY — The channel of the watercourse and those portions of the adjoining floodplains that are reasonably required to carry and discharge the 100-year flood (also called the "base flood" or "one-percent-annual-chance flood"). Unless otherwise specified, the boundary of the floodway is as

indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the center line of the stream and to 50 feet beyond the top of the bank of the stream on both sides.

**FLOOR AREA** — The sum of the area of the several floors of a building or buildings measured from the face of the exterior walls or from center lines of walls separating two buildings. In particular, floor area includes, but is not limited to, the following:

- A. Basement space, if it meets the requirement of a building story.
- B. Elevator shafts, stairwells, and attic space (but only where a floor has been laid) providing structural headroom of eight feet or more.
- C. Roofed terraces, exterior balconies, breezeways, or porches, provided that over 50% of the perimeter of these is enclosed.
- D. Any other floor space used for dwelling purposes, no matter where located within the building.

**FOREST MANAGEMENT/TIMBER OPERATIONS** — Planning and activities necessary for the management of forest lands. These include timber inventory, preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation, and reforestation.

**FORESTED RIPARIAN CORRIDOR** — A riparian corridor that consists predominantly of native trees, shrubs, and/or herbaceous plants that provide a minimum of 60% uniform canopy coverage.

**FORESTRY** — The management of forests and woodlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development.

**FOURPLEX** — See "dwelling; dwelling unit."

**FREEBOARD** — A vertical distance between the design high-water elevation and the elevation of the top of a dam, levee, tank, basin, swale, or diversion berm. The space is required as a safety margin in a pond or basin.

**FUND** — The transportation improvement fund established by the Township in which impact fees are deposited.

**FUNERAL PARLOR** — A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the storage of caskets, funeral urns, and other related funeral supplies; (c) the storage of funeral vehicles; and (d) a crematorium.

**GARAGE, PRIVATE** — An accessory building or part of a principal building used for the storage of motor vehicles owned and used by the owner or tenant of the premises, and for the storage of not more than two motor vehicles owned and used by persons other than the owner or tenants of the premises.

**GARBAGE** — Solid waste resulting from animal, grain, fruit, or vegetable matter used or intended for use as food.

**GARDEN SHED** — An accessory structure no greater than 250 square feet for the storage of garden or lawn equipment, or used as a work shop.

**GASOLINE STATION, NONRETAIL/MEMBERSHIP-ONLY** — An unattended facility established

to dispense gasoline and related fuels for motor vehicles, accessible only to card- holding members or subscribers. Such a facility shall not include such accessory uses as vehicle repair or leasing or the sale of parts and accessories, groceries, or general merchandise.

**GEOTEXTILE** — A fabric manufactured from synthetic fiber that is used to achieve specific objectives, including infiltration, separation between different types of media (i.e., between soil and stone), or filtration.

**GOVERNING BODY** — The Board of Supervisors of East Brandywine Township.

**GRADE** — A slope, usually of a road, channel, or natural ground, specified in percent and shown on plans as specified in the chapters of this Code.

**GRADING** — To finish the surface of a roadbed, the top of an embankment, or the bottom of an excavation.

**GREEN TECHNOLOGY BEST MANAGEMENT PRACTICES** — Practices that combine biological and ecological concepts for the management of stormwater, and that are landscape- based and integrated into the natural environment and/or that incorporate natural site features. Such practices include, but are not limited to, filter strips or stormwater filtering systems (e.g., bioretention facilities, sand filters), open vegetated channels (dry or wet swales), riparian forested buffers, natural retention ponds, and rain gardens.

**GROSS AREA** — The total acreage of a lot or tract lying within existing property lines prior to subdivision.

**GROSS FLOOR AREA** — The total area of all floors within a building contained within walls which is available and suitable for commercial, industrial, or other nonresidential use. This term shall be exclusive of the floor area included in party and outside walls, overhangs, loading docks, elevator shafts, common hallways, and maintenance facilities.

**GROSS LEASABLE AREA** — The total floor area of any building or structure in which some or all spaces are leased.

**GROUND FLOOR AREA/BUILDING FOOTPRINT** — That portion of the floor area, as defined herein, of one or more buildings on a lot or tract that is contained in and limited to the area comprising the footprint of the building(s) on the land.

**GROUNDWATER** — Water that occurs in the subsurface and fills or saturates the porous openings, fractures, and fissures of underground soils and rock units.

**GROUNDWATER RECHARGE** — The replenishment of existing natural groundwater supplies from infiltration of rain or overland flow.

**GROUP HOME** — ~~A residential facility used as living quarters by a maximum of three unrelated persons, consisting of children or adults requiring special care, and their attending supervisors. A group home is specifically designed to create a single family residential setting. The individuals requiring special care must be deemed permanent residents and their supervisors must provide twenty-four hour or full-time equivalent coverage of the facility. A single-family detached dwelling occupied by persons with disabilities and their full-time support staff which may include personal care, social, occupational, counseling, and transportation services.~~

**GROWER/PROCESSOR, MEDICAL MARIJUANA** — A person, including a natural person, corporation, association, trust, or other entity, or any combination thereof, which holds a permit issued from the Pennsylvania Department of Health under Act 16 of 2016,<sup>5</sup> the Medical Marijuana Act, to grow and process medical marijuana. The term does not include a health care medical marijuana

organization under Chapter 19 of the Act.

**GUARANTEE, MAINTENANCE** — Any security which may be required of a developer by the Township after final acceptance by the Township of improvements installed by the developer. Such security may include, but is not limited to, federal or commonwealth lending institution irrevocable letter of credit or restrictive or escrow account.

**GUARANTEE, PERFORMANCE** — Any security which may be required of a developer by the Township in lieu of a requirement that certain improvements be made before the Township approves the developer's subdivision plan or land development plan. Such security may include, but is not limited to, those instruments cited above as acceptable for maintenance guarantees.

**GUEST/OVERFLOW PARKING** — Parking spaces that are accessory to a residential development, not located on individual lots or immediately adjacent to a dwelling unit, and designed to provide vehicle parking for residents' guests and/or special events held within the residential development.

**HAZARDOUS WASTE** — Garbage, refuse, or sludge from an industrial or other wastewater treatment plant; sludge from a water supply treatment plant or air pollution control facility; and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities; or a combination of the above; which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may do one of the following:

- A. Cause or significantly contribute to an increase in mortality or increase in morbidity in either an individual or the total population.
- B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**HEC-1** — The U.S. Army Corps of Engineers, Hydrologic Engineering Center (HEC) hydrologic runoff model.

**HEC-HMS** — The U.S. Army corps of Engineers, Hydrologic Engineering Center (HEC) - Hydrologic Modeling System (HMS).

**HEDGEROW** — A linear plant community dominated by trees and/or shrubs. Hedgerows often occur along roads, fence lines, property lines, or between fields, and may occur naturally or be specially planted (e.g., as a windbreak).

**HEIGHT OF BUILDING** — A building's vertical measurement from the mean level of the ground surrounding the building to the highest point of the roof, provided that chimneys, spires, towers, elevator and other unoccupied utility penthouses, tanks, and similar projections shall not be included in calculating the height.

**HEIGHT OF TOWER-BASED WCF** — The vertical distance measured from the ground level, including any base pad, to the highest point on a tower-based WCF, including antennae mounted on the tower and any other appurtenances.

~~**HELIPORT** — An area to accommodate all phases of operation of rotor wing aircraft (helicopters) with suitable space to allow development of service facilities as desired.~~

~~**HELISTOP** — An area on a roof or on the ground to accommodate touchdown and liftoff of rotorwing aircraft (helicopters) for the purpose of picking up and discharging passengers or cargo, with no service facilities.~~

**HIGH TUNNEL** — A structure which meets the following:

- A. Is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity as defined in § 2 of the act of December 19, 1974, (P.L. 973, No. 319) known as the Pennsylvania Farmland and Forest Land Assessment Act of 1974,<sup>6</sup> or for storage of agricultural equipment or supplies.
- B. Is constructed consistent with all the following:
  - (1) Has a metal, wood or plastic frame.
  - (2) When covered, has a plastic, woven textile, or other flexible covering.
  - (3) Has a floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.

**HISTORIC DISTRICT** — A geographically definable area, urban or rural, small or large, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development.

**HISTORIC RESOURCE** — Any building, site, structure, or object included within the East Brandywine Township Historic Resources Atlas. More particularly, a historic resource shall be:

- A. A certified historic resource, as defined by this chapter;
- B. A building, site, structure, or object located within a certified historic district, as defined by this chapter, that is designated as a contributing resource to that district;
- C. A building, site, structure, or object that has received a determination of eligibility (DOE), as defined by this chapter, or is located within a district that has received a determination of eligibility (DOE) and is designated as a contributing resource to that district;
- D. A resource that is deemed by the Chester County Historic Preservation Office to meet substantially the National Register criteria under the Chester County Certification Program;
- E. Any other site, structure, building or object included in the East Brandywine Township Historic Resources Atlas.

**HISTORIC RESOURCES ATLAS** — An official inventory, appropriately documented, of historic resources in East Brandywine Township, including but not limited to those classified as Class I and Class II historic resources.

**HISTORIC RESOURCES MAP** — A map adopted as part of Chapter 399 showing historic resources, and their respective classifications, as appropriate.

**HITCH** — A device which is part of the frame or attaches to the frame of a mobile home and connects it to a power source for the purpose of transporting the unit.

**HOME OCCUPATION, MAJOR** — A use that is customarily accessory to a principal residential use, but that does not meet the criteria for a no-impact home occupation and requires review and approval as a conditional use by the Board of Supervisors in accordance with the standards of Chapter 399.

**HOME OCCUPATION, NO-IMPACT** — A use that is customarily accessory to, and carried on within, a dwelling unit in accordance with the standards of Chapter 399; the principal practitioner shall be a resident of the dwelling. Such use shall be clearly secondary to the principal residential use, and shall meet the standards for a "no-impact home business" contained in the Pennsylvania Municipalities Planning Code.

**HOTEL** — A building or group of two or more buildings located on a lot ~~held in single and separate ownership, designed,~~ intended, and used principally for providing sleeping accommodations

to the transient public.

**HOTSPOTS** — Areas where prior or existing land use or activities can potentially generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater.

**HYDROLOGIC REGIME** — The hydrologic system, cycle, or balance that sustains the quality and quantity of stormwater, stream baseflow, storage, and groundwater supplies under natural conditions.

**HYDROLOGIC SOIL GROUP (HSG)** — A classification of soils by the Natural Resources Conservation Service (NRCS), into four runoff potential groups. The groups range from A soils, which are very permeable and produce little runoff, to D soils, which are not very permeable and produce much more runoff.

**IMPACTED RIPARIAN CORRIDOR** — A riparian corridor that, as a result of land use or land development activity, contains impervious cover or landscape use such that it no longer meets the definition of "forested riparian corridor."

**IMPERVIOUS SURFACE** — A surface that has been compacted or covered with a layer of material so that it prevents or significantly impedes the penetration of water to the underlying soil in the immediate area, does not allow groundwater recharge, and is incapable of supporting vegetation. Such surfaces shall include, but need not be limited to, structures such as roofs, buildings, storage sheds; other solid, paved or concrete areas such as streets, driveways, sidewalks, parking lots, patios, tennis or other paved courts; or athletic playfields comprised of synthetic turf materials. The water surface of swimming pools and decks over surfaces that do not impede the penetration of water shall not be considered impervious surfaces. Compacted soils or stone surfaces used for vehicle parking and movement shall be considered impervious. Uncompacted gravel areas with no vehicular traffic, such as gardens, walkways, or patio areas, shall be considered pervious per review by the Township Engineer. Surfaces designed to allow infiltration (e.g., pavers and areas of porous pavement) are not to be considered impervious surface if designed to function as a BMP per review by the Township Engineer. Additionally, for the purposes of determining compliance with Chapter 345, the total horizontal projection area of all ground-mounted and freestanding solar collectors, including solar photovoltaic cells, panels, and arrays, shall be considered pervious so long as the designs note that natural vegetative cover will be preserved and/or restored underneath the solar photovoltaic cells, panels, and arrays, and the area disturbed is planned as a vegetated pervious surface.

**IMPOUNDMENT AREA** — A use associated with and part of the principal use of a vehicle towing service, in which towed vehicles, whether operable or disabled, are stored on a temporary basis until claimed or otherwise disposed of. No dismantling, repair, or similar processes involving vehicles shall take place in such area.

**IMPROVEMENTS** — Buildings for public or quasipublic use, streets, curbs, gutters, streetlights and signs, water mains, hydrants, sanitary sewer mains including laterals to the street right-of-way line, storm drainage lines, stormwater management structures, walkways, recreational facilities, trails, open space improvements, shade trees, buffer or screen plantings, and all other additions to the tract that are required by ordinance or necessary to result in a complete subdivision or land development in the fullest sense of the term.

**IMPROVEMENTS, PUBLIC** — Improvements, including but not limited to those contained in the definition of "improvements," that are intended for dedication to the Township, either in fee or by easement.

**INDUSTRIAL USE** — A nonresidential ~~principal~~-use of a property for purposes of manufacturing, product assembly, research and development, warehousing, wholesale distribution, vehicle towing and impoundment, truck parking/storage, printing, and uses deemed by the Township to be of a

~~similar~~ the same general character.

**INFILL DEVELOPMENT** — New development, adaptive reuse of buildings, redevelopment, and the like.

**INFILTRATION** — Movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere, or percolated downward to recharge groundwater.

**INFILTRATION FACILITY** — A stormwater BMP designed to collect and discharge runoff into the subsurface in a manner that allows infiltration into underlying soils and groundwater (e.g., French drains, seepage pits, or seepage trenches, etc.).

**INN** — A commercial facility for the housing and feeding of transients, located either in an existing structure or in a newly constructed building compatible in its facade and appearance with the adjacent buildings and the existing character of the area.

**INSPECTOR** — The Zoning Officer of East Brandywine Township or his authorized representative.

**INSTITUTION** — A residential property used by four or more unrelated occupants for a common, lawful purpose (e.g., educational, recreational, religious, therapeutic, rehabilitative, correctional), including, where necessary to serve such purpose, twenty-four-hour ~~or full-time equivalent~~ **professional** supervision.

**INTERMITTENT STREAM** — A defined channel in which surface water is absent during a portion of the year, in response to seasonal variations in precipitation or groundwater discharge.

**INVASIVE SPECIES** — Any plant species, native or exotic, that disrupts the natural diversity of an ecosystem by aggressively outcompeting native species. Such species shall include, but not be limited to, those regulated under the Pennsylvania Noxious Vegetation Act.

**INVERT** — The lowest surface, the floor or bottom of a culvert, pipe, drain, sewer, channel, basin, BMP, or orifice.

**JUNK** — Any discarded or unusable material or article, including metal, building materials, house furnishings, machinery, or vehicles or parts thereof, but excluding garbage or other organic waste or hazardous waste.

**JUNKYARD** — An area of land, with or without buildings, which is used for the outdoor storage (i.e., outside a completely enclosed building) of junk, as that term is defined by this chapter, with or without the dismantling, processing, salvage, sale, or other use or disposition of same.

**KARST** — A type of topography that is formed over limestone or other carbonate rock formations by dissolving or solution of the rock by water, and that is characterized by closed depressions, sinkholes, caves, a subsurface network of solution conduits and fissures through which groundwater moves, and no perennial surface drainage features.

**KENNEL** — A place for the keeping, breeding, and/or boarding of more than four dogs for commercial purposes.

**LABORATORY** — A building or group of buildings in which are located the facilities for scientific research, investigation, testing, and experimentation, but not including the manufacture of products for sale, except as an accessory use.

**LAKE (also POND)** — A natural body of water, containing a permanent pool of water a minimum of six feet in depth, with side slopes no less steep than 10:1. A lake or pond may be utilized for stormwater management purposes.

**LAND DEVELOPMENT** — Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
  - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots, regardless of the number of occupants or tenure; 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. Those activities described in § 503(1.1) of the Municipalities Planning Code shall not be considered land developments.

LAND DISTURBANCE — Any activity that exposes soils, alters topography, and/or alters vegetation.

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

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 they are authorized under the lease to exercise the rights of the landowner, or other persons with a proprietary interest in the land.

LANE, ACCELERATION OR DECELERATION — A lane of a cartway intended for use by vehicles entering, leaving, or crossing a lane of forward travel without interrupting the flow of traffic.

LIBRARY — A public, nonprofit facility in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

LICENSED PROFESSIONAL — A Pennsylvania-registered professional engineer, registered landscape architect, registered professional land surveyor, registered professional geologist, registered professional forester, or any person licensed by the Pennsylvania Department of State or qualified by law to perform the work required by the Code of East Brandywine Township within the Commonwealth of Pennsylvania.

LIMITED COMMON ELEMENT — An area of the common elements serving fewer than all of the units and assigned for the exclusive use of the units served.

LIMITING ZONE — A soil horizon or condition in the soil profile or underlying strata that includes one of the following:

- A. A seasonal high water table, whether perched or regional, determined by direct observation of the water table or indicated by other subsurface or soil conditions.
- B. A rock with open joints, fracture or solution channels, or masses of loose rock fragments, including gravel, with insufficient fine soil to fill the voids between the fragments.
- C. A rock formation, other stratum, or soil condition that is so slowly permeable that it effectively limits downward passage of water.

LITTER — Discarded items not naturally occurring on a logging site, such as tires, oil cans, equipment

parts, and other rubbish.

LIVESTOCK — The horses, cattle, sheep, and other useful animals kept, bred, or raised for use or profit on an agricultural property or on any property meeting the provisions of Chapter 399.

LOCAL AGENCY — The Township (or any combination of municipalities acting cooperatively or jointly under the laws of the commonwealth), County, County Department of Health, or joint County Department of Health.

~~LOGGING — A forestry activity involving the cutting down and removal of trees and logs to be converted to any forest product or for sale to others. Logging shall not include the cutting and removal of trees as part of a Christmas tree farm operation or when part of site preparation in association with an approved subdivision or land development plan.~~

~~LOP — In relation to forest management, the cutting of tops and slash into smaller pieces to allow the material to settle close to the ground.~~

LOT — A parcel of land, undivided by any street or dedicated future street right-of-way. Such parcel shall be separately described by metes and bounds, the description of which is recorded in the office of the Recorder of Deeds of Chester County by deed description or is described by an approved subdivision plan recorded in the office of the Recorder of Deeds of Chester County.

LOT, CORNER — A lot at the junction of and abutting two or more intersecting streets, where the interior angle of intersection does not exceed 135°. A lot abutting a curved street shall be deemed a corner lot if the tangents to the curve at the points of intersection of the lot lines with the street intersect at an interior angle of less than 135°. Each yard abutting a street shall be considered a front yard. Any lot line intersecting a front lot line shall be considered a side lot line; any remaining lot line shall be considered a rear lot line.

LOT, INTERIOR (LOT, FLAG) — A lot which is connected to a street by an access strip of required minimum width, which is included within the lot lines of the interior lot; or by an easement that assures access to the street, across an adjacent access strip. Minimum lot area and other dimensional requirements shall be calculated and measured on that portion of the lot exclusive of the access strip or easement area.

LOT, REVERSE FRONTAGE — A lot extending between and having frontage on an arterial or collector street and a local street, with vehicular access solely from the local street.

LOT AREA, GROSS (also LOT AREA) — The area of land contained within the property lines of a lot as defined in the deed or as shown on an approved subdivision plan. Any portion of a lot included in an existing or proposed street right-of-way shall not be included in calculating gross lot area.

LOT AREA, NET —

- A. The gross area of the lot, but excluding all of the following conditions or features:
  - (1) Any area within an easement established for gas, oil, natural gas, electric, or communications transmission facilities, whether below or above ground, that do not exclusively serve the lot traversed;
  - (2) Any area within an easement or right-of-way established for a driveway that does not serve the lot traversed;
  - (3) Any area within an easement established for water or wastewater facilities that do not serve the lot;

- (4) Any area comprising a stormwater management basin, a lake, or a pond, but not including on-lot berms;
- (5) Any area overlaid by the Steep Slope Conservation District, as established in Chapter 399;
- (6) Any area overlaid by the Floodplain District, as established in Chapter 399;
- (7) Any area designated as wetland, except where such area already is excluded under Subsection A(6), above;
- (8) Any area of water hazard soil, except where such area already is excluded under Subsections A(6) and/or (7), above;
- (9) Any portion of the first 50 feet of any area overlaid by the Riparian Corridor Conservation District, as established in Chapter 399, except where such area already is excluded under Subsection A(6), (7), and/or (8), above.

B. In addition, the net lot area shall be contiguous and shall not be divided completely by any of the above-cited features, with the exception of easements described in Subsection A(1) that are for underground facilities.

**LOT LINE** — A property boundary line of any lot held in single and separate ownership, except that, in the case of any lot abutting a street, the lot line for such portion of the lot as abuts such street shall be deemed to be the same as the street line, and shall not be the center line of the street, or any other line within the street line even though such may be the property boundary line.

**LOT LINE, FRONT** — The lot line abutting any street and coinciding with any street line. In the case of a corner lot, each of the two (or more) street-abutting lot lines shall be considered a front lot line. In the case of an interior lot, the front lot line shall be the line most parallel and closest to the street line at the end of the access strip; all other lines shall be side or rear lot lines.

**LOT LINE, REAR** — A lot line opposite and most distant from the front lot line; if the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line. In the case of a corner lot, any lot line that is neither a front lot line nor a side lot line.

**LOT LINE, SIDE** — Any lot line not a front or rear lot line; in the case of a corner lot, any lot line that intersects a front lot line shall be considered a side lot line.

**LOT WIDTH** — The distance in feet between the side lot lines, measured along a line parallel to the street line at the building setback line.

**LOW-IMPACT DEVELOPMENT (LID)** — Site design approaches and small-scale stormwater management practices that promote the use of natural systems for infiltration, evapotranspiration, and reuse of rainwater. LID can be applied to new development, urban retrofits, and revitalization projects. LID utilizes design techniques that infiltrate, filter, provide evapotranspiration and store runoff close to its source. Rather than rely on costly large-scale conveyance and treatment systems, LID addresses stormwater through a variety of small, cost-effective landscape features located on site.

**MAILED NOTICE** — Notice given by a municipality by first class mail of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

**MAINTENANCE** — The action taken to restore or preserve the as-built functional design of any stormwater management facility or system.

**MANAGED RELEASE CONCEPT (MRC)** — A post-construction stormwater management (PCSM) strategy that comprises the collection, management, and filtration of captured runoff from the contributing drainage area through a best management practice (BMP) that is preferably vegetated and includes release of a portion of the captured runoff through an underdrain within the BMP. If the MRC BMP is not vegetated, then pretreatment is required to meet water quality requirements. MRC is intended to be used for project areas or subareas where infiltration is considered infeasible to meet regulatory requirements. Refer to the "Managed Release Concept" Version 1.2 (August 25, 2020) guidance document or latest guidance from PA DEP.

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

**MEADOW** — An area of natural or planted vegetation dominated by grasses and grass-like plants.

**MEDICAL MARIJUANA** — Marijuana for certified medical use as legally permitted by the Commonwealth of Pennsylvania pursuant to Act 16 of 2016.

~~**MFEMP** — Mushroom farm environmental management plan.~~

**MINIMIZE** — To reduce to the smallest amount possible. "Minimize" shall not mean complete elimination but shall require that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect of the action required to be minimized. With respect to activities, the conduct of which is adverse to the conservation of the natural features of land, the requirement to minimize shall include but not be limited to the requirement that the placement of dwellings and other structures and the location of roads, sedimentation and erosion control devices, and earthmoving activities shall be planned and designed so as to permit the adverse effect of the activity in question to be reduced to the smallest amount possible under the circumstances consistent with the otherwise permitted development.

**MINISTORAGE FACILITY** — A structure or group of structures for the dead storage of customer's goods, where individual stalls or lockers are rented out to different tenants for storage.

**MINOR REPAIR** — The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition, or portion thereof, the removal or cutting of any structural beam or bearing support, the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit way requirements; nor shall minor repairs include addition to, alteration of, or replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring, or mechanical or other work affecting public health or general safety.

**MOBILE HOME OR MANUFACTURED HOME** — A transportable, single-family dwelling, intended for permanent occupancy contained in one unit, or in two or more units designed to be joined into one integral unit 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, including any addition or accessory structure, such as porches, sheds, decks, or additional rooms. All mobile homes or manufactured homes shall meet construction standards set by the United States Department of Housing and Urban Development. For floodplain management purposes, the term "mobile home" includes "manufactured home," and also includes "park trailer," "travel trailer," "recreational vehicle," and other similar vehicles placed on a site for greater than 180 consecutive days.

**MOBILE HOME OR MANUFACTURED HOME FOUNDATION** — Frost-free piers, consistent

with applicable requirements of the Township Building Code or any successor ordinance or code, on which a mobile home or manufactured homes shall be placed and secured.

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

**MOBILE HOME OR MANUFACTURED HOME PARK** — A parcel of land under single ownership which has been planned and improved for the placement of mobile homes or manufactured homes for nontransient use, consisting of two or more mobile homes ~~home lots~~.

MOBILE HOME OR MANUFACTURED HOME PARK PERMIT — A written permit issued by the Zoning Officer and subject to annual renewal, permitting a mobile home or manufactured homes park to operate under the terms of Chapter 325 and other pertinent ordinances and regulations.

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

MONUMENT — A tapered, permanent survey reference point of stone or concrete having a four-inch square top and a five-inch square bottom and a length of 30 inches set flush with the surrounding ground surface.

**MOTEL** — A building or group of buildings, containing individual rooms or accommodations, each of which is provided with a separate exterior entrance, a parking space, and is offered principally for temporary occupancy by motor vehicle travelers.

**MOTOR VEHICLE SERVICES** — Any building or structure in which a business, service, or industry involving the maintenance, repair, servicing, or painting of vehicles is conducted. Motor Vehicle Services shall explicitly not include the following uses defined elsewhere in this chapter: Car Wash; Vehicle Sales; Gasoline Station, Nonretail/Membership-Only; Convenience Store; and Vehicle Towing Service.

MPC — The Pennsylvania Municipalities Planning Code, Act 247 (Act of July 31, 1968, P.L. 805, No. 247), 53 P.S. § 10101 et seq., as amended.

MS4 — Municipal separate storm sewer system.

MUNICIPAL AUTHORITY — The East Brandywine Township Municipal Authority. MUNICIPAL

ENGINEER — See "Township Engineer."

MUNICIPALITY — East Brandywine Township.

**MUSEUM** — An institution that collects, preserves, interprets, and displays items of artistic, cultural, historical, or scientific significance not normally for sale.

NATIONAL REGISTER CRITERIA — Standards promulgated by the Secretary of the Interior against which historic resources nominated to the National Register are evaluated.

NATIONAL REGISTER OF HISTORIC PLACES — A list maintained by the Secretary of the Interior, composed of buildings, sites, structures, objects, and districts of national, state, or local significance in American history, architecture, archaeology, engineering, and culture.

NEW DEVELOPMENT — Any regulated activity involving placement or construction of new impervious surface or grading over existing pervious land areas not classified as redevelopment as defined in this chapter.

NOAA — National Oceanic and Atmospheric Administration.

**NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF)** — All non-tower wireless communications facilities, including, but not limited to, antennae and related equipment. Non-tower WCF shall not include support structures for antennae or any related equipment that is mounted to the ground or at ground-level.

**NONCONFORMING** — A building or other structure, use, or lot which, by reason of design, size, or use, does not conform with the requirements of the district, or districts, in which it is located, or with other applicable provisions of Chapter 399.

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

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

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

**NONPOINT SOURCE POLLUTION** — Pollution that enters a water body from diffuse origins in the watershed and does not result from discernible, confined, or discrete conveyances.

**NONSTORMWATER DISCHARGES** — Water flowing in stormwater collection facilities, such as pipes or swales, which is not the result of a rainfall event or snowmelt.

**NOXIOUS VEGETATION** — Plant material that is undesirable or offensive due to unsightliness, threats to health, or prolific and uncontrollable growth. Noxious vegetation shall include, but not be limited to, ragweed, multiflora rose, Canada thistle, Japanese honeysuckle, and oriental bittersweet.

**NPDES** — National Pollutant Discharge Elimination System, the federal government's system for issuance of permits under the Clean Water Act, which is delegated to PADEP in Pennsylvania.

**NRCS** — Natural Resource Conservation Service (previously Soil Conservation Service, SCS), an agency of the U.S. Department of Agriculture.

**O&M (AGREEMENT OR PLAN)** — Operation and maintenance.

**OBJECT** — A thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

**OBSTRUCTION** — Any wall, dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or flood-prone area, which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water, or which is placed where the flow of the water might carry the same downstream to the damage of life and property.

**OCCUPANCY PERMIT** — Any permit required for occupancy of structures pursuant to the current edition of the East Brandywine Township Building Code and/or Chapter 399, Zoning, of the Land Use Code of the Township of East Brandywine, as amended.

**OFFICE USE** — ~~A nonresidential principal use of a property in which employees conduct business and/or provide services of a professional, management, institutional, or financial nature, and a structure used primarily for business service, professional and personal services, financial services, outpatient medical services, government functions or for administrative, managerial or clerical functions~~ including activities deemed by the Township to be of ~~a similar~~ the same general character.

**OFFICIAL MAP** — A map adopted by ordinance pursuant to Article IV of the MPC.

**OFFICIAL PLAN** — A comprehensive plan for the provision of adequate sewage systems, adopted by a municipality or municipalities possessing authority or jurisdiction over the provision of the systems and submitted to and approved by the PA Department of Environmental Protection as provided by Act 537, the Pennsylvania Sewage Facilities Act,<sup>8</sup> and Chapter 339.

**OFFICIAL PLAN REVISION** — A change in the municipality's official plan to provide for additional, newly identified future or existing sewage facilities needs, which may include one or more of the following:

- A. **UPDATE REVISION** — A comprehensive revision to an existing official plan required when the Department or municipality determines the official plan or one or more of its parts is inadequate for the existing or future sewage facilities needs of a municipality or its residents or landowners.
- B. **REVISION FOR NEW LAND DEVELOPMENT** — A revision to a municipality's official plan resulting from a proposed subdivision as defined in the Act.
- C. **SPECIAL STUDY** — A study, survey, investigation, inquiry, research report, or analysis which is directly related to an update revision. The studies provide documentation or other support necessary to solve specific problems identified in the update revision.
- D. **SUPPLEMENT** — A sewage facilities planning module for a subdivision for new land development which will not be served by sewage facilities requiring a new or modified permit from the Department under the Clean Streams Law<sup>10</sup> and which is reviewed and approved by a delegated agency.
- E. **EXCEPTION TO THE REQUIREMENT TO REVISE** — A process established in § 71.55<sup>11</sup> (relating to exceptions to the requirement to revise the official plan for new land development) which describes the criteria under which a revision for new land development is not required.

**OLD FIELD** — An area of abandoned farm or lawn that is starting to grow as a meadow; when managed, the first stage of succession toward becoming a forest.

**ONE-HUNDRED-YEAR FLOOD** — See "flood, one-hundred year."

**OPEN SPACE, COMMON** — Area or areas of land and/or water, substantially free of structures and paved areas, permanently restricted for common enjoyment by residents of a development and possibly the general public, but not including individually owned private yards.

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

**PADEP** — Pennsylvania Department of Environmental Protection.

**PARENT TRACT** — The parcel of land from which a land development or subdivision originates, determined from the date of Township adoption of Chapter 345.

**PARKING SPACE** — An area designed and designated for parking a motor vehicle, located within a

street right-of-way and/or on a lot or tract.

PASTURE — An area devoted to the production of forage, introduced or native, and harvested by grazing.

PEAK DISCHARGE — The maximum rate of stormwater runoff from a specific storm event.

PENNDOT — Pennsylvania Department of Transportation.

PENNSYLVANIA STORMWATER BEST MANAGEMENT PRACTICES MANUAL (PA BMP MANUAL) — Document Number 363-0300-002 (December 2006, and as subsequently amended).

PERVIOUS SURFACE or PERVIOUS AREA — Any area not defined as impervious surface

PLACE OF RELIGIOUS WORSHIP — A structure used primarily to hold religious services, meetings, and other religious related activities. The term shall include any building other than a principal residence in which the religious services of any denomination or faith are held.

PLAN, SUBDIVISION OR LAND DEVELOPMENT —

- A. AS-BUILT — A corrected final plan, showing dimensions and locations of all streets and other improvements as actually constructed.
- B. CONSERVATION — A plan to accompany preliminary and final plan submissions, including a natural resources inventory and impact assessment.
- C. FINAL — An exact and complete site design and layout plan and improvements construction plan prepared by a registered engineer, to be recorded upon approval.
- D. IMPROVEMENTS CONSTRUCTION — A component of the preliminary and final plan, prepared by a registered engineer, showing the construction details of streets, drains, sewers, water supply systems, bridges, culverts, and other improvements as required, including a horizontal plan, profiles, and cross-sections.
- E. PRELIMINARY — A site design and layout plan and improvements construction plan prepared by a registered engineer, in less detail than a final plan and prepared for consideration prior to submission of a final plan.
- F. RECORDED — A final plan, with accompanying documents as required by Chapter 350, which has been recorded by the applicant in the office of the Recorder of Deeds of Chester County.
- G. SITE DESIGN AND LAYOUT — A component of the preliminary and final plan, prepared by a registered engineer, showing property lines, existing and proposed streets, lots, buildings, public areas, drainage facilities, easements, and other details pertinent to the proposal.
- H. SKETCH — A plan submitted, at the applicant's option, for review and discussion prior to application for preliminary plan approval, including whatever information the applicant deems useful, e.g., a graphic plan, not necessarily to scale, showing approximate tract boundaries and a general layout of lots, buildings, and streets. Chapter 350, § 350-23 contains suggested content of a sketch plan.

**PLANNED VILLAGE COMMERCIAL CENTER** — As defined in §399-159(C)(1).

PLANNING COMMISSION — The Planning Commission of East Brandywine Township.

POINT SOURCE — Any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, or conduit from which stormwater is or may be discharged, as defined at 25 Pa. Code § 92.1.

POST-CONSTRUCTION — The period after construction during which disturbed areas are stabilized, stormwater controls are in place and functioning, and all proposed improvements approved by the Township are completed.

~~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 because any trees cut are of poor quality or are too small or otherwise of limited marketability or value.~~

PREDEVELOPMENT — Ground cover conditions assumed to exist within the proposed disturbed area prior to commencement of the regulated activity for the purpose of calculating the predevelopment water quality volume, infiltration volume, and peak flow rates as required in Chapter 345.

PRETREATMENT — Techniques employed in stormwater BMPs to provide storage or filtering, or other methods to trap or remove coarse materials and other pollutants before they enter the stormwater system, but may not necessarily be designed to meet the entire water quality volume requirements of Chapter 345.

PRINCIPAL USE — The primary or predominant use of a lot or parcel. A lot or parcel may have only one principal use which may be by right, conditional use, or special exception.

PRINCIPALLY ABOVE GROUND — Where at least 51% of the actual cash value of a structure, less land value, is above ground.

~~PROFESSIONAL FORESTER — Is a forester meeting one of the following requirements:~~

- ~~A. — Two years of technical forestry experience and an associate's degree in forest technology, forestry, forest management, forest ecosystem management, urban forestry, forest science, agroforestry, or a related forestry or natural sciences degree; or~~
- ~~B. — A bachelor's degree in forest technology, forestry, forest management, forest ecosystem management, urban forestry, forest science, agroforestry, or a related forestry or natural sciences degree; or~~
- ~~C. — A master's degree in forest technology, forestry, forest management, forest ecosystem management, urban forestry, forest science, agroforestry, or a related forestry or natural sciences degree.~~

PROPOSED IMPERVIOUS SURFACE — All new, additional, and replacement impervious surfaces.

PUBLIC HEARING — A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with the MPC.

PUBLIC MEETING — A forum held pursuant to notice under 65 Pa.C.S.A. Ch. 7 (relating to open meetings).

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

prior to the date of the hearing or meeting.

**PUBLIC STREET OR WAY** — In relation to certified historic districts, any land dedicated to public use or passage, including but not limited to streets, alleys, parks, and pedestrian rights-of-way, whether constructed, dedicated, or proposed.

**QUADRAPLEX** — See "dwelling; dwelling unit."

**RAINFALL INTENSITY** — The depth of accumulated rainfall per unit of time.

**RECHARGE** — The replenishment of groundwater through the infiltration of rainfall, other surface waters, or land application of water or treated wastewater.

**RECREATION, ACTIVE** — Those recreational pursuits which require physical alteration to and maintenance of the area in which they are performed. Such areas include, but are not limited to, playgrounds, play fields, ball courts, and swimming pools.

**RECREATION FACILITY** — A commercial facility which is designed and equipped for the conduct of sports, physical fitness, or other similar leisure time activities as a business and open to the public for a fee. Activities shall not include motorized vehicle or motor cycle tracks, horse or dog racing tracks, or other similar uses of outdoor recreation.

**RECREATION, PASSIVE** — Recreational pursuits which can be carried out with little alteration or disruption in the area in which they are performed. Such uses include, but are not limited to, walking, hiking, biking, and picnicking.

**RECREATIONAL VEHICLE** — A vehicle which is:

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

**RECYCLING DROPOFF/COLLECTION CENTER** — A facility established and/or operated by East Brandywine Township, Chester County, or a nonprofit ~~or citizens'~~ organization for the collection and/or processing of recyclable materials such as glass, paper, aluminum, or plastic; such facility may accept recyclables by donation, redemption, or purchase, and may separate or process such materials for reuse or for sale as raw material for use in the manufacture of a new product.

**REDEVELOPMENT** — For purposes of Chapter 345, any regulated activity that involves demolition, removal, reconstruction, or replacement of existing impervious surface(s).

**REDEVELOPMENT** — For purposes of Chapter 399, the reuse, alteration, enlargement, or extension of an existing building by one-third (33 1/3%) or more of the gross floor area of the building.

~~**REFORESTATION** — The restocking of an area with forest trees, including natural regeneration as well as tree planting.~~

**REGISTERED HISTORIC DISTRICT** — An historic district listed in the National Register, or a state or local district whose stature has been certified by the Secretary of the Interior as meeting substantially all the requirements for National Register listing.

**REGULATED ACTIVITY** — Any earth disturbance activity or any other activity that involves the alteration or development of land in a manner that may affect stormwater runoff.

REGULATED EARTH DISTURBANCE ACTIVITY — Any activity involving earth disturbance subject to regulation under 25 Pa. Code, Ch. 92.a or Ch. 102, or the Clean Streams Law, 35 P.S. § 691.1 et seq.

REGULATED IMPERVIOUS SURFACE — Proposed impervious surface as part of a current proposed activity and all existing impervious surfaces installed after January 2, 2014, as part of previous activity.

REGULATORY FLOOD ELEVATION — The one-hundred-year flood elevation plus a freeboard safety factor of 1 1/2 feet.

REHABILITATION — The process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historical, architectural, and cultural values.

RELATED EQUIPMENT — Any piece of equipment related to, incidental to, or necessary for, the operation of a tower-based WCF or non-tower WCF. By way of illustration, not limitation, "related equipment" includes generators and base stations.

**RELIGIOUS USE** — A ~~nonprofit~~ use of land or a building as a place of worship, convent, monastery, or similar religious institution, including rectory and parish house.

REPETITIVE LOSS — Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure.

**RESTAURANT** — An ~~eating~~ establishment which provides for the sale and consumption of food and beverages and which contains inside or outside seating facilities.

**RESTAURANT, FAST-FOOD** — An ~~eating~~ establishment where customers place their orders at an inside window, or service area, and where food is either served for consumption at eating areas ~~within the inside or outside the~~ building or is taken out for consumption away from the premises.

**RESTAURANT, FAST-FOOD WITH DRIVE-THROUGH SERVICE** — An ~~eating~~ establishment which provides service to customers who remain seated in automobiles, and said service is provided either through an exterior window, or service area, or directly to parked automobiles.

**RETAIL-USE** — The sale, rental, or provision of goods, merchandise, wares, food products, or services directly to consumers. Retail may include limited on-site production, preparation, or repair of goods customarily incidental to a retail activity.

A. Retail Stores. Establishments engaged in the sale, auction, or rental of goods, wares, merchandise, clothing, electronics, household items, books, or other tangible products directly to consumers. Catalog and online order sales facilities where goods are displayed, ordered, stored, shipped to, or picked up by the consumer shall be considered a retail store. Service, maintenance, or minor repair of goods sold on-site shall be permitted where such activities are accessory and incidental to the principal retail operation.

B. Food Preparation. Establishments engaged in the preparation and retail sale of food; items, provided that products are intended primarily for retail sale to the general public and not consumed on site.

C. Craftsmen, Artisans, and Blacksmiths. Establishments engaged in the creation, forging, fabrication, or repair of goods such as furniture, metalwork, jewelry, lithography, or decorative objects, provided such goods are offered for retail sale on the premises.

D. Personal Services. Establishments primarily engaged in providing services directly to individuals, rather than the sale of physical goods. Examples include: barbershops and hair styling salons; nail salons; spas; shoe repair; copy shops; laundry services; or similar service-oriented businesses.

E. Exclusions. Explicitly not included as Retail are those uses described elsewhere in this chapter: Industrial Use; Motor Vehicle Services; Bank; Automobile Service Station; Vehicle Sales; Studio; Convenience Store; Retail Sale of Consumer Fireworks; Car Wash; Dispensary, Medical Marijuana; Farm and Landscaping Equipment and Supplies or any Restaurant.

~~A use in which merchandise is sold or rented to the general public, but specifically not including the following: manufacturing; car wash; auto/truck fuel sales; auto/ truck/boat or other motor vehicle sales, service, or repair; convenience store; or any restaurant. Inside storage of materials and/or equipment associated with installation or servicing of retail items is included within this use, e.g., plumbing or electrical service.~~

**RETAIL SALE OF CONSUMER FIREWORKS** — As licensed and regulated by the Pennsylvania Department of Agriculture and in compliance with Act 43, the Pennsylvania State Fireworks Law. Any person who intends to sell or store consumer fireworks within the Township shall provide proof of such licensure prior to such use being conducted within the Township, in addition to compliance with all other applicable Township ordinances and regulations.

**RETENTION BASIN** — An impoundment that is designed to temporarily detain a certain amount of stormwater from a catchment area and which may be designed to permanently retain stormwater runoff from the catchment area; retention basins always contain water.

**RETENTION or TO RETAIN** — The prevention of direct discharge of stormwater runoff into surface waters or water bodies during or after a storm event by permanent containment in a pond or depression; examples include systems which discharge by percolation to groundwater, exfiltration, and/or evaporation processes and which generally have residence times of less than three days.

**RETENTION VOLUME/REMOVED RUNOFF** — The volume of runoff that is captured and not released directly into the surface waters of the commonwealth during or after a storm event.

**RETURN PERIOD** — The average interval, in years, within which a storm event of a given magnitude can be expected to occur one time. For example, the twenty-five-year return period rainfall would be expected to occur on average once every 25 years; or, stated in another way, the probability of a twenty-five-year storm occurring in any one year is 0.04 (i.e., a four-percent chance).

**RIGHT-OF-WAY** — The total width of any land reserved or dedicated as a street, alley, sidewalk, or crosswalk, or for any other public or private purpose.

**RIPARIAN** — Pertaining to anything connected with or immediately adjacent to the banks of a stream or other body of water.

**RIPARIAN BUFFER** — An area of land adjacent to a body of water and managed to maintain vegetation to protect the integrity of stream channels and shorelines, to reduce the impact of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and to supply food, cover, and thermal protection to fish and other aquatic species and wildlife.

**RIPARIAN CORRIDOR** — Areas surrounding surface water bodies, including rivers, creeks, lakes, and intermittent watercourses, wetlands, and water hazard soils that intercept surface water runoff, wastewater, subsurface flow, and/or deep groundwater flows from upland sources and function to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters. These areas may also provide wildlife habitat, control

water temperature, attenuate flood flow, and provide opportunities for passive recreation. These corridor areas may or may not contain trees and other native vegetation.

**RUNNING-AT-LARGE** — Any instance in which an animal is running about loose on a street, or upon the property of a person other than the owner of such animal, unleashed and unaccompanied by the owner or custodian or any member of the owner's family or by any servant or agent of the owner of such animal.

**RUNOFF** — Any part of precipitation that flows over the land surface.

**SCENIC VISTA** — A viewshed that is considered valuable or worth preserving for aesthetic reasons, commonly delineated by visual accents such as, but not limited to, treelines or ridges, geologic features, historic structures, stone walls, and watercourses.

**SCHOOL** — A building or property dedicated to an~~An~~ educational use, properly certified by the Pennsylvania Department of Education, including college; public, private, or parochial elementary or secondary school; or similar educational facility for academic instruction, but excluding private vocational or similar adult trade school or training center; therapeutic, rehabilitative, or correctional institution; day-care facility or preschool; or any residential facility or use.

**SCREEN** — See "buffer."

**SCS** — Soil Conservation Service, now known as the Natural Resources Conservation Service.

**SEDIMENT** — Soil or other materials transported by, suspended in, or deposited by surface water as a product of erosion.

**SELECTIVE CUTTING** — The felling of certain, but not all, trees in an area for the purposes of:

- A. Removing dead, diseased, damaged, mature, or marketable timber;
- B. Improving the quality of a tree stand or species; or
- C. Meeting personal domestic needs.

**SEPARATE STORM SEWER SYSTEM** — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) primarily used for collecting and conveying stormwater runoff.

**SETBACK LINE** — See "building setback line."

**SEWAGE ENFORCEMENT OFFICER** — An official of the local agency who reviews permit applications and sewage facilities planning modules, issues permits as authorized by the Act, and conducts investigations and inspections that are necessary to implement the Act and the regulations thereunder. The Chester County Health Department serves as the SEO for East Brandywine Township.

**SEWAGE FACILITIES** —

- A. **INDIVIDUAL SYSTEM** — The disposal of sewage by use of septic tanks, or other safe and healthful means, approved by the Chester County Health Department, and generally within the confines of the lot on which the use is located.
- B. **COMMUNITY SYSTEM** — A sanitary sewage system, privately built and operated, in which sewage is carried from individual dischargers by a system of pipes to one or more common treatment and disposal facilities. Treatment and disposal may occur either on-site or off-site, and shall be approved by the Pennsylvania Department of Environmental Protection.

- C. PUBLIC SYSTEM — A sanitary sewage system for treatment of sewage and disposal of treated sewage effluent, whereby raw sewage is conveyed by trunk lines to a treatment facility owned by or to be dedicated to the Township, a municipal authority, or a public utility, and the treated effluent is disposed of by discharge into surface waters or in underground trenches or by drip irrigation or spray irrigation on lands provided by the user of the public system and conveyed in fee or by easement to the Township, authority, or utility and perpetually restricted to use for disposal of treated sewage effluent.

SHADE TREE — A tree in a public place, street, special easement, or right-of-way adjoining a street, as provided in Chapter 350.

SHADOW ANALYSIS — A graphic representation of shadows cast by mature landscaping, screening, and structures, plotted with regard to topography, slope, and direction at 9:00 a.m., noon and 3:00 p.m. on the date of winter solstice.

SHEET FLOW — A flow process associated with broad, shallow water movement on sloping ground surfaces that is not channelized or concentrated.

SHRUB — A woody perennial plant differing from a tree by its low stature and by producing several basal shoots.

SIDEWALK — That area, whether paved or not, adjacent to the cartway of a street, which is or has been set aside, either by dedication or usage, for pedestrian passage.

SIGHT DISTANCE —

- A. DECISION SIGHT DISTANCE — The maximum unobstructed distance a driver may see to the right and/or to the left at the approach to an intersection in order to have sufficient time to react and merge with traffic.
- B. PASSING SIGHT DISTANCE — The minimum sight distance that shall be available to enable the driver of one vehicle to pass another vehicle safely and comfortably, without interfering with the speed of an oncoming vehicle traveling at the design speed, should it come into view after the overtaking maneuver is started.
- C. STOPPING SIGHT DISTANCE — The minimum length required for a vehicle traveling at a given speed to stop before reaching an object in its path.

SIGHT DISTANCE MEASURING —

- A. HEIGHT OF DRIVER'S EYE — For calculating sight distances for passenger vehicles, the height of the driver's eye above the pavement surface shall be considered as 3.50 feet. For large trucks, the driver eye height shall be assumed as 8.0 feet for design.
- B. HEIGHT OF OBJECT — For stopping sight distance calculations, the height of the object shall be considered as six inches above the pavement surface. For passing sight distance calculations, the height of the object shall be considered as 4.25 feet above the pavement surface.

SIGHT OBSTRUCTIONS — Any object or design feature that may interfere with the line of sight of a driver.

SIGHT TRIANGLE or CLEAR SIGHT TRIANGLE — An area clear of all obstructions at a given intersection.

SIGN — Any object, device, display, or structure, or part thereof, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product,

service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

**SIGN, CHANGEABLE DISPLAY** — A sign displaying letters, numbers, and/or graphics that are designed to be readily changed electronically. A sign with changes made less frequently than once per 24 hours shall not be deemed a changeable display sign, nor shall any sign where changes to the content are effected by mechanical or manual means.

**SIGN, DIRECTIONAL** — An informational sign indicating direction, entry, exit, loading or service areas, fire lanes, parking and other information incidental to the primary use and not itself advertising that use.

**SINGLE AND SEPARATE OWNERSHIP** — The ownership of property by any person, which ownership is separate and distinct from that of any adjoining property.

**SITE** — Total area of land in the Township where any proposed regulated activity, as defined in this chapter, is planned, conducted, or maintained, or that is otherwise impacted by the regulated activity.

**SITE RESTORATION** — Measures taken following completion of land disturbance activities which will stabilize the land surface and minimize exposure to possible erosion or sedimentation.

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

~~**SKILLED CARE OR NURSING CARE FACILITY** — A facility, licensed as such by the Commonwealth of Pennsylvania, operated by a full-time staff in which nursing care and related medical or other health services are provided for a period exceeding 24 hours, for three or more individuals who are not acutely ill and not in need of hospitalization but who, because of age, illness, disease, injury, convalescence, or physical or medical infirmity, need around-the-clock supervised care and supervision; a nursing home.~~

**SKIRT** — A panel specifically designed for the purpose of screening the underside of a mobile home by forming an extension of the vertical exterior walls of the mobile home and covering the entire distance between the bottom of the exterior walls and the ground elevation below.

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

**SMALL-SCALE KEEPING OF LIVESTOCK** — Any activity involving the breeding, raising, caring for, housing, and principally the hobby/personal use of domestic animals and/or products derived from those animals for use by the occupant, owner, or lessee of the lot on which such use is located. Such animals may include, but need not be limited to, equine species such as horse and pony; camelids such as llama and alpaca; goat; sheep; ostrich; emu; pig; and other species not defined as household pets or regulated in Chapter 399. The term shall not include poultry, fowl, the operation of a kennel, or any exotic, wild, and/or dangerous animal, including but not limited to those designated and regulated as such by the Pennsylvania Game Commission or other federal or state law. Incidental sales of animals or animal products directly associated with the use may be permitted; however, no stock-in-trade sales, mail order business, sales building, or sales area shall be permitted. A small-scale livestock use shall be considered accessory to a single-family detached dwelling or other permitted principal use located on the same lot; otherwise, the livestock use shall be considered the principal use for all regulatory purposes.

**SMALL WIRELESS FACILITY (SWF)** — A type of wireless communication facility (WCF) as specifically defined by the Federal Communications Commission in Part 1 of Title 47 of the Code of Federal Regulations.

**SOIL COVER COMPLEX METHOD** — A method of runoff computation developed by NRCS that

is based on relating soil type and land use/cover to a runoff parameter called curve number (CN).

SOIL SURVEY — See "WSS."

**SOLAR ENERGY FACILITY FARM** — A system that captures and converts solar energy into electricity for the purpose of sale or for use in locations other than solely the solar energy facility property. Solar energy facility includes, but is not limited to, the following equipment and facilities to be constructed by an electric provider or independent power producer: photovoltaic solar panels; solar inverters; access roads; distribution, collection, and feeder lines; wires and cables; conduit; footings; foundations; towers; poles; crossarms; guy lines and anchors; substations; interconnection or switching facilities; circuit breakers and transformers; energy storage facilities; overhead and underground control; communications and radio relay systems and telecommunications equipment; utility lines and installations; generation tie lines; solar monitoring stations; and accessory equipment and structures.

~~Radiant energy (direct, diffused, or reflected) received from the sun at wavelengths suitable for conversion into thermal, chemical, or electrical energy.~~

SOLAR SKYSCAPE — The space between a given location and the sun which must remain unobstructed between 9:00 a.m. and 3:00 p.m. mean solar time (winter solstice) in order to permit sufficient solar energy to impinge on that location to allow efficient solar utilization.

SPECIAL EXCEPTION — A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of the MPC and the terms of Chapter 399.

SPECIMEN VEGETATION —

- A. Any individual plant or group of plants identified as a visual accent in the East Brandywine Township Open Space, Recreation, and Environmental Resources Plan.
- B. Any tree equal to or exceeding the minimum DBH necessary to qualify as a specimen tree for its species (or species' group, e.g., "oak"), pursuant to the following Specimen Tree List:

Species	Minimum Size (inches)	Species	Minimum Size (inches)
Ash	24	Maple	28
Basswood	30	Oak	24
Beech	28	Sassafras	20
Cherry	24	Spruce	30
Elm	30	Sycamore	36
Hemlock	20	Tulip poplar	32
Hickory	28	Walnut	26
Locust	30	White pine	30

STABILIZATION — The act or process of applying measures necessary to preserve the existing form, integrity, and materials of an historic property and prevent water damage, unauthorized access, animal infestation, vandalism, and other ongoing issues that may jeopardize structural integrity and contribute to demolition by neglect. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of

this treatment.

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

**STANDARD ANIMAL WEIGHT** — The given weight of a particular animal, whether mature or immature, used to determine how many animals comprise an animal unit as defined by this chapter. For example, the standard weight for a mature horse for nondraft breeds shall be 1,000 pounds, and for draft breeds shall be 1,700 pounds. Standard animal weights shall be as listed in Table A of 25 Pa. Code Chapter 83, § 83.262, of the Nutrient Management Rules and Regulations.

**STANDARDS FOR REHABILITATION** — Standards promulgated by the Secretary of the Interior to guide and evaluate the rehabilitation of historic buildings.

**STATE WATER QUALITY REQUIREMENTS** — The regulatory requirements to protect, maintain, reclaim, and restore water quality under Pennsylvania Code Title 25 and the Clean Streams Law.

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

**STORM FREQUENCY** — See "return period."

**STORMWATER** — Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

**STORMWATER CONTROL MEASURE** — Physical features used to effectively control, minimize, and treat stormwater runoff. [See "best management practice (BMP)."]

**STORMWATER MANAGEMENT FACILITY** — Any feature, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff quality, rate, or quantity, including best management practices and stormwater control measures. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration facilities.

**STORMWATER MANAGEMENT (SWM) SITE PLAN** — The plan prepared by the applicant or its representative, in accordance with the requirements of Article IV of Chapter 345, indicating how stormwater runoff will be managed at a particular site in accordance with Chapter 345, and including all necessary design drawings, calculations, supporting text, and documentation to demonstrate that the requirements of Chapter 345 have been met, herein referred to as "SWM site plan." All references in Chapter 345 to "final" or "approved" SWM site plans shall incorporate the approved SWM site plan and all subsequent approved revisions thereto.

**STORY** — That portion of a building comprised between the surface of any floor and the surface of any floor or roof next above.

**STREAM** — A natural watercourse.

**STREAM BANK** — The boundary of a stream channel within which is contained the volume of surface water of the stream under normal flow conditions.

**STREAM CENTERLINE** — A line established in the middle of the surface water of a stream, running parallel to and equidistant from each bank under normal flow conditions.

**STREET** — A right-of-way intended for general public use to provide means of approach for vehicles and pedestrians. The word "street" includes the words "road," "highway," "thoroughfare," and "way." Streets shall be further classified as:

- C. **ARTERIAL STREET** — A street serving the heaviest volumes of traffic (comparatively high-speed and long distance) in the Township, including all facilities classified as main and secondary highways by the Pennsylvania Department of Transportation; providing the highest degree of vehicular mobility; and involving controls on access.
- D. **COLLECTOR STREET** — A street designed and located to provide means to traffic off local streets and to provide access for through traffic between residential neighborhoods and districts within the Township to major streets and/or a street used for access to nonresidential properties, i.e., commercial, industrial, professional, etc.
- E. **CUL-DE-SAC STREET** — A local street intersecting another street at one end, and terminating at the other end by a permanent vehicular turnaround.
- F. **LOCAL STREET** — A street intended to serve and provide access to the properties abutting thereon and not connecting with other streets in such a manner as to encourage through traffic.
- G. **PRIVATE STREET** — A local street serving only abutting lots that is not offered or required to be offered for dedication.
- H. **SERVICE STREET (ALLEY)** — A minor right-of-way providing secondary vehicular access to the side or rear of two or more properties.
- I. **SINGLE-ACCESS STREET** — A local street, including, but not limited to, a cul-de-sac or loop design, which has only one point of intersection with an existing Township or state road or with a proposed road having more than one access point.

**STREET LINE** — The dividing line between a lot and the outside boundary or right-of-way line of a public street, road, or highway legally open or officially platted, or between a lot and a privately owned street, road, or way over which the owners or tenants of two or more lots, each held in single and separate ownership, have the right of way.

**STREET TREE** — A shade tree within a street right-of-way not less than two inches DBH.

**STREET WALL** — The wall of a building adjoining a sidewalk at the edge of the street right-of-way; or architecture or landscaping elements at least 30 inches but not more than 42 inches in height, such as walls, pillars, colonnades, fences, and hedges, in lieu of a building wall when an existing building is already set back from the street wall line. A street wall shall extend the entire length of the edge of the street right-of-way, except where curb cuts, driveways, and/or pedestrian access are provided.

**STREETSCAPE** — The space between buildings on opposite sides of a street that is embellished with such features as sidewalks, street trees, street lights, curbs, on-street parking, and cartways. The streetscape is bounded by building facades and/or street walls on both sides of a street right-of-way, thereby creating the "outdoor room" character of the street.

**STRUCTURAL ALTERATION** — Any change in or addition to the supporting or structural members of a building or other structure, such as the bearing walls, partitions, columns, beams, or girders, or any change which could convert an existing building or other structure into a different structure, or adapt it to a different use, or which in the case of a nonconforming building or other structure would prolong

the life of such building or other structure.

**STRUCTURAL UNIT** — One or more buildings enclosed by continuous exterior walls and a continuous roof.

**STRUCTURE** — Any man-made object constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to land.

**STUDIO** — A facility for an artist to produce, instruct, or display artistic endeavor, including: acting, art, painting, pottery, sculpture, origami, woodworking, and photography.

**SUBDIVIDER** — Any individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a landowner unit (or agent authorized thereby), which undertakes the subdivision of land. The subdivider may also act as the developer, as defined in this chapter.

**SUBDIVISION** — The division or redivision of a single lot, tract, or parcel of land into two or more lots, tracts, or parcels of land, for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development. The subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted from this definition.

**SUBDIVISION AND LAND DEVELOPMENT ORDINANCE (SALDO)** — Subdivision and Land Development Ordinance of East Brandywine Township, Chester County, PA, as amended.<sup>13</sup>

**SUBDIVISION OFFICER** — That official of the Township designated by the Board of Supervisors to administer the provisions of Chapter 350.

**SUBSTANTIALLY CHANGED or SUBSTANTIAL CHANGE** —

- A. Any increase in the height of a wireless support structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennae; or
- B. Any further increase in the height of a wireless support structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array.

**SUBSTANTIALLY COMPLETED** — Where, in the judgment of the Township Engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to the terms of Chapter 350) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied, or operated for its intended use.

**SURVEYOR** — A registered surveyor licensed in Pennsylvania.

**SWALE** — An artificial or natural waterway or low-lying stretch of land that gathers and conveys stormwater or runoff, and is generally vegetated for soil stabilization, stormwater pollutant removal, and infiltration.

**TENANT HOUSE** — A single-family detached dwelling, permissible as a separate residence in addition to the principal dwelling on agricultural properties as defined in §399-97, Agriculture.

**THEATER** – A building designed for the presentation of live performances and films.

TIMBER OPERATIONS — See "forest management/timber operations."

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

TOP-OF-BANK — Highest point of elevation of the bank of a stream or channel cross-section at which a rising water level just begins to flow out of the channel and into the floodplain.

TOPSOIL — Natural and friable loam containing sufficient humus and nutrients to support plant growth.

TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF) — Any structure that is used for the purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers, guy towers, and monopoles, utility poles, and light poles. DAS hub facilities are considered to be tower-based WCFs.

TOWNHOUSE — See "dwelling; dwelling unit."

TOWNSHIP — East Brandywine Township, Chester County, Pennsylvania.

TOWNSHIP ENGINEER — A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for East Brandywine Township.

TRACT — One or more lots assembled and presented as a single property for purposes of subdivision or land development and/or building permit application in accordance with the provisions of Chapter 399, provided that the lots, when assembled, shall be contiguous (i.e., have significant common boundaries) and not separated or divided by an arterial or major collector street.

TRACT AREA, GROSS — The total acreage of a tract lying within existing property lines, as defined by the deed, prior to the initiation of subdivision or land development.

TRACT AREA, NET — The gross area of a tract, but excluding the following conditions and features:

- A. Any portion of the tract contained within an existing street right-of-way;
- B. Any area within an easement established for gas, oil, natural gas, electric, or communications transmission facilities, whether below or above ground, that do not exclusively serve the tract traversed;
- C. Any area within an easement established for water or wastewater facilities that do not serve the tract;
- D. Any area comprising an existing lake or pond;
- E. That portion of the tract in which the area of any of the following features, individually or collectively, exceeds 10% of the gross tract area (i.e., only the increment of such feature or features that is in excess of the 10% threshold shall be excluded from the net tract area calculation):
  - (1) Any area overlaid by the Steep Slope Conservation District, as contained in Chapter 399;
  - (2) Any area overlaid by the Floodplain District, as contained in Chapter 399;
  - (3) Any area designated as wetland, as defined by this chapter, except where such area already is excluded under Subsection E(2), above;

- (4) Any area of water hazard soil, as defined by this chapter, except where such area already is excluded under Subsection E(2) and/or (3), above;
  - (5) Any portion of the first 50 feet of any area overlaid by the Riparian Corridor Conservation District, as contained in Chapter 399, except where such area already is excluded under Subsection E(2), (3), and/or (4), above.
- D. Any area subject to an existing conservation easement, the terms of which prohibit future development activity within the area in perpetuity.

**TRADITIONAL BUILDING** — A building constructed prior to 1950 in Guthriesville Village, typically two or three stories in height, adjoining or located close to the street or other accessway.

**TRAIL** — A corridor through which passes, or will pass, a pedestrian or equestrian accessway or a bikeway as part of the East Brandywine Township comprehensive trail system or as otherwise authorized or designated by the Township. A trail is to serve transportation, commuting, and/or recreational functions as part of an intermodal transportation system. Trails shall exclude all motorized vehicles, except motorized wheelchairs or as authorized by the Township for maintenance, management, and emergency purposes.

- A. **MULTIUSE ARTERIAL TRAIL** — A type of trail that is part of the East Brandywine Township comprehensive trail system and that offers low-speed transportation and recreation opportunities to pedestrian, bicycle, and equestrian users. Such trail segments provide the principal connecting routes between destinations within the Township and to multimunicipal and regional trail systems beyond the Township.
- B. **BIKEWAY** — A type of trail corridor designed primarily for bicycle traffic as part of the East Brandywine Township comprehensive trail system or as otherwise authorized by the Township. Bikeways may serve transportation and/or recreational functions. Except where a designated bikeway route is contained within a road cartway or road shoulder, bikeways shall exclude all motorized vehicles, except motorized wheelchairs or as authorized by the Township for maintenance, management, and emergency purposes.
- C. **LOCAL/COLLECTOR TRAIL** — A type of trail that is part of the East Brandywine Township comprehensive trail system and that is designed as an on-site recreation resource and as a means of connection to one or more multiuse arterial trails. Such trail may, but need not, serve multiuse functions.

**TRAIL CARTPATH** — The area within a trail right-of-way that is designed and constructed for regular use by the intended trail users and provided with an appropriate surface for that purpose.

**TRAIL SHOULDER** — The areas within a trail right-of-way that are immediately adjacent to the trail carpath and designed in accordance with the standards of Chapter 350.

**TWIN** — See "dwelling; dwelling unit."

**ULTRALIGHT VEHICLE** — A vehicle, powered or unpowered, that is used or intended to be used for manned operation in the air by a single occupant for recreation or sport purposes only, and that does not have any U.S. or foreign airworthiness certificate. Weight, fuel capacity, and maximum speed shall be as regulated by Part 103 of the Federal Aviation Regulations.

**UNIFORM CONSTRUCTION CODE (UCC)** — The statewide building code adopted by the Pennsylvania General Assembly in 1999 (Act 45 of 1999) applicable to new construction in all municipalities, whether administered by the municipality, a third party, or the Department of Labor and Industry. Applicable to residential and commercial buildings, the code adopted the International

Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

USDA — United States Department of Agriculture.

USE — Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

VARIANCE — Relief granted pursuant to the provisions of Articles VI and IX of the MPC and the terms of Chapter 399.

**VEHICLE SALES** — ~~Definition Needed~~ The use of a building or land for the display, sale, or lease of new or used automobiles, trucks, vans, trailers, or recreation vehicles and including accessory services and repairs.

**VEHICLE TOWING SERVICE** — Use of a property for parking, maintaining, and operating trucks whose purpose is to tow motor vehicles, whether operable or inoperable, from off-site locations. Such use may include an impoundment area when such towed vehicles are returned to the towing service property for temporary storage.

VIEW — The relative ability to see a given object from a designated location. Views shall be further classified as:

- A. UNOBSTRUCTED — The ability to see most or all of an object; specifically, where more than 80% of the object is visible.
- B. FILTERED — The ability to see some of the object, specifically, where 20% to 80% of the object is visible.
- C. HIDDEN — The ability to see little or none of the object; specifically, where less than 20% of the object is visible.

VIEWSHED — The geographical area that is visible from a specific location. It includes all surrounding points that are in line-of-sight with that location and excludes points that are beyond the horizon or obstructed by terrain and other features (e.g., buildings, trees).

**WAREHOUSING** — The temporary storage of goods and materials within a building, generally for subsequent distribution to other locations and not involving retail activities.

WATER HAZARD SOILS — Any area of soil in East Brandywine Township designated as Worsham, Wehadkee, or Chewacla in the Soil Survey of Chester and Delaware Counties, or as determined by a soils investigation, flood study, wetlands delineation, or other similar studies.

WATER RESOURCES IMPACT STUDY — See "water supply study." WATER SUPPLY —

- A. INDIVIDUAL SYSTEM — A safe, healthful, and adequate supply of water to a single user from a private well or spring located on the land of the user.
- B. CENTRAL WATER SUPPLY SYSTEM — A system for supplying water from a common source or sources to all dwellings and/or other buildings within a subdivision or land development. The water supply source may be located on-site and/or off-site. A central system can be further described as either of the following:
  - (1) PUBLIC WATER SUPPLY SYSTEM — A system which is owned by a municipality, a public company, or a private company which serves more than a single community

or subdivision and may be interconnected with other water supply systems. That portion of the public water supply system that distributes off-site water to homes within a residential tract may be owned by the homeowners' association for that tract.

- (2) **COMMUNITY WATER SUPPLY SYSTEM** — A system which is owned by a municipality, a public company, a private company, or a homeowners' association and which serves a single community or subdivision and is not interconnected with any other water supply system.

**WATER SUPPLY STUDY** — A study of the amount of water needed for domestic and fire use, including but not limited to an indication of the location of the source and anticipated pressure of the proposed source.

**WATER TABLE** — The uppermost level of saturation of pore space or fractures by groundwater, except where that surface is formed by an impermeable body. "Seasonal high water table" refers to a water table that rises and falls with the seasons due either to natural or man-made causes.

**WATERCOURSE** — A channel or conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

**WATERS OF THE COMMONWEALTH** — Any and all rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of the commonwealth.

**WATERSHED** — Region or area drained by a river, watercourse, or other body of water, whether natural or artificial.

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

**WETLAND** — Those areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions; or alluvial soils and certain hydric soils, as defined by the Natural Resources Conservation Service; or as further defined and delineated by the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Department of the Interior, Fish and Wildlife Service National Wetlands Inventory, or the Pennsylvania Department of Environmental Protection.

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

**WIRELESS COMMUNICATIONS FACILITY (WCF)** — The Antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics, and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.

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

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

**WOODLAND** — Any land area of at least 0.25 acre with a natural or naturalized ground cover (excluding manicured turf grass) and that has an average density of two or more viable trees per 1,500

square feet with a DBH of six inches or greater and where such trees existed at any time within three years of the time of land development application submission of the proposed project. The land area to be considered woodland shall be measured from the outer drip lines of the outer trees.

**WOODLAND DISTURBANCE —**

- A. Any activity which alters the existing structure of a woodland or hedgerow. Alterations include the cutting or removal of canopy trees, sub-canopy trees, understory shrubs and vines, or woody and herbaceous woodland floor species;
- B. Any activity which constitutes a land disturbance (exposes soils, alters topography) within a woodland or hedgerow;
- C. Woodland disturbance does not include the selective cutting or removal of invasive alien trees, shrubs, vines, or herbaceous species, including but not limited to: Multiflora Rose, Autumn Olive, Japanese Honeysuckle, Oriental Bittersweet, Norway Maple, and Mile-a-Minute Weed (*Polygonum perfoliatum*).

**WOODLAND MANAGEMENT PLAN —** A description, by means of text and maps, of proposed actions involving the removal of trees from a tract of land. Such plan shall be prepared by a professional forester or other person(s) with demonstrable expertise in forest management, and shall document measures to be taken to protect water quality; to minimize impacts from skid trails and logging roads, landing areas, and the tree removal process; and to assure site restoration.

**WSS —** Web Soil Survey, a scientific survey of soil conditions and characteristics prepared by the Natural Resources Conservation Service, USDA.

**YARD —** An open, unoccupied space on the same lot with a building or other structure or use, open and unobstructed from the ground to the sky.

**YARD, FRONT —** A yard extending the full width of the lot along the front lot line and extending in depth from the front lot line to the nearest point of any part of a structure on the lot; the front yard shall contain no buildings.

**YARD, REAR —** A yard extending the full width of the lot along the rear lot line and extending in depth from the rear lot line to the nearest point of any part of a principal structure on the lot.

**YARD, SIDE —** A yard extending the full depth of the lot along a side lot line and extending in width from such side lot line to the nearest point of any part of a principal structure on the lot.

**ZONING MAP —** A map of East Brandywine Township indicating the location of boundaries for each zoning district.

**ZONING OFFICER —** The municipal officer charged with enforcing the literal terms of Chapter 399 and the representative agent of the Zoning Hearing Board.

ARTICLE V  
R-1 Residential District

**§ 399-20. Statement of intent.**

- A. The R-1 Residential District is intended to maintain areas of low population density, compatible with the existing rural character and pattern of single-family residential land use, the significant constraints imposed by the natural environment (particularly steep slopes) and groundwater limitations), the lack of existing or planned community sewage facilities, the limited capacity of the road network, and the policy of the Township to limit the use of central water supply systems within the district in order to provide for orderly growth and utilization of natural resources in accordance with the Township Comprehensive Plan. Residential densities and dwelling types are established as means to achieve this land conservation objective and as appropriate components of the overall pattern of land use that is provided throughout the Township. Clustering of single-family dwellings is offered and encouraged as a site design mechanism to further the resource conservation objective.
- B. In the R-1 Residential District, the following regulations shall apply.

**§ 399-21. Use regulations.**

- A. Permitted uses. A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any of the following purposes, and no other:
- (1) Agriculture, in accordance with the terms of §§ 399-85 and 399-97.
  - (2) Single-family detached dwellings within a clustered residential development, in accordance with the terms of this article.
  - (3) Single-family detached dwelling.
  - ~~(4) Electric substation or other public utility, provided that there shall be no exterior storage of equipment or bulk storage of liquid or gaseous fuels.~~
  - ~~(5)(4) Club for swimming, riding, golfing (excluding golf driving range or miniature golf course as a principal use), or similar recreational use, provided that no gunning shall be permitted on the lot so used.~~
  - ~~(6) School bus stop or similar public transportation facility, including shelter for passengers, provided that suitable arrangements are made for maintenance of such shelter, and provided further that no commercial advertising signs are affixed to the outside of such shelter.~~
  - ~~(7)(5) No-impact home occupation, in accordance with the terms of § 399-93.~~
  - ~~(8)(6) Accessory use on the same lot with and customarily incidental to any of the foregoing permitted uses, including but not limited to those uses described in § 399-92.~~
  - ~~(9)(7) Forestry, as defined by this chapter, including logging activities when in accordance with the standards in Chapter 165, § 399-102.1.~~
- B. Uses by special exception. Any of the following uses shall be permitted when approved as a special exception by the Zoning Hearing Board, in accordance with the terms of this article

and the standards and criteria contained in § 399-145 of this chapter.

(1) Religious use.

~~(2) Animal hospital or similar veterinary facility, on a lot containing not less than 10 acres.~~

~~(3)(2) Cemetery, provided that the parcel devoted to such use shall contain not less than 10 acres.~~

~~(4)(3) Conversion of a single-family dwelling, in accordance with the terms of § 399-96.~~

~~(5)(4) Accessory dwelling unit, in accordance with the terms of § 399-91.~~

~~(6)(5) Institution, in accordance with the terms of § 399-94.~~

~~(7) Laboratory for agricultural and scientific research and development, provided that a lot devoted to such use shall contain not less than 10 acres and that no building shall be less than 100 feet from any lot line, the lot area and yard regulations of the district to the contrary notwithstanding.~~

~~(8)(6) Bed-and-breakfast facility, in accordance with the terms of § 399-95.~~

C. Conditional uses. The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of this article and § 399-137:

(1) Mobile ~~home~~ Home park ~~Park, when located within the Mobile Home Park overlay district in accordance with the terms of § 399-24.~~

(2) Major home occupation, in accordance with the terms of § 399-93.

(3) Solar ~~farm~~ Energy Facility ~~Farm~~, in accordance with the terms of § 399-102.5 of this chapter.

(4) School.

### § 399-22. Area and bulk regulations.

A. The following regulations shall apply in the R-1 District to those uses permitted under §§ 399-21A(3) and (4), and B(1):

(1) Minimum lot area.

(a) Gross: Three acres.

(b) Net: 55,000 square feet.

(2) Minimum lot width. Each such lot shall have a width of not less than 200 feet, measured at the building setback line.

(3) Minimum front yard. No such building shall be situated less than 50 feet from the front lot line.

(4) Minimum side and rear yard. No principal building shall be situated less than 50 feet from any side or rear lot line. Any accessory use structure may be located within a side or rear yard only in accordance with § 399-75 of this chapter or, with respect to the sheltering of animals, in accordance with § 399-85D(2).

- (5) Maximum impervious surface. Not more than 15% of the net area of any lot may be covered by impervious surfaces.
  - (6) Maximum height. Except as provided in § 399-73 of this chapter, no building or other structure erected in the R-1 District shall exceed a height of three stories or 35 feet, whichever is less.
- B. The following regulations shall apply in the R-1 District to those uses permitted under § 399-21A(5):
- (1) Minimum lot area:
    - (a) Swimming club.
      - [1] Gross: Five acres.
      - [2] Net: 55,000 square feet.
    - (b) Riding club, golfing club, or similar recreational use.
      - [1] Gross: 10 acres.
      - [2] Net: 55,000 square feet.
  - (2) Minimum lot width: 350 feet, measured at the building setback line.
  - (3) Minimum front yard: 150 feet.
  - (4) Minimum side yard: 75 feet.
  - (5) Minimum rear yard: 100 feet.
  - (6) Maximum impervious surface:
    - (a) Swimming club: 35% of the net lot area.
    - (b) Riding club, golfing club, or similar recreational use: 10% of the net lot area.
  - (7) Maximum height.
    - (a) Swimming club: Two stories or 25 feet, whichever is less.
    - (b) Riding club, golfing club, or similar recreational use: Three stories or 35 feet,

whichever is less.

- C. Clustered residential development, as permitted by § 399-21A(3), shall comply with the regulations in § 399-25 of this article.

**§ 399-23. Design standards.**

- A. The following design standards of this chapter shall be applicable to any use within the R-1 District:
  - (1) Parking: as required by Article XV.
  - (2) Signs: as required by Article XVI.
  - (3) Lighting: as required by § 399-83.
  - (4) Erosion/sedimentation control and stormwater management, as required by Chapter 345, Stormwater Management.
  - (5) Water supply. Dwelling units shall be served by individual water supply wells and/or a public water supply system, consistent with the terms of § 399-25B(10) of this chapter that are otherwise applicable to clustered residential development. Where the proposed connection to a public water supply system is for fewer than five dwelling units, such connection shall be permitted by right and will not require conditional use approval.
- B. In addition to the requirement of Subsection A above, the following design standards shall, as applicable, govern those uses permitted under § 399-21A(4) and (5) and any use permitted by special exception or as a conditional use:
  - (1) Access and traffic control: as required by § 399-81.
  - (2) Landscaping and site design: as required by § 399-78.
  - (3) Screening and buffering: as required by § 399-79.
  - (4) Storage: as required by § 399-80.
  - (5) Interior circulation: as required by § 399-82.
  - (6) Loading: as required by Article XV.

**§ 399-24. Standards and criteria for conditional uses.**

- A. Mobile home parks.
  - (1) To be eligible for use as a mobile home park, a tract in the R-1 District must be located within the Mobile Home Park Overlay District, as that area is delineated on the East Brandywine Township Zoning Map.
  - (2) The following area and bulk regulations shall apply to any mobile home park:
    - (a) Minimum gross tract area: 10 acres.
    - (b) Maximum density: Four mobile homes per acre of net tract area.
    - (c) Minimum gross lot size: 6,000 square feet.

- (d) Minimum lot width: 50 feet.
  - (e) Maximum impervious surface: 40% of the net tract area.
  - (f) Minimum common open space: 20% of the gross tract area.
- (3) Any proposed mobile home park shall comply with all design standards and other requirements of Chapter 325, Mobile Home Parks, of the Land Use Code of the Township of East Brandywine, as amended.
- B. Home occupations. Any home occupation permitted as a conditional use under the terms of § 399-93 shall comply with the requirements of § 399-93E.

**§ 399-25. Regulations for clustered residential development.**

- A. As a design alternative to conventional single-family residential development, clustered residential development is offered in the R-1 District to achieve greater protection of existing natural features and the characteristic visual qualities of the landscape within this district. Any proposal for clustered residential development should demonstrate a minimized amount of site disturbance, vegetation removal, and visual intrusion by the new dwellings as compared to the anticipated impacts from developing the site as otherwise permitted in this article.
- B. The following regulations shall apply in the R-1 District to any clustered residential development permitted under the terms of § 399-21A(2):
- (1) Minimum gross tract area: 10 acres.
  - (2) Maximum number of dwelling units. On any tract proposed for clustered residential development in the R-1 District, the maximum number of dwelling units shall be determined by multiplying the net tract area, as defined by this chapter, by 0.3658.<sup>2</sup>
  - (3) Lot area and yard dimensions.
    - (a) Minimum net lot area: 30,000 square feet.
    - (b) Minimum lot width: 125 feet, measured at the building setback line.
    - (c) Minimum front yard: 35 feet.
    - (d) Minimum side and rear yards.
      - [1] On each lot, other than a corner lot, there shall be two side yards having an aggregate width of not less than 50 feet, with neither side yard having a width of less than 20 feet. A corner lot, as defined by this chapter, shall have one or more side yards, each of which shall be not less than 20 feet.
      - [2] No principal building shall be situated less than 30 feet from any rear lot line.
      - [3] Any accessory use structure may be located within a side or rear yard only in accordance with § 399-75 of this chapter or, with respect to the sheltering of animals, in accordance with § 399-85D(2).
    - (e) Maximum impervious surface. Not more than 25% of the net area of any lot may be covered by impervious surfaces.

- (4) Maximum building height. Except as provided in § 399-73 of this chapter, no building or other structure shall exceed a height of three stories or 35 feet, whichever is less.
- (5) Minimum common open space: 50% of the net tract area, together with 100% of the area containing or contained within any primary conservation area, as defined by this chapter.
- (6) Use, design, ownership, and maintenance of common open space shall be governed by the standards in § 399-58C(5) of this chapter.
- (7) Wherever practical, one side of each dwelling unit or lot should abut common open space for direct views and access. Each lot shall have safe and convenient pedestrian access to active and passive recreation areas within the common open space.
- (8) Pedestrian and bicycle access. Corridors for pedestrian and bicycle trails shall be established within clustered residential developments. Such corridors may include a combination of sidewalks, pathways, and trails that provide reasonable access to open space or other destinations within the tract, as well as connection to adjacent tracts and any broader Township pedestrian and/or bikeway system.
- (9) Sewage facilities.
  - (a) Dwellings within a clustered residential development shall be served by individual sewage systems, consistent with the East Brandywine Township Sewage Facilities (Act 537) Plan and subject to demonstration of compliance with all applicable regulations of the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection. Applicants also shall demonstrate compliance with § 350-47 of Chapter 350, Subdivision and Land Development.
  - (b) Upon the approval of the Township and the Chester County Health Department:
    - [1] The drain field for an individual on-lot septic tank may be located within common open space.
    - [2] Where necessary, a replacement area for an individual system may be located within common open space.
    - [3] For each proposed dwelling unit, the applicant shall conduct percolation tests on the proposed lot and/or the adjacent common open space and, with suitability documented by the results of those tests, shall identify a drain field site which meets the criteria of the Chester County Health Department. Where primary and/or replacement drain field sites are located within common open space, the terms of the easement protecting the common open space shall identify acceptable uses of that land that are compatible with its use or potential use for subsurface sewage disposal.
  - (c) A homeowners' association shall be responsible for pumping the contents of and inspecting all septic systems, whether located on lots or partially or entirely within the common open space. The frequency of such pumping shall be consistent with the Township's Sewage Management Program, but in no case shall be less frequent than once every two years. If determined necessary by the inspection, such responsibility shall include cleaning the internal piping in the drain field.
- (10) Water supply.

- (a) It is the policy of East Brandywine Township that individual water supply wells are the preferred means of serving dwellings in a clustered residential development that is subject to the terms of this section. Except where the Board of Supervisors approves use of a public water supply system as a conditional use under the terms of Subsection B(10)(b) below, lots shall be served by individual water supplies, as defined by this chapter. The applicant shall conduct the test well procedures as required in § 350-48C(2) of Chapter 350, Subdivision and Land Development, and shall demonstrate, to the reasonable satisfaction of the Township, the availability of a reliable, safe, and adequate water supply and that there will be no adverse impact on any existing water supply.
- (b) Dwellings in a clustered residential development may be served by a public water supply system, as defined by this chapter, where the Board of Supervisors approves such system as a conditional use, consistent with the standards and criteria of this section and the requirements of § 399-137 of this chapter. Among the criteria to be considered in evaluating and deciding upon an application for conditional use for a public water supply system, the Board must be reasonably satisfied that the following conditions exist:
  - [1] The applicant shall demonstrate that the provision of public water will provide a substantial and significant benefit to the Township as compared to the use of individual water supply wells.
  - [2] The applicant shall demonstrate that, specific to this particular development proposal, such a system is a more preferable means of supplying water to the dwellings than individual wells.
  - [3] Where appropriate, the Township may regulate, limit, and/or preclude service from the public water supply system to other properties where such service would be inconsistent with the Township's land use planning and regulatory policies or could induce development pressure on surrounding tracts or along the route of the water supply line. The Township may require that the entity proposing to supply public water to the cluster development site enter into an agreement with the Township that no other tracts shall be connected to the public water supply line without prior approval of the Township.
  - [4] The applicant shall demonstrate the suitability of the proposed public water supply system in relation to the following additional criteria:
    - [a] The adequacy and reliability of projected yields from individual water supply wells, based on results of the test well procedure specified in § 350-48C(2) of Chapter 350, Subdivision and Land Development, and, at the applicant's discretion, additional documentation on groundwater quantity and reliability at the site.
    - [b] The anticipated availability of groundwater resources, based upon the geology of the site and its water-bearing characteristics.
    - [c] Groundwater recharge capabilities of the site, areas within the site most important to retain for recharge purposes, and the relationship of the proposed site design to those areas; the objective shall be to maximize recharge of domestic wastewater and stormwater as a means of

contributing to the maintenance of a net positive water balance on the tract and hydrologic balance within the Township.

- [d] Proximity of the site to a public water supply system, and the currently existing availability and capacity of such system to serve the site; providing the site with public water should not require or result in the development of new or additional water supplies in the Township.
- [e] Ability to provide the necessary water to supply the tract without the need to transfer water between subdrainage basins within the Township or create a deleterious effect on the tract's hydrologic balance.
- [f] Assurance that the provision of public water to the tract will not result in the depletion of surface water flows, adverse impacts on existing groundwater supplies, or deleterious effects on the Township's hydrologic balance.
- [g] Assurance that a public water supply system, if provided to the site, will have no effect on the density of development of the site.
- [h] Public water supply service to the tract is consistent with Township land use policy.

[5] Where a public water supply system is approved, under the terms of this section, to serve a site, plans must comply with the requirements of § 350-48 of Chapter 350, Subdivision and Land Development.

(11) Visual protection of existing road corridors.

- (a) Where a tract proposed for clustered residential development has frontage on a scenic road corridor, as designated in the Township Open Space Plan, an area of common open space designed to preserve the scenic corridor shall be established adjacent to such road frontage for purposes of buffering views of the tract from the road. This area of open space buffer may be included within the minimum amount of common open space required as part of the clustered residential development.
- (b) Except where an alternative dimension is agreed to by the Board, the width of the open space buffer shall be a minimum of 50 feet. In reviewing the proposed site plan, however, the Township and applicant shall seek the most effective combination of open space (including, as appropriate, increased or decreased width of the common open space buffer), vegetation, dwelling unit setbacks, topography, and/or architectural treatments to buffer and filter views of the developed tract from the existing road. The Board also may consider the overall delineation of common open space on the site and the importance of other functions it will perform in establishing an acceptable minimum width of the open space buffer.
- (c) Within the open space buffer area, the requirements in § 399-79 of this chapter for minimum plantings shall be met.

ARTICLE VI  
R-2 Residential District

**§ 399-26. Statement of intent.**

The R-2 Residential District is intended to enable the development of stable, well-designed residential neighborhoods with single-family detached dwellings. Allowable densities are considered appropriate to assure compatibility with the existing pattern of development, the limitations on sewage facilities and water supply, and the limited capacity of the road network. Residential densities, dwelling types, policies regarding sewage facilities, and policies limiting the use of central water supply are established in this district as means to achieve this objective and as appropriate components of the overall pattern of land use that is provided throughout the Township; they are intended to provide for orderly growth and utilization of natural resources in accordance with the Township Comprehensive Plan. Clustering of single-family dwellings is offered and encouraged as a site design mechanism to further the resource conservation objective. A portion of the R-2 Residential District adjoining the TND-1 Traditional Neighborhood Development District is provided with the option to utilize the terms of the TND-2 Overlay District regulations contained in § 399-30B of this chapter.

**§ 399-27. Use regulations.**

A. Permitted uses. A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any of the following purposes, and no other:

- (1) Agriculture, in accordance with the terms of §§ 399-85 and 399-97.
- (2) Single-family detached dwellings within a clustered residential development, in accordance with the terms of this article.
- (3) Single-family detached dwelling.
- ~~(4) Electric substation or other public utility, provided that there shall be no exterior storage of equipment or bulk storage of liquid or gaseous fuels.~~
- ~~(5)(4) Club for swimming, riding, golfing (excluding golf driving range or miniature golf course as a principal use), or similar recreational use, provided that no gunning shall be permitted on the lot so used.~~
- ~~(6) School bus stop or similar public transportation facility, including shelter for passengers, provided that suitable arrangements are made for maintenance of such shelter, and provided further that no commercial advertising signs are affixed to the outside of such shelter.~~
- ~~(7)(5) No-impact home occupation, in accordance with the terms of § 399-93.~~
- ~~(8)(6) Accessory use on the same lot with and customarily incidental to any of the foregoing permitted uses, including but not limited to those uses described in § 399-92.~~
- ~~(9)(7) Forestry, as defined by this chapter, including logging activities when in accordance with the standards in Chapter 165§ 399-102.1.~~

B. Uses by special exception. Any of the following uses shall be permitted when approved as a special exception by the Zoning Hearing Board, in accordance with the terms of this article

and the standards and criteria contained in § 399-145 of this chapter:

- (1) Religious ~~use~~Use.
  - (2) Conversion of a single-family dwelling, subject to the provisions of § 399-96.
  - (3) Accessory ~~dwelling~~Dwelling, in accordance with the terms of § 399-91.
  - (4) Bed-and-~~breakfast~~Breakfast Facility~~facility~~, in accordance with the terms of § 399-95.
  - (5) Cemetery, provided that the parcel devoted to such use shall contain not less than 10 acres.
- C. Conditional uses. The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of this article and § 399-137:
- (1) Major ~~home~~Home ~~occupation~~Occupation, in accordance with the terms of § 399-93.
  - (2) Traditional ~~neighborhood~~Neighborhood ~~development~~Development in accordance with the TND-2 Overlay District terms in § 399-30B.
  - (3) Solar ~~farm~~Energy FacilityFarm, in accordance with the terms of § 399-102.5 of this chapter.
  - (4) Age-~~qualified~~Qualified ~~residential~~Residential ~~community~~Community when located in the Age-Qualified Residential Community overlay district in accordance with the terms of § 399-102.6.
  - (5) School.

### **§ 399-28. Area and bulk regulations.**

- A. Except where the terms of the TND-2 Overlay District are utilized, the following regulations shall apply in the R-2 District to those uses permitted under § 399-27A(3) and (4) and B(1):
- (1) Minimum lot area:
    - (a) Gross: 100,000 square feet.
    - (b) Net: 45,000 square feet.
  - (2) Minimum lot width. Each such lot shall have a width of not less than 175 feet, measured at the building setback line.
  - (3) Minimum front yard. No building shall be situated less than 50 feet from the front lot line.
  - (4) Minimum side and rear yard. No principal building shall be situated less than 40 feet from any side or rear lot line. Any accessory use structure may be located within a side or rear yard only in accordance with § 399-75 of this chapter or, with respect to the sheltering of animals, in accordance with § 399-85D(2).
  - (5) Maximum impervious surface. Not more than 20% of the net area of any lot may be covered by impervious surfaces.

- (6) Maximum height. Except as provided in § 399-73 of this chapter, no building or other structure erected in the R-2 District shall exceed a height of three stories or 35 feet, whichever is less.
- B. The following regulations shall apply in the R-2 District to those uses permitted under § 399-27A(5):
- (1) Minimum lot area:
    - (a) Swimming club.
      - [1] Gross: five acres.
      - [2] Net: 45,000 square feet.
    - (b) Riding club, golfing club, or similar recreational use.
      - [1] Gross: 10 acres.
      - [2] Net: 45,000 square feet.
  - (2) Minimum lot width: 350 feet, measured at the building setback line.
  - (3) Minimum front yard: 150 feet.
  - (4) Minimum side yard: 75 feet.
  - (5) Minimum rear yard: 100 feet.
  - (6) Maximum impervious surface:
    - (a) Swimming club: 35% of the net lot area.
    - (b) Riding club, golfing club, or similar recreational use: 10% of the net lot area.
  - (7) Maximum height:
    - (a) Swimming club: Two stories or 25 feet, whichever is less.
    - (b) Riding club, golfing club, or similar recreational use: Three stories or 35 feet, whichever is less.
- C. Clustered residential development, as permitted by § 399-27A(3), shall comply with the regulations in § 399-31 of this article.
- D. Traditional neighborhood development (TND-2) shall comply with the terms of § 399-30B.

**§ 399-29. Design standards.**

- A. The following design standards of this chapter shall be applicable to any use within the R-2 District:
- (1) Parking: as required by Article XV.
  - (2) Signs: as required by Article XVI.
  - (3) Lighting: as required by § 399-83.

- (4) Erosion/sedimentation control and stormwater management, as required by Chapter 345, Stormwater Management.
  - (5) Water supply. Dwelling units shall be served by individual water supply wells and/or a public water supply system, consistent with the terms of § 399-25B(10) of this chapter that are otherwise applicable to clustered residential development. Where the proposed connection to a public water supply system is for fewer than five dwelling units, such connection shall be permitted by right and will not require conditional use approval.
- B. In addition to the requirements of Subsection A above, the following design standards shall, as applicable, govern those uses permitted under § 399-27A(4) and (5) and any use permitted by special exception or as a conditional use:
- (1) Access and traffic control: as required by § 399-81.
  - (2) Landscaping and site design: as required by § 399-78.
  - (3) Screening and buffering: as required by § 399-79.
  - (4) Storage: as required by § 399-80.
  - (5) Interior circulation: as required by § 399-82.
  - (6) Loading: as required by Article XV.
- C. In addition to the applicable standards of this section, the design standards of § 399-30B shall apply to any property utilizing the TND-2 Overlay District provisions.

**§ 399-30. Standards and criteria for conditional uses.**

- A. Home occupations. Any home occupation permitted as a conditional use under the terms of § 399-93D shall comply with the requirements of § 399-93E.
- B. TND-2 Traditional Neighborhood Development Overlay District. Eligibility for use of the traditional neighborhood development (TND-2) terms shall be deemed an overlay on the affected tracts, as designated on the Zoning Map attached to Chapter 399 as Attachment 2.<sup>2</sup> The TND-2 Overlay District offers additional development opportunities beyond those of the underlying R-2 District. To utilize this overlay opportunity, a tract must satisfy the standards and criteria of this section and the requirements for a conditional use established by this chapter.
- (1) Statement of intent. The intent of this section is to provide regulations and written and graphic design guidelines to:
    - (a) Address the purposes, objectives, and standards of Article VII-A, Traditional Neighborhood Development, of the Pennsylvania Municipalities Planning Code.<sup>4</sup>
    - (b) Provide, through adherence to the amended Manual of Written and Graphic Design Guidelines, assistance to applicants in the preparation of proposals for traditional neighborhood development in accordance with § 708-A of the Pennsylvania Municipalities Planning Code.
    - (c) Complement and improve the vitality, economic strength, and appearance of the Guthriesville Village core area as a means of implementing the Comprehensive

Plan.

- (d) Place buildings to help form a streetscape.
  - (e) Provide street walls to form the traditional neighborhood character.
  - (f) Provide for off-street parking at the rear or side of buildings.
- (2) Written and graphic design guidelines.
- (a) All new infill development and redevelopment within the Traditional Neighborhood Development (TND-2) Overlay District shall be consistent with the amended Manual of Written and Graphic Design Guidelines in Appendix B of this chapter, which Appendix B is incorporated by reference and made a part hereof.
  - (b) All applicants for infill development and redevelopment shall utilize Appendix B and shall prepare and submit their own specific manual with details on their particular project.
- (3) Use regulations. Any use proposed as part of a TND-2 development shall require approval as a conditional use in accordance with the terms of this chapter. Such uses may include:
- (a) Any use permitted by right, special exception, or conditional use in the underlying R-2 District, with the exception of clustered residential development.
  - ~~(b) Retail commercial, restaurant-Restaurant, subject to the provisions of § 399-102.8. (but excluding fast food restaurant and fast food restaurant with drive-through service), or professional o~~
  - ~~(b)(c) Office.~~
  - ~~(e)(d) Day-care eCare facility fFacility~~ as a principal use, in accordance with § 399-102.2 of this chapter.
  - ~~(d)(e) Two-family fFamily dwellingsdDwellings.~~
  - ~~(e)(f) Multifamily dwellingsdDwellings.~~
- (4) Area and bulk regulations.
- (a) For any use permitted under the terms of § 399-30B(3)(a) or (b), above, the area and bulk regulations in § 399-40 shall apply, except that no building or other structure erected, altered, or enlarged shall exceed a height of three stories or 35 feet, whichever is less.
  - (b) For ~~two~~Two-family-Family dwellingsDwellings, the standards in § 399-41A shall apply.
  - (c) For ~~multifamily~~Multifamily dwellingsDwellings, the following standards shall apply:
    - [1] The maximum gross density shall be seven dwelling units per acre.
    - [2] Any apartment unit above a ground floor/first floor nonresidential use shall have a minimum floor area of 800 square feet.

- [3] All multifamily dwellings in a building devoted entirely to residential use shall have a minimum floor area per unit as follows:
  - [a] No less than 1/3 of the units shall be between 1,000 and 1,200 square feet each;
  - [b] No more than 2/3 of the units shall be between 800 and 1,000 square feet each.
- [4] Minimum width of single-family attached unit: 18 feet.
- [5] Minimum front yard/build-to line. There shall be a front yard on each tract or lot which shall be not less than five feet in depth and shall be not more than 12 feet in depth, depending on whether there is only a sidewalk 4.5 feet wide or a sidewalk 10 feet to 12 feet wide, as per the Sidewalks and Crosswalks section and the Typical Section for Accessways, respectively, in the amended Guthriesville Village Manual of Written and Graphic Design Guidelines.
- [6] Minimum side yard (single-family attached end units): 10 feet.
- [7] Minimum rear yard: 35 feet.
- [8] Building separation distances shall be a minimum of 30 feet to allow for adequate access by emergency service vehicles.
- [9] Setback of a principal building from any tract boundary shall be a minimum of 10 feet.
- [10] Except as provided in Subsection B(4)(c)[11], below, no building or other structure erected, altered, or enlarged shall exceed a height of three stories or 35 feet, whichever is less.
- [11] Where specifically approved by the Board of Supervisors as part of its conditional use approval and conditions for development under the terms of the TND-2 Overlay District where it overlays the R-2 District, the maximum height limit stipulated in Subsection B(4)(c)[10], above, may be modified for multifamily structures when in accordance with the following:
  - [a] No building shall exceed three stories.
  - [b] A maximum of 60% of the multifamily dwelling units on the tract may be located in buildings that exceed 35 feet in height. No such building shall exceed 45 feet in height.
  - [c] The tract shall have a minimum gross tract area of 20 acres.
  - [d] The applicant must demonstrate, to the satisfaction of the Board, that potential visual impacts of buildings exceeding 35 feet in height will be mitigated by one or more of the following factors:
    - [i] Utilization of topographic features of the tract in the design and location of the buildings exceeding 35 feet in height in order to minimize the appearance of the height of such buildings with respect to the balance of buildings on the tract and the off-site views of the

tract.

- [ii] Placement of buildings exceeding 35 feet in height in the interior of the tract, so as to be visually buffered by those buildings complying with the height limits of Subsection B(4)(c)[10], above, that are situated between the buildings exceeding 35 feet in height and the tract boundary. Where topographic features of the tract do not allow for the placement of buildings exceeding 35 feet in height within the interior of the tract, preference shall be given to the placement of buildings in a manner that utilizes the topographic features of the tract without the need for visual buffering by buildings complying with the height limits of Subsection B(4)(c)[10], above.
- [iii] Ability of vegetation, particularly the retention of existing vegetation on the tract, to screen the buildings exceeding 35 feet in height from off-site views.
- [e] The applicant shall document the compatibility of the proposed site design with the amended Manual of Written and Graphic Design Guidelines in Appendix B of this chapter.<sup>8</sup> Documentation shall be in the form of site renderings or similar graphic displays.
- [f] The applicant shall obtain written confirmation from the East Brandywine Fire Company as to the adequacy of access and capability to protect buildings exceeding 35 feet in height with emergency vehicles available locally, whether provided by the Fire Company or by mutual-aid companies.
- [g] The applicant shall document the basis for the request for increased building height in the amount requested. Factors to be cited could include, but need not be limited to, the intended design of building roofs, market demand, dwelling unit design/layout and locations in relation to site topography, etc.

(5) Design standards.

- (a) The design standards referenced in § 399-29 shall be applicable to any TND-2 proposal.
- (b) All applications for infill development or redevelopment shall be accompanied by a written report indicating compliance with Appendix B and the requirements of this section.<sup>9</sup>
- (c) A public realm plan, as prescribed in § 399-42L of this chapter, shall be provided with all conditional use applications to depict all existing and proposed sidewalks and crosswalks, street trees, streetlights pedestrian gathering areas, pedestrian amenities, and other landscape and hardscape areas.
- (d) A minimum of 1.5 off-street parking spaces shall be provided for each multifamily dwelling unit created in the TND-2 District. Where the calculation of parking spaces yields a total with a half space, the total number of required spaces shall be increased by rounding up to the next full number.

- (e) Where on-street parallel parking is proposed, such spaces shall be eight feet in width and 24 feet in length.
- (f) On-street parking may be credited to the parking requirements of Subsection B(5)(d), above, for those parking spaces along the frontage of a lot.
- (g) All on-street parking shall be subject to approval by the Township and PennDOT, as applicable.
- (h) It is not required that common open space be provided as part of the development or redevelopment of properties in the TND-2 District. Where common open space is provided, however, it shall comprise an area representing not less than 20% of the gross tract or lot area. The use, design, maintenance, and ownership of any common open space areas shall be in accordance with the applicable standards contained in § 399-58C(5)(c) through (j) of this chapter. In addition to the uses provided in § 399-58C(5)(f), common open space may be used as a village green, consistent with the amended Manual of Written and Graphic Design Guidelines.

**§ 399-31. Regulations for clustered residential development.**

- A. As a design alternative to conventional single-family residential development, clustered residential development is offered in the R-2 District to achieve more efficient use of land, retain open space, and protect existing natural features and the characteristic visual qualities of the landscape within this district. Any proposal for clustered residential development should demonstrate a minimized amount of site disturbance, vegetation removal, and visual intrusion by the new dwellings as compared to the anticipated impacts from developing the site as otherwise permitted in this article.
- B. Except as otherwise provided in this section, the regulations of § 399-25 of this chapter shall apply in the R-2 District to any clustered residential development permitted under the terms of § 399-27A(2):
  - (1) Maximum number of dwelling units. On any tract proposed for clustered residential development in the R-2 District, the maximum number of dwelling units shall be determined by multiplying the net tract area, as defined by this chapter, by 0.4785.<sup>11</sup>
  - (2) Minimum common open space: 50% of the net tract area, together with 100% of the area containing or contained within any primary conservation area, as defined by this chapter.

ARTICLE VII  
R-3 Residential District

**§ 399-32. Statement of intent.**

- A. The principal purpose of the R-3 Residential District is to assure sufficient opportunities for a variety of housing types and densities in the areas for which the Township has planned to accommodate those uses. The district provides for relatively concentrated single-family detached dwellings, under conventional lot-by-lot and clustered design; it also permits two-family and multifamily dwellings under the cluster development option. The locations zoned R-3 reflect Township land use and community facilities policy regarding proper areas for relatively high-intensity development in East Brandywine, based in part on suitability of roads, the existing or planned availability of public water and community sewage service, and proximity to the Guthriesville Village core area. The district also is intended to support and implement the policies of Landscapes2, the Chester County Comprehensive Policy Plan.
- B. Development or redevelopment of this area for residential uses is an important element in the overall mix of housing stock and housing opportunities in East Brandywine Township.
- C. A portion of the R-3 Residential District adjoining the TND-1 Traditional Neighborhood Development District is provided with the option to utilize the terms of the TND-2 Overlay District regulations. The intent is to complement the potential development, both residential and nonresidential, in the Guthriesville Village core area and create appropriate transition to the surrounding residential districts.

**§ 399-33. Use regulations.**

- A. Uses permitted by right. A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any of the following purposes, and no other:
  - (1) Agriculture, in accordance with the terms of §§ 399-85 and 399-97.
  - (2) Clustered ~~residential~~ Residential development ~~Development~~, in accordance with the terms of § 399-37.
  - (3) Single-~~family~~ Family detached dwelling.
  - ~~(4) Electric substation or other public utility, provided that there shall be no exterior storage of equipment or bulk storage of liquid or gaseous fuels. For purposes of this subsection, "public utility" shall not include any person or entity furnishing mobile domestic cellular radio communications or other wireless service.~~
  - ~~(5) School bus stop or similar public transportation facility, including shelter for passengers, provided that suitable arrangements are made for maintenance of such shelter, and provided further that no commercial advertising signs are affixed to the outside of such shelter.~~
  - ~~(6)~~(4) ~~No-impact~~ Impact home ~~Home~~ ~~occupation~~ Occupation, in accordance with the terms of § 399-93.
  - ~~(7)~~(5) ~~Accessory use~~ Use on the same lot with and customarily incidental to any of the foregoing permitted uses, including but not limited to those uses described in § 399-92.

~~(8)(6)~~ Forestry, ~~as defined by this chapter, including logging activities when~~ in accordance with the standards in Chapter 165 § 399-102.1.

B. Uses permitted by special exception. Any of the following uses shall be permitted when approved as a special exception by the Zoning Hearing Board, in accordance with the terms of this article and the standards and criteria contained in § 399-145 of this chapter:

(1) Religious use.

~~(2) Noncommercial park or recreational or open space use.~~

~~(3)(2)~~ Conversion of a single-family dwelling, subject to the provisions of § 399-96.

~~(4)(3)~~ Accessory ~~d~~dwelling ~~unit~~, in accordance with the terms of § 399-91.

~~(5)(4)~~ Bed-and-~~breakfast~~ Breakfast facility, in accordance with the terms of § 399-95.

C. Uses permitted as conditional uses. The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of this article and § 399-137:

(1) Major ~~home~~ Home occupation, in accordance with the terms of § 399-93.

(2) Continuing ~~care~~ Care Facility ~~development, skilled care or nursing care facility, or assisted care facility,~~ in accordance with § 399-102.4, ~~provided that no correctional or penal institution or asylum for the insane shall be permitted.~~

~~(3) Traditional neighborhood development in accordance with the TND-2 Overlay District terms in § 399-36B. [Added 7-16-2014 by Ord. No. 02-2014]~~

~~(4)(3)~~ Age-qualified Residential Community when located in the Age-Qualified Residential Community overlay district in accordance with the terms of § 399-102.6.

~~(5)(4)~~ School.

### § 399-34. Area and bulk regulations.

Except where the terms of the TND-2 Overlay District are utilized, the following regulations shall apply in the R-3 District to those uses permitted under § 399-33A(3) and (4) and B(1) and (2). Traditional neighborhood development (TND-2) shall comply with the terms of § 399-36B.

A. Minimum lot area.

(1) Gross: One acre.

(2) Net: 35,000 square feet.

B. Minimum lot width. Each such lot shall have a width of not less than 150 feet, measured at the building setback line.

C. Minimum front yard. No building shall be situated less than 50 feet from the front lot line.

D. Minimum side and rear yards.

- (1) On each lot, other than a corner lot, there shall be two side yards having an aggregate width of not less than 60 feet, with neither side yard having a width of less than 20 feet. A corner lot, as defined by this chapter, shall have one or more side yards, each of which shall be not less than 30 feet.
  - (2) No principal building shall be situated less than 30 feet from any rear lot line.
  - (3) Any accessory use structure may be located within a side or rear yard only in accordance with § 399-75 of this chapter or, with respect to the sheltering of animals, in accordance with § 399-85D(2).
- E. Maximum impervious surface. Not more than 20% of the net area of any lot may be covered in impervious surfaces.
- F. Maximum height. Except as provided in § 399-73 of this chapter, no building or other structure erected in the R-3 District shall exceed a height of three stories or 35 feet, whichever is less.

**§ 399-35. Design standards.**

- A. The following design standards of this chapter shall be applicable to any use within the R-3 District:
- (1) Parking: as required by Article XV.
  - (2) Signs: as required by Article XVI.
  - (3) Lighting: as required by § 399-83.
  - (4) Erosion/sedimentation control and stormwater management, as required by Chapter 345, Stormwater Management.
  - (5) The applicant for a permitted use of land in the R-3 District shall demonstrate, to the reasonable satisfaction of the Township, the availability of a reliable, safe and adequate water supply, and that there will be no adverse impact on any existing or future water supply.
- B. In addition to the requirements of Subsection A above, the following design standards shall, as applicable, govern those uses permitted under § 399-33A(2) and (4) and B(1) and (2):
- (1) Access and traffic control: as required by § 399-81.
  - (2) Landscaping and site design: as required by § 399-78.
  - (3) Screening and buffering: as required by § 399-79.
  - (4) Storage: as required by § 399-80.
  - (5) Interior circulation: as required by § 399-82.
  - (6) Loading: as required by Article XV.
- C. The design standards of § 399-36B shall apply to any property utilizing the TND-2 Overlay District provisions.

**§ 399-36. Standards and criteria for conditional uses.**

A. Home occupations. Any home occupation permitted as a conditional use under the terms of § 399-93D shall comply with the requirements of § 399-93E.

~~B. TND-2 Traditional Neighborhood Development Overlay District. Eligibility for use of the Traditional Neighborhood Development (TND-2) terms shall be deemed an overlay on the affected tracts, as designated on the Zoning Map attached to Chapter 399 as Attachment 2.<sup>1</sup> The TND-2 Overlay District offers additional development opportunities beyond those of the underlying R-3 District. To utilize this overlay opportunity, a tract must satisfy the standards and criteria of this section and the requirements for a conditional use established by this chapter. [Added 7-16-2014 by Ord. No. 02-2014]~~

~~(1) Statement of intent. The intent of this section is to provide regulations and written and graphic design guidelines to:~~

~~(a) Address the purposes, objectives, and standards of Article VII-A, Traditional Neighborhood Development, of the Pennsylvania Municipalities Planning Code.<sup>2</sup>~~

~~(b) Provide, through adherence to the amended Manual of Written and Graphic Design Guidelines, assistance to applicants in the preparation of proposals for traditional neighborhood development in accordance with § 708-A of the Pennsylvania Municipalities Planning Code.<sup>3</sup> [Amended 12-3-2015 by Ord. No. 11-2015]~~

~~(c) Complement and improve the vitality, economic strength, and appearance of the Guthriesville Village core area as a means of implementing the Comprehensive Plan.~~

~~(d) Place buildings to help form a streetscape.~~

~~(e) Provide street walls to form the traditional neighborhood character.~~

~~(f) Provide for off-street parking at the rear or side of buildings.~~

~~(2) Written and graphic design guidelines:~~

~~(a) All new infill development and redevelopment within the Traditional Neighborhood Development (TND-2) Overlay District shall be consistent with the~~

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1. Editor's Note: Appendix A is included as an attachment to this chapter.

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

3. Editor's Note: See 53 P.S. § 10708-A. Said manual is included as an attachment to this chapter in Appendix B.

~~amended Manual of Written and Graphic Design Guidelines in Appendix B of this chapter, which Appendix B is incorporated by reference and made a part hereof.<sup>4</sup> [Amended 12-3-2015 by Ord. No. 11-2015]~~

- ~~(b) All applicants for infill development and redevelopment shall utilize Appendix B and shall prepare and submit their own specific manual with details on their particular project.~~
- ~~(3) Use regulations. Any use proposed as part of a TND-2 development shall require approval as a conditional use in accordance with the terms of this chapter. Such uses may include:
  - ~~(a) Any use permitted by right, special exception, or conditional use in the underlying R-3 District, with the exception of:
    - ~~[1] A continuing care development, skilled care or nursing care facility, or assisted care facility;~~
    - ~~[2] Clustered residential development.~~~~
  - ~~(b) Retail commercial, restaurant (but excluding fast food restaurant and fast food restaurant with drive-through service), or professional office.~~
  - ~~(c) Day care facility as a principal use, in accordance with § 399-102.2 of this chapter.~~
  - ~~(d) Two family dwellings.~~
  - ~~(e) Multifamily dwellings.~~~~
- ~~(4) Area and bulk regulations.
  - ~~(a) For any use permitted under the terms of § 399-36B(3)(a) or (b), above, the area and bulk regulations in § 399-40 shall apply, except that no building or other structure erected, altered, or enlarged shall exceed a height of three stories or 35 feet, whichever is less.~~
  - ~~(b) For two family dwellings, the standards in § 399-41A shall apply.~~
  - ~~(c) For multifamily dwellings, the following standards shall apply:
    - ~~[1] The maximum gross density shall be seven dwelling units per acre.~~
    - ~~[2] Any apartment unit above a ground floor/first floor nonresidential use shall have a minimum floor area of 800 square feet.~~
    - ~~[3] All multifamily dwellings in a building devoted entirely to residential use shall have a minimum floor area per unit as follows:
      - ~~[a] No less than 1/3 of the units shall be between 1,000 and 1,200 square feet each;~~~~~~~~

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4.— Editor's Note: Appendix B is included as an attachment to this chapter.

~~[b] No more than 2/3 of the units shall be between 800 and 1,000 square feet each.~~

~~[4] Minimum width of single-family attached unit: 18 feet.~~

~~[5] Minimum front yard/build-to-line. There shall be a front yard on each tract or lot which shall be not less than five feet in depth and shall be not more than 12 feet in depth, depending on whether there is only a sidewalk 4.5 feet wide or a sidewalk 10 feet to 12 feet wide, as per the Sidewalks and Crosswalks section and the Typical Section for Accessways, respectively, in the amended Guthriesville Village Manual of Written and Graphic Design Guidelines.<sup>5</sup> [Amended 8-19-2015 by Ord. No. 06-2015; 12-3-2015 by Ord. No. 11-2015]~~

~~[6] Minimum side yard (single-family attached end units): 10 feet.~~

~~[7] Minimum rear yard: 35 feet.~~

~~[8] Building separation distances shall be a minimum of 30 feet to allow for adequate access by emergency service vehicles.~~

~~[9] Setback of a principal building from any tract boundary shall be a minimum of 10 feet.~~

~~[10] No building or other structure erected, altered, or enlarged shall exceed a height of three stories or 35 feet, whichever is less.~~

~~(5) Design standards.~~

~~(a) The design standards referenced in § 399-35A and B shall be applicable to any TND-2 proposal.~~

~~(b) All applications for infill development or redevelopment shall be accompanied by a written report indicating compliance with Appendix B and the requirements of this section.<sup>6</sup>~~

~~(c) A public realm plan, as prescribed in § 399-42L of this chapter, shall be provided with all conditional use applications to depict all existing and proposed sidewalks and crosswalks, street trees, streetlights, pedestrian gathering areas, pedestrian amenities, and other landscape and hardscape areas.~~

~~(d) A minimum of 1.5 off-street parking spaces shall be provided for each multifamily dwelling unit created in the TND-2 District. Where the calculation of parking spaces yields a total with a half space, the total number of required spaces shall be increased by rounding up to the next full number.~~

~~(e) Where on-street parallel parking is proposed, such spaces shall be nine feet in width and 25 feet in length. [Amended 2-16-2023 by Ord. No. 02-2023]~~

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5.— Editor's Note: See Appendix B, which is included as an attachment to this chapter.

6.— Editor's Note: Appendix B is included as an attachment to this chapter.

- ~~(f) On-street parking may be credited to the parking requirements of Subsection B(5)(d), above, for those parking spaces along the frontage of a lot.~~
- ~~(g) All on-street parking shall be subject to approval by the Township and PennDOT, as applicable.~~
- ~~(h) It is not required that common open space be provided as part of the development or redevelopment of properties in the TND-2 District. Where common open space is provided, however, it shall comprise an area representing not less than 20% of the gross tract or lot area. The use, design, maintenance, and ownership of any common open space areas shall be in accordance with the applicable standards contained in § 399-58C(5)(e) through (j) of this chapter. In addition to the uses provided in § 399-58C(5)(f), common open space may be used as a village green, consistent with the amended Manual of Written and Graphic Design Guidelines.<sup>7</sup> [Amended 12-3-2015 by Ord. No. 11-2015]~~

**§ 399-37. Regulations for clustered residential development.**

The following regulations shall apply in the R-3 District to any clustered residential development permitted under the terms of § 399-33A(2):

A. Permitted uses.

- (1) The following residential uses, individually or in combination, are permitted by right in a clustered residential development:
  - (a) Single-~~family~~ Family detached-Detached dwellingsDwellings.
  - (b) Two-~~family~~ Family dwellingsDwellings.
  - (c) Multifamily dwellingsDwellings.
- (2) The following nonresidential uses, when secondary and/or supplemental to the residential uses permitted under Subsection A(1) above, shall be permitted by right:
  - ~~(a) Municipal use.~~
  - ~~(b) Post office.~~
  - ~~(c) Public or private school.~~
  - ~~(d)(a) Day-care-Care centerFacility.~~
- (3) The following uses shall be permitted when approved as conditional uses by the Board of Supervisors under the terms of this article and § 399-137 of this chapter:
  - ~~(a) Neighborhood commercial uses, including rRetail, personal service, r~~
  - ~~(b) Restaurant, subject to the provisions of § 399-102.8. (exclusive of any fast food or drive-in service restaurant).~~
  - ~~(c) , professional oOffice.~~
  - ~~(a)(d) , or oOther uses of the same general character as uses permitted by conditional use. deemed comparable by the Board, but specifically not including~~

~~convenience stores.~~

- B. Minimum gross tract area.
  - (1) Residential use only: 10 acres.
  - (2) Development that includes permitted nonresidential use: 20 acres.
- C. Maximum density of residential use:
  - (1) Single-family detached dwellings: Two dwelling units per acre of net tract area.
  - (2) Two-family dwellings: Three dwelling units per acre of net tract area.
  - (3) Townhouses: Four dwelling units per acre of net tract area.
  - (4) Apartments: ~~Five~~Four dwelling units per acre of net tract area.
- D. Maximum intensity of nonresidential use. A maximum of 5% of the net tract area of a tract proposed for clustered residential development may be used for one or more of the nonresidential uses permitted in § 399-37A(2) or (3). The maximum floor area ratio for such uses shall be 0.33, unless an alternative amount of floor area is specifically approved by the Board.
- E. Area and bulk regulations for residential uses:
  - (1) Single-family detached dwellings.
    - (a) Minimum net lot area: 10,000 square feet.
    - (b) Minimum lot width: 70 feet, at the building setback line.
    - (c) Minimum front yard: 20 feet.
    - (d) Minimum side yards: 30 feet aggregate, with neither less than five feet; dwellings shall not be separated by less than 30 feet.
    - (e) Minimum rear yard: 35 feet.
    - (f) Maximum impervious surface: 45% of the net lot area.
    - (g) Minimum amount of common open space: 35% of the net tract area, together with 100% of the area containing or contained within any primary conservation area, as defined by this chapter.
  - (2) Two-family dwellings.
    - (a) Minimum net lot area: 7,500 square feet per dwelling unit.
    - (b) Minimum lot width: 50 feet per dwelling unit, measured at the building setback line.
    - (c) Minimum front yard: 20 feet.
    - (d) Minimum side yards: 15 feet per dwelling unit.
    - (e) Minimum rear yard: 35 feet.

- (f) Maximum impervious surface: 45% of the net lot area.
  - (g) Minimum amount of common open space: 35% of the net tract area, together with 100% of the area containing or contained within any primary conservation area, as defined by this chapter.
- (3) Townhouse dwellings:
- (a) Minimum net lot area (or equivalent area for non-fee simple units): 3,200 square feet per dwelling unit.
  - (b) Minimum width of unit: 20 feet.
  - (c) Minimum yard dimensions (for fee-simple units; comparable building placement shall be achieved for condominium or rental units, and compliance with the building setback and separation standards of this section shall be required for all structures):
    - [1] Front yard: 20 feet.
    - [2] Side yard (end units): 20 feet.
    - [3] Rear yard: 35 feet.
  - (d) Minimum distance between townhouse structures: 40 feet.
  - (e) Minimum setback from any tract boundary: 50 feet.
  - (f) Maximum length of any structure: 150 feet.
  - (g) Maximum impervious surface: 35% of the net tract area.
  - (h) Minimum amount of common open space: 50% of the net tract area, together with 100% of the area containing or contained within any primary conservation area, as defined by this chapter.
- (4) Apartment dwellings.
- (a) Minimum setback from any tract boundary: 50 feet.
  - (b) Minimum distance between apartment structures: 40 feet.
  - (c) Maximum length of any structure: 150 feet.
  - (d) Maximum impervious surface: 35% of the net tract area.
  - (e) Minimum amount of common open space: 60% of the net tract area, together with 100% of the area containing or contained within any primary conservation area, as defined by this chapter.

F. Area and bulk regulations for nonresidential uses.

- (1) Nonresidential uses may be incorporated within a portion of a multifamily building upon approval of the Board and when in compliance with all applicable standards of this chapter.
- (2) Where a nonresidential use is proposed to be located in a freestanding building, the

following area and bulk regulations shall apply:

- (a) Minimum net lot area: 20,000 square feet.
  - (b) Minimum lot width: 90 feet.
  - (c) Minimum front yard: 15 feet.
  - (d) Minimum side yards: 25 feet each.
  - (e) Minimum rear yard: 50 feet.
  - (f) Maximum impervious surface: 50% of the net lot area.
- G. Maximum building height: Except as provided in § 399-73 of this chapter, no building or other structure within a clustered residential development shall exceed a height of three stories or 35 feet, whichever is less.
- H. Where the site contains a Class I or Class II historic structure, such structure shall be retained and incorporated into the proposed use and design of the site, unless the applicant demonstrates to the satisfaction of the Board that this requirement is infeasible due to the condition and/or location of the structure. Any proposal to demolish such a structure shall comply with the requirements in Article XII.
- I. Use, design, ownership, and maintenance of common open space: The standards for common open space in § 399-58C(5) of this chapter shall be applicable to clustered residential development in the R-3 District.
- J. Requirements for wastewater facilities and water supply system.
- (1) Any property proposed for use as a clustered residential development in the R-3 District shall be served by a community sewage facilities system, as defined by this chapter. The plans for such system shall be consistent with the East Brandywine Township Sewage Facilities (Act 537) Plan and shall demonstrate compliance with all applicable regulations of the East Brandywine Township Municipal Authority, the Chester County Health Department, and the Pennsylvania Department of Environmental Protection, and with the requirements of § 350-47 of Chapter 350, Subdivision and Land Development.
  - (2) Any property proposed for use as a clustered residential development in the R-3 District shall be served by a public water supply system, as defined by this chapter. Plans for the system must demonstrate adequate supply for the proposed use, and must comply with:
    - (a) The standards of this article;
    - (b) The regulations of the East Brandywine Township Municipal Authority; and
    - (c) The requirements of § 350-48 of Chapter 350, Subdivision and Land Development.

- K. A pedestrian and bikeway network shall be provided throughout the clustered residential development. It may include a combination of sidewalks, pathways, and trails that provide reasonable access to residential and nonresidential uses, open space, or other destinations within the tract, as well as by connection to a broader Township pedestrian and/or bikeway system.
- L. Standards and criteria for conditional uses. In evaluating and deciding upon any application for conditional use approval for a nonresidential use, as provided in Subsection A(3), the Board shall determine the degree of compliance with the standards in § 399-137D of this chapter. In addition, the Board shall weigh the degree to which the applicant has addressed the following:
  - (1) Limiting undesirable and potentially deleterious off-site impacts, particularly in relation to excessive traffic generation and vehicular turning movements;
  - (2) Extent to which the proposed use will be compatible with the principal residential use of the tract and will constitute an appropriate component of the mixed-use nature of the tract by meeting anticipated needs of the residents.
  - (3) Location on the tract that maximizes direct access to Route 322, consistent with appropriate access management standards.
  - (4) Where applicable, the proposal presents an opportunity to adaptively reuse an historic building on the site, consistent with review and approval process required by Article XII of this chapter.
  - (5) Architectural character of the proposed nonresidential use displays general compatibility with the surrounding neighborhood, both existing and proposed.<sup>8</sup>

ARTICLE VIII  
**TND-1 Traditional Neighborhood Development District**

**§ 399-38. Intent.**

The TND-1 Traditional Neighborhood Development District is intended to reflect and support the properties and uses that are predominant in the Village of Guthriesville, and to assure that new uses or changes in use, and the dimensional and design standards to which they must adhere, are compatible with the traditional, compact neighborhood commercial character and complementary residential uses within the village. Unobtrusive transition to the surrounding residential districts is to be achieved. The district seeks to limit and appropriately manage highway-oriented business uses. The standards of the TND-1 District also are intended to address potential concerns relating to pedestrian and vehicular access and off-street parking. Drawing upon the authority of the traditional neighborhood development provisions of Article VII-A of the Pennsylvania Municipalities Planning Code, the TND-1 District also is designed to accomplish the following:

- A. Provide a manual of written and graphic design guidelines to assist applicants in the preparation of proposals for traditional neighborhood development in accordance with § 708-A of the Pennsylvania Municipalities Planning Code.
- B. Improve the function and appearance of Guthriesville Village as a means of implementing the Comprehensive Plan.
- C. Place buildings to help form a streetscape.
- D. Provide opportunities for infill development and redevelopment, consistent with existing buildings that are located close to streets and other accessways.
- E. Provide street walls to form the traditional neighborhood character.
- F. Provide for off-street parking at the rear or the side of buildings.

**§ 399-39. Use regulations.**

A. Uses permitted by right. A building may be erected, altered, or used, and a lot may be used or occupied, as a matter of right, for any one of the following purposes, and no other:

- (1) Single-~~family~~ Family detached ~~Detached~~ dwelling ~~Dwelling~~.
- (2) Two-~~family~~ Family dwelling ~~Dwelling~~.
- (3) Any of the following uses, either individually or in combination, where the square footage of the total floor area of the principal building or buildings is, or is proposed to be, less than 1,500 square feet:
  - (a) Retail ~~sale of dry goods, hardware, variety and general merchandise, clothing,~~

~~food, flowers, pharmaceuticals, personal care items, household supplies or furnishings, musical, professional or scientific instruments, and similar items, but specifically not including:~~

~~[1] The sale of new or used automobiles, trucks, or similar vehicles;~~

~~[2] The sale of automotive fuel or lubricants; and~~

~~[3] A convenience store.~~

~~(b) Personal service enterprises such as barbershop; beauty salon; shoe repair; tailor; dropoff/pickup facility associated with off-site clothes cleaning or pressing operation; repair of television, radio, and similar appliances and equipment; plumber; electrician.~~

(b) Restaurant, subject to the provisions of § 399-102.8.

~~(c) Restaurant, Fast Food, subject to the provisions of § 399-102.8. (including fast food restaurant but excluding fast food restaurant with drive-through service), retail bakery, confectionery, or other places serving food and/or beverages.~~

~~(d) Office for the professional practice of medicine, law, engineering, architecture, real estate, insurance, or financial consultation.~~

~~(e) Studio for performing or visual arts; gallery.~~

~~(f) Exercise, fitness, and/or personal training facility, but not including indoor recreation facilities such as courts, field space, bowling alleys, and similar large-scale operations~~Recreation Facility.

~~(f) Animal Hospital.~~

~~(g) Gift, art, and/or antique shop.~~

~~(h) Specialty shop and facilities for craftsman, such as blacksmith, tinsmith, cabinet maker, furniture repair/refinishing, and uses of similar character.<sup>3</sup>~~

(4) Conversion of a ~~singles~~Single-family ~~f~~Family dwelling~~d~~Dwelling, subject to the provisions of § 399-96.

(5) Accessory ~~dwelling~~Dwelling unit~~Unit~~, in accordance with the terms of § 399-91.

(6) Bed-and-breakfast~~Breakfast facility~~Facility, in accordance with the terms of § 399-95.

~~(6)~~(7) Flex-Space.

~~(7)~~(8) Accessory use~~Use~~ on the same lot with and customarily incidental to any of the uses permitted by right or conditional use, including but not limited to those uses described in § 399-92.

(9) No-impact~~Impact home~~Home occupation~~Occupation~~, in accordance with the terms of § 399-93.

~~(8)~~(10) Forestry, in accordance with the standards of Chapter 165.

- B. Conditional uses. The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of this article and of § 399-137:
- (1) Dwelling unit or units, when arranged to form an integral part of a building in which the ground floor, or at a minimum the front portion thereof, is constructed and maintained for any use permitted under Subsection B(3) herein, and when in compliance with
  - (2) § 399-40I, below.
  - (3) Religious use.
  - (4) Any of the uses listed in § 399-39A(3), either individually or in combination, where the square footage of the total floor area of the principal building or buildings is, or is proposed to be, 1,500 square feet or greater.
  - (5) Inn, but not including ~~motel~~Motel/ ~~or hotel~~Hotel, in accordance with the terms of § 399-95A.
  - ~~(6)~~ (6) Museum.
  - ~~(6)(7)~~ (7) ~~or~~ Hlibrary.
  - ~~(7)(8)~~ (8) Multifamily ~~d~~Dwellings.
  - ~~(8)(9)~~ (9) ~~Day-care~~ Care ~~facility~~ Facility ~~as a principal use~~, in accordance with § 399-102.2 of this chapter.
  - ~~(10)~~ (10) Major ~~home~~ Home ~~occupation~~ Occupation, in accordance with the terms of § 399-93.
  - ~~(9)(11)~~ (11) Theater.

**§ 399-40. Area and bulk regulations.**

The following shall apply to all uses permitted in the TND-1 District except two-family and multifamily dwellings:

- A. The regulations in this section shall be applicable only when, as a prerequisite, it can be demonstrated that adequate sewage facilities and water supply for the use in question can be provided and approved. Criteria for determining such adequacy shall include compliance with the requirements of this article and other applicable provisions of this chapter, as well as the requisite approvals and permits from the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection. Any proposed use for which water and/or sewage facilities are deemed inadequate to serve such use shall comply with the area and bulk regulations for single-family dwellings contained in § 399-34A of this chapter.
- B. Minimum lot area. Except as otherwise specified by this chapter for particular uses, a net lot area of not less than 5,000 square feet shall be required in the TND-1 District for uses other than two-family and multifamily dwellings. Where the lot is to contain a combination of uses, as permitted in § 399-39, a minimum net lot area of 3,500 square feet per use shall be required.
- C. Minimum lot width. Each lot shall have a width of not less than 50 feet at the building setback line.
- D. Minimum front yard/build-to line. There shall be a front yard on each tract or lot which shall be not less than five feet in depth and shall be not more than 12 feet in depth, depending on

whether there is only a sidewalk 4.5 feet wide or a sidewalk 10 feet to 12 feet wide, as per the Sidewalks and Crosswalks section and the Typical Section for Accessways, respectively, in the Guthriesville Village Manual of Written and Graphic Design Guidelines.

- E. Minimum side and rear yards.
  - (1) On each lot, there shall be no required side yard where buildings are erected on the side lot line and share a common party wall with a building on an adjacent lot. Where buildings are not so erected, there shall be a side yard along each side lot line having a width of not less than 7.5 feet.
  - (2) No principal building shall be located closer than 25 feet to any rear property line.
  - (3) Any accessory use structure may be located within a side or rear yard only and shall be in compliance with § 399-75 of this chapter, except that such structure may be located not less than five feet from any side or rear property line.
- F. Maximum impervious surface. No more than 80% of the net area of any lot may be covered by impervious surfaces.
- G. Minimum vegetative cover. Not less than 15% of the gross area of any lot shall be planted and maintained with existing and/or installed vegetation.
- H. Maximum height. No building or other structure erected, altered, or enlarged in the TND-1 District shall exceed a height of four stories or 45 feet, whichever is less; provided, however, that no more than 15% of the total footprint of all buildings on any property in the TND-1 District may exceed three stories or a height of 35 feet; no such building shall exceed 45 feet in height.
- I. Dwellings in combination with nonresidential use.
  - (1) Any dwelling unit permitted under the terms of § 399-39B(1), above, shall have a floor area of not less than 800 square feet.
  - (2) Total floor area devoted to dwelling units within the structure shall not exceed three times the total floor area of the ground-floor nonresidential use or uses.
  - (3) Entrance to any dwelling unit may be shared with another unit or units but shall be independent of the nonresidential use or uses.
  - (4) A minimum of 1.5 off-street parking spaces shall be required for each dwelling unit; such spaces shall be in addition to the parking requirements for the nonresidential use or uses. In all other respects, off-street parking shall be in accordance with Article XV of this chapter. Where the calculation of parking spaces yields a total with a half space, the total number of required spaces shall be increased by rounding up to the next full number.
  - (5) Where two or more dwelling units are to be created above the ground floor, requisite approvals of interior layout, emergency exits, etc., shall be obtained from the Pennsylvania Department of Labor and Industry, and a copy provided to the East Brandywine Fire Company upon receipt of such approval.
- J. Building separation distances shall be a minimum of 30 feet to allow for adequate access by

emergency service vehicles.

**§ 399-41. Standards and criteria for two-family and multifamily dwellings.**

A. Two-family dwellings.

- (1) Minimum lot area. A minimum net lot area of 3,500 square feet per dwelling unit shall be required.
- (2) Minimum lot width: 40 feet as measured at the building setback line.
- (3) Minimum front yard/build-to line. There shall be a front yard on each tract or lot which shall be not less than five feet in depth and shall be not more than 12 feet in depth, depending on whether there is only a sidewalk 4.5 feet wide or a sidewalk 10 feet to 12 feet wide, as per the Sidewalks and Crosswalks section and the Typical Section for Accessways, respectively, in the Guthriesville Village Manual of Written and Graphic Design Guidelines.
- (4) Minimum side yard: 7.5 feet.
- (5) Minimum rear yard: 25 feet.
- (6) Maximum impervious surface: Not more than 85% of the net area of any lot may be covered by impervious surfaces.
- (7) Maximum height: three stories or 35 feet, whichever is less.
- (8) All dwelling shall be served by a community sewage system and a central water supply system. The proposals for sewage disposal and water supply shall comply with the terms of § 399-40A, above, and § 399-42K, below.

B. Multifamily dwellings.

- (1) Maximum density. A maximum gross density of 12 dwelling units per acre shall be permitted.
- (2) Any apartment unit above a ground floor/first floor nonresidential use shall have a minimum floor area of 800 square feet.
- (3) All multifamily dwellings in a building devoted entirely to residential use shall have a minimum floor area per unit as follows:
  - (a) No less than 1/3 of the units shall be between 1,000 and 1,200 square feet each;
  - (b) No more than 2/3 of the units shall be between 800 and 1,000 square feet each.
- (4) Building separation distances shall be a minimum of 30 feet to allow for adequate access by emergency service vehicles.
- (5) Setback of a principal building from any tract boundary shall be a minimum of 10 feet.

- (6) Maximum impervious surface: No more than 85% of the gross tract area shall be covered by impervious surfaces.
- (7) Common open space. It is not required that common open space be provided as part of the development of multifamily dwellings. Where common open space is provided; however, it shall comprise an area representing not less than 10% of the gross tract area. The use, design, maintenance, and ownership of any common open space areas shall be in accordance with the applicable standards contained in § 399-58C(5) of this chapter. In addition to the uses provided in § 399-58C(5)(f), common open space may be used as a village green, consistent with the Manual of Written and Graphic Design Guidelines.
- (8) Minimum width of single-family attached unit: 18 feet.
- (9) Minimum front yard/build-to line. There shall be a front yard on each tract or lot which shall be not less than five feet in depth and shall be not more than 12 feet in depth, depending on whether there is only a sidewalk 4.5 feet wide or a sidewalk 10 feet to 12 feet wide, as per the Sidewalks and Crosswalks section and the Typical Section for Accessways, respectively, in the Guthriesville Village Manual of Written and Graphic Design Guidelines.
- (10) Minimum side yard (single-family attached end units): 10 feet.
- (11) Minimum rear yard: 35 feet.
- (12) Maximum height. Multifamily buildings and mixed-use buildings containing multifamily dwellings shall be deemed to be part of the class of buildings that is governed by the terms of § 399-40H.
- (13) All dwellings shall be served by a community or public sewage system and a central water supply system. The proposals for sewage disposal and water supply shall comply with the terms of § 399-40A and § 399-42K, below.
- (14) The furnishing of a detailed and acceptable planting plan and its approval by the Board of Supervisors shall be a condition of any approval of an application for multifamily dwellings.

**§ 399-42. Design standards.**

Except as otherwise specified by this chapter for particular uses, the following design standards of this chapter shall, as applicable, govern all uses within the TND-1 District:

- A. Signs: as required by Article XVI.
- B. Parking. Except as noted below, the standards in Article XV shall apply.
  - (1) For any residential use approved as a conditional use, a minimum of 1.5 off-street parking spaces shall be required for each dwelling unit. Where the calculation of parking spaces yields a total with a half space, the total number of required spaces shall be increased by rounding up to the next full number.
  - (2) For any conditional use:
    - (a) Where on-street parallel parking is proposed, such spaces shall be nine feet in width and 25 feet in length.

- (b) On-street parking spaces along the frontage of a lot may be credited to the applicable off-street parking requirements for that lot.
  - (c) All on-street parking shall be subject to approval by the Township and PennDOT, as applicable.
- C. Access and traffic control: as required by § 399-81.
- D. Landscaping and site design: as required by § 399-78.
- E. Screening and buffering: as required by § 399-79.
- F. Storage: as required by § 399-80.
- G. Interior circulation: as required by § 399-82.
- H. Lighting: as required by § 399-83.
- I. Loading: as required by Article XV.
- J. Erosion/sedimentation control and stormwater management, as required by Chapter 345, Stormwater Management.
- K. Sewage facilities and water supply. For any new use or change of use that will result in water usage and/or sewage disposal needs which will exceed those of the existing use of the property, the Zoning Officer shall require the applicant to submit appropriate documentation from the Chester County Health Department, the East Brandywine Township Municipal Authority, and/or the Pennsylvania Department of Environmental Protection, certifying the sufficiency of the proposed sewage facilities and the quality and quantity of the proposed water supply in relation to the proposed use or uses. The Zoning Officer shall, as he deems it necessary, consult with the Township Engineer on any aspect of the proposed sewage facilities or water supply and shall deny the application where the proposed sewage facilities or water supply are deemed to be inadequate.
- L. A public realm plan shall be provided with all conditional use applications to depict all existing and proposed sidewalks and crosswalks, street trees, streetlights, pedestrian gathering areas, pedestrian amenities, and other landscape and hardscape areas.
- M. Written and graphic design guidelines.
  - (1) All proposals for conditional use approval within the Traditional Neighborhood Development TND-1 District shall be consistent with the amended Manual of Written and Graphic Design Guidelines in Appendix B of this chapter, which Appendix B is incorporated by reference and made a part hereof.
  - (2) All applicants for conditional use approval shall utilize Appendix B and shall prepare and submit their own specific manual with details on their particular project.
- N. Among its other considerations, the Board of Supervisors may, as it deems appropriate, require any applicant for a conditional use to prepare and submit a traffic impact study. Such study shall comply, at a minimum, with the requirements of § 350-37 of Chapter 350, Subdivision and Land Development; in addition, the applicant may be required to address specific measures to achieve satisfactory access management.

**§ 399-43. Zoning compliance plan.**

In order to determine compliance with the terms of this article, and to maximize compatibility of any new or changed land use with the existing village character of Guthriesville, any proposal for a use authorized by right or conditional use within the TND-1 District, with the exception of single-family detached and two-family dwellings, conversion of a single-family dwelling, and an accessory dwelling, shall require submission of a zoning compliance plan in accordance with the terms of this section.

- A. The zoning compliance plan, consisting of text and graphics, shall be submitted to the Zoning Officer as part of an application for a use and occupancy permit or for conditional use approval by the Board of Supervisors.
- B. The zoning compliance plan shall contain, at a minimum, the following:
  - (1) Specific documentation of how each applicable standard cited in §§ 399-40, 399-41, and 399-42 will be complied with.
  - (2) Certification from the Chief of the East Brandywine Fire Company as to the adequacy of access for emergency vehicles.
  - (3) Demonstration of compliance with any other applicable standards of Chapter 350, Subdivision and Land Development.
- C. The zoning compliance plan shall be reviewed and evaluated as follows:
  - (1) When part of an application for a use and occupancy permit, the plan shall be reviewed by the Zoning Officer within the time frame established by this chapter for acting upon such applications. The Zoning Officer may, as he deems necessary, seek further comment on the plan from the Township Planning Commission, the Township Engineer, or other parties he deems appropriate. Where the plan indicates that one or more requirements of this chapter will not be complied with, the Zoning Officer shall so notify the applicant and shall withhold issuance of any use and occupancy permit until such noncompliance is remedied or appropriate relief from such requirement is obtained from the Zoning Hearing Board or the Board of Supervisors.
  - (2) Where submitted in conjunction with an application for conditional use, the zoning compliance plan shall also address the requirements of § 399-137B(6) that are not otherwise included under the terms of this section. Upon completing his review of the application, as required in § 399-137C(1), the Zoning Officer shall report his findings to the Board of Supervisors for consideration during the public hearing on the conditional use application. The plan also shall be reviewed by the Township Planning Commission as part of its review of the conditional use application and recommendation to the Board of Supervisors.
- D. Ownership. The tract of land to be developed shall be in one ownership, or shall be the subject of an application filed jointly by the owners of the entire tract, and shall be under unified control. If ownership of the entire tract is held by more than one person or entity, the application shall identify and be filed on behalf of all the said owners. Approval of the plan shall be conditioned upon agreement by the applicant or applicants that the tract shall be developed under single direction in accordance with the approved plan. No site preparation or construction shall be permitted other than in accordance with the approved plan. If ownership of the tract changes subsequent to approval of the plan, no site preparation or construction by such new owner or owners shall be permitted unless and until such owner or owners shall review the terms and obligations of the approved plan and agree in writing to be

bound thereby with respect to development of the tract.

ARTICLE IX  
MU Mixed Use-Commercial District

**§ 399-44. Statement of intent.**

- A. The MU Mixed Use-Commercial District is intended to provide opportunities, under explicit conditions and standards, for commercial, office, and other nonresidential development that is situated to take advantage of the visibility and traffic flows along identified segments of Route 322 within the Township. Such uses are intended primarily, but not exclusively, to serve the needs of Township residents and businesses. Anticipated uses include retail and service commercial, but at a broader scale and of a less village-oriented character than in the VC District; business, public, and other general offices; warehousing, wholesale distribution, and similar light industrial-type operations; and flex-space facilities. It is further intended to provide for a mix of these uses on tracts large enough to incorporate essential site design and access management features, and to avoid a proliferation of individual uses and access points along the Route 322 corridor within the Township. Similarly, the district does not permit the conversion of existing residential properties on small lots for nonresidential purposes.
- B. In the MU Mixed Use-Commercial District, the following regulations shall apply.

**§ 399-45. Use regulations.**

- A. Permitted uses. A building may be erected, altered, or used, and a lot may be used or occupied, for one or more of the following purposes, and no other:
- (1) ~~Outdoor recreation~~ Recreation facility
  - (2) ~~Indoor t~~Theater, bowling lanes, or other place of indoor recreation.
  - (3) ~~Business or professional o~~Office.
  - (4) ~~Retail sale of goods, general merchandise, clothing, food, pharmaceuticals, personal care items, household supplies or furnishings, and similar products or items, but specifically not including convenience stores.~~
  - (5) ~~No-impact~~ Impact home ~~Home o~~ccupation Occupation, in accordance with the terms of § 399-93.
  - ~~(6) Personal service enterprises, such as barbershop, beauty salon, shoe repair, tailor, dropoff/pickup facility associated with off site clothes cleaning or pressing operation, repair of television, radio, and similar appliances and equipment, or similar establishment.~~
  - ~~(6)~~ Restaurant, subject to the provisions of § 399-102.8.
  - ~~(7)~~ Restaurant, Fast-Food, subject to the provisions of § 399-102.8.
  - ~~(7)(8)~~ Restaurant, Fast-Food With Drive Through Service, subject to the provisions of § 399-102.8. , retail bakers, confectionery, or other places preparing, selling, and/or serving food or beverages. A fast-food restaurant (with or without drive-through service) shall be permitted only when approved as a conditional use, in accordance with the terms of this article.

- ~~(8)(9)~~ Studio for performing or visual arts; gallery.
- ~~(9)(10)~~ Bank or similar financial institution.
- ~~(10)(11)~~ Funeral parlor Parlor or undertaker's establishment.
- ~~(11)~~ Newspaper printing, job printing.
- ~~(12)~~ Florist shop; greenhouse, when clearly accessory to the retail use.
- ~~(12)~~ Museum,;
- ~~(13)~~ Library, or other educational or cultural use of a similar nature.
- ~~(14)~~ Medical clinic providing outpatient care; animal hospital Office.
- ~~(15)~~ Warehousing; wholesale sales, distribution, and storage.
- ~~(16)~~ Flex-space Space buildings.
- ~~(17)~~ Ministorage facility Facility.
- ~~(18)~~ Research, engineering, or testing Laboratory.
- ~~(19)~~ Theater.
- ~~(20)~~ Animal Hospital.
- ~~(21)~~ Crematorium.
- ~~(22)~~ Agriculture.
- ~~(18)(23)~~ Kennel, in accordance with 399-85(C).
- ~~(19)~~ Dropoff/collection center for recyclable materials, when operated by the Township, Chester County, or a nonprofit or citizens' recycling organization.
- ~~(20)(24)~~ Accessory use Use on the same lot with and customarily incidental to any of the foregoing permitted uses.
- ~~(25)~~ On any lot existing as of March 19, 2003, that contained a gross lot area of less than 10 acres as of that date, the only uses permitted shall be a single-family residential dwelling and any uses customarily accessory thereto. The requirements in § 399-48 shall not apply to such lots.
- ~~(21)(26)~~ Forestry, in accordance with Chapter 165.

B. Conditional uses. Any of the following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of this article and the standards and criteria contained in § 399-137 of this chapter:

- ~~(1)~~ Laundry, including self-service; clothes cleaning or pressing establishment.
- ~~(2)~~ Fast food restaurant, including drive-through service.
- ~~(3)(1)~~ Major home Home occupation Occupation, in accordance with the terms of § 399-93.

~~(4)(2) Automotive sales; the sale of used vehicles shall be permitted only as a use accessory to the sale of new vehicles~~ Vehicle Sales.

~~(5)(3) Farm machinery sales and service and Landscaping Equipment Supplies.~~

~~(4) Motel.~~

~~(6)(5) or hHotel.~~

~~(7) Helistop, in accordance with the terms of § 399-100 of this chapter.~~

~~(8) Commercial use of water resources, as defined by this chapter and in accordance with the terms of § 399-49F of this article.~~

~~(9)(6) Continuing care Care development Facility, skilled care or nursing care facility, or assisted care facility, in accordance with § 399-102.4, provided that no correctional or penal institution or asylum for the insane shall be permitted.~~

~~(10)(7) Medical mMarijuana dDispensary, in accordance with the terms of § 399-102.7 of this chapter.~~

~~(8) School.~~

~~(9) Day-Care Facility.~~

~~(11)(10) Car Wash.~~

~~C. Uses by special exception.~~

~~(1) Any of the following uses shall be permitted when approved as a special exception by the Zoning Hearing Board, in accordance with the terms of this article and the standards and criteria contained in § 399-145 of this chapter:~~

~~(a) Day care facility as a principal use, in accordance with § 399-102.2.~~

~~(2) Among its other considerations, the Zoning Hearing Board may, as it deems appropriate, require any applicant for a special exception to prepare and submit a traffic impact study. Such study shall comply, at minimum, with the requirements of § 350-37 of Chapter 350, Subdivision and Land Development; in addition, the applicant may be required to address specific measures to achieve satisfactory access management.~~

**§ 399-46. Area and bulk regulations.**

Except as provided in Subsection K or further stipulated in § 399-49 below, which refers to conditional uses only, the following regulations shall apply to all uses in the MU District:

- A. Minimum tract size. A minimum gross tract area of 10 acres shall be required for any use or combination of uses permitted in the MU District. A minimum of 10,000 square feet of net tract area shall be required per individual use, but the tract shall remain as one parcel and shall not be subject to further subdivision.
- B. Minimum tract width. Any tract shall have a width of not less than 300 feet at the street line.
- C. Minimum front yard. No building shall be situated less than 85 feet from the front lot line.
- D. Minimum side yard. There shall be two side yards, each of which shall have a width of not

less than 50 feet.

- E. Minimum rear yard. No building shall be situated less than 75 feet from the rear lot line.
- F. Maximum impervious surface. Not more than 65% of the net area of any tract may be covered by impervious surfaces. Minimum vegetative cover. Not less than 30% of the gross tract area shall be planted and maintained with existing and/or installed vegetative material.
- G. Maximum floor area ratio. Total floor area shall not exceed 60% of the gross tract area.
- H. Height regulations. The maximum height of buildings and other structures erected or enlarged in the MU District shall be three stories or 35 feet, whichever is less.
- I. Minimum parking area setback. No parking area shall be situated closer than 50 feet from the boundary of any residential property or any residential zoning district.
- J. Standards for residential use. For any lot used for a single-family detached dwelling, as permitted by § 399-45A(21), the area and bulk regulations of § 399-28 of this chapter shall apply.

**§ 399-47. General design and site development standards.**

The following design standards of this chapter shall be applicable to all uses within the MU District, except that residential uses shall be required to comply only with Subsections A, B, and H:

- A. Signs: as required by Article XVI.
- B. Parking: as required by Article XV.
- C. Access and traffic control: as required by § 399-81. In addition, an access point may consist of a combined point of ingress and egress or separate points of ingress and egress, i.e., one of each.
- D. Landscaping and site design: as required by § 399-78. Parking areas shall be landscaped in accordance with § 399-79.
- E. Screening and buffering: as required by § 399-79. The frontage buffer area shall provide landscaping at the street right-of-way line, extending a minimum of 10 feet into the front yard and extending along the entire frontage. Any unpaved area between the street right-of-way line and the edge of the cartway also shall be continuously maintained as a landscaped area. Landscaping materials shall be selected and designed so as not to obstruct vision along the street and shall be resistant to road salt and pollution associated with vehicular traffic. In addition, there shall be a landscaped buffer along all property lines which abut a residential use or residential zoning district boundary. Plantings within this buffer shall have a minimum depth of 15 feet and shall be in accordance with § 399-79 of this chapter.
- F. Storage: as required by § 399-80.
- G. Interior circulation: as required by § 399-82.
- H. Lighting: as required by § 399-83.
- I. Loading: as required by Article XV.
- J. Erosion/sedimentation control and stormwater management, as required by Chapter 345,

Stormwater Management.

- K. Sewage facilities and water supply. The applicant's proposals for sewage facilities and for water supply (both quality and quantity) in relation to the proposed uses shall be in compliance with the requirements of §§ 350-47 and 350-48, respectively, of Chapter 350, Subdivision and Land Development. Any approval of an application for development within the MU District shall be contingent upon the requisite approvals and certifications from the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection.
- L. Traffic impacts. The Board may require that a traffic study be prepared and submitted as part of any application within the MU District. The content of the study shall be such as to enable the Board to assess the likely impacts of the proposed development on the existing transportation network of the Township and surrounding areas. The purpose of the study is to identify any traffic problems likely to result from the proposed development in relation to ingress/egress, road capacities, off-site traffic flow, public transportation, and pedestrian and other nonvehicular circulation. The Township shall review the methodology, assumptions, findings, and recommendations of the study. The Board, upon recommendation from the Township Engineer or its own traffic consultant, may impose upon the applicant additional improvements deemed necessary to accommodate impacts of the proposed development.
- M. Design compatibility. Compatibility of the proposed development with its physical surroundings shall be demonstrated, particularly with respect to architectural design and building materials. The means of screening solid waste facilities, air-conditioning equipment, and similar mechanical equipment shall be demonstrated. The Township may, as it deems appropriate, request a signage plan showing proposed location, construction, and message of each intended sign.
- N. Ownership. The tract of land to be developed shall be in one ownership, or shall be the subject of an application filed jointly by the owners of the entire tract, and shall be under unified control. If ownership of the entire tract is held by more than one person or entity, the application shall identify and be filed on behalf of the said owners. Approval of the plan shall be conditioned upon agreement by the applicant or applicants that the tract shall be developed under single direction in accordance with the approved plan. If ownership of the tract changes subsequent to approval of the plan, no site preparation or construction by such new owner or owners shall be permitted unless and until such owner or owners shall review the terms and obligations of the approved plan and agree in writing to be bound thereby with respect to development of the tract.
- O. Development plan. The application for conditional use approval shall be accompanied by a unified, overall site plan covering the entire tract, regardless of any intended phasing of development. The plan shall be consistent with the requirements of § 399-48 below.
- P. Covenants and restrictions. The language, terms, and conditions of any proposed covenants or restrictions shall be subject to review and recommendation by the Township Solicitor.

**§ 399-48. Plan submission requirement.**

- A. In order to demonstrate compliance with the terms of this article, any applicant proposing any use authorized by right within the MU District shall submit a plan (map and text) to the Township Zoning Officer, describing specifically how each standard in §§ 399-46 and 399-47 shall be addressed.

- B. Where the proposed use constitutes a subdivision or land development, as defined by Chapter 350, Subdivision and Land Development, the plan submission requirements of that chapter shall supersede the provisions of this section.
- C. For any conditional use application, the submission requirements under § 399-137 of this chapter shall govern, and the plan submitted shall demonstrate compliance with the terms of §§ 399-46 and 399-47.
- D. Any plan also shall include a certification from the Chief of the East Brandywine Fire Company as to the adequacy of access for emergency vehicles and the sufficiency of available water for fire-fighting purposes. Where the water source is off site, suitable arrangements to assure access at all times shall be demonstrated by the applicant.
- E. Upon submission of an application for development within the MU District, all owners of property within 500 feet of any portion of the tract on which such development is proposed shall be notified of the application and of the process through which the application will be reviewed and decided upon.

**§ 399-49. Standards and criteria for conditional uses.**

In its review of applications for approval as conditional uses under the terms of § 399-45B above, the Board of Supervisors shall consider the degree to which such applications are in compliance with the following standards and criteria, as each may be applicable to the particular use proposed:

- A. Except as provided in Subsection F below, the proposed use should not be of a type that requires an excessive amount of water to facilitate its operation, relative to available groundwater resources, the needs of surrounding properties for groundwater to support existing uses, and the soil absorption capabilities of the tract. The applicant may be required to establish a minimum contiguous area suitable for on-site sewage disposal that is in excess of the minimum area stipulated in § 399-16. Issuance of a use and occupancy permit for any subsequent change in use within the development shall be subject to the same contingency, where the proposed new use will place an inordinately greater demand on the groundwater supply than did the prior use.
- B. To the extent that the proposed use presents the potential for unusual traffic problems or hazardous traffic conditions beyond those normally associated with the uses permitted under § 399-45, the Board may require that a specific analysis of those traffic impacts be submitted by the applicant or that the traffic impact study prepared in accordance with § 399-47 above include such a specific analysis. Where the Board finds it necessary to improve existing roads or intersections, to install traffic control devices, or to take similar actions to address the traffic problems posed by the proposed use, it may require such improvements to be made by the applicant.
- C. As a condition of approval of any proposed use, the operation of which involves significant quantities of toxic or hazardous materials or the generation of hazardous wastes, the Board may stipulate limits on the volume of such materials used and/or require special waste-handling measures to avoid groundwater contamination.
- D. As a condition of approval of any proposed use, the Board may attach additional stipulations on the design, layout, and/or operation of such use in relation to its particular characteristics, including but not limited to the following:

- (1) Hours of operation.
- (2) Noise.
- (3) Glare.
- (4) Integration of the use within the overall design of a proposed mixed-use development.
- (5) Proximity to residential uses or residentially zoned areas.
- (6) Additional parking demand and/or opportunities for shared parking.

~~E. For any fast food restaurant proposed as a conditional use within the MU District, the applicant shall propose and carry out measures, deemed satisfactory by the Board, that assure compliance with the following requirements:-~~

- ~~(1) Food and/or beverage is not to be consumed within the parking area or any other exterior portion of the restaurant or convenience store site.~~
- ~~(2) Trash disposal shall be managed so as to prevent any problems of littering, on or all the site.~~
- ~~(3) Noise and lighting shall be controlled so as to avoid any impact on adjacent residential properties.~~

~~F. Any application for conditional use approval for the commercial use of water resources shall be subject to the following standards and criteria:-~~

- ~~(1) A detailed Water Supply Impact Plan (hereinafter "plan") shall be submitted for review and approval by the Township. Such plan shall be prepared by an independent professional geologist or a professional engineer with a current certificate of occupation as issued by the Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs (hereinafter "qualified professional"). Such qualified professional shall be approved by the Township prior to commencement of the study described in Subsection F(2) below.~~
- ~~(2) Upon approval and execution of the plan, a Water Supply Impact Study (hereinafter "study") shall be prepared and submitted by a qualified professional. The study shall evaluate the affect of the proposed commercial use of water resources on the existing surface and subsurface water within one radial mile of the site property corners.~~
- ~~(3) Where determined necessary by the Township, any data suggesting that the proposed use will neither diminish the quantity or quality of water available to surrounding properties nor measurably reduce the flow of surface water in East Brandywine Township shall be subject to independent review and confirmation (hereinafter "confirmation report") by a third party qualified professional selection of the qualified professional shall be agreed to by the Township and applicant, and the cost of the confirmation report shall be divided equally between the Township and applicant.~~
- ~~(4)(7) The proposed commercial use of water resources shall not be permitted if an interpretation of the data presented in the study or in the confirmation report reasonably predicts that the proposed use will unacceptably diminish the quantity or quality of water available to surrounding properties, or will measurably reduce the flow of surface waters in East Brandywine Township.~~

ARTICLE X  
CS/LI Commercial Service/Limited Industrial District

**§ 399-50. Statement of intent.**

The Commercial Service/Limited Industrial District is intended to provide, under explicit conditions and standards, for personal and business service uses and light industrial and manufacturing uses within East Brandywine Township. Specifically, it recognizes the existing uses of land in a confined area along Route 322 adjacent to the Caln Township boundary, and the appropriateness of such area for those uses. It permits limited new uses which are compatible with the existing uses and with the Township's overall character and pattern of land use.

**§ 399-51. Use regulations.**

A. Permitted uses. A building may be erected, altered, or used, and a lot may be used or occupied as of right for any one of the following purposes, or for as many as three such purposes in combination, and no other.

- ~~(1) Carpenter shop, butcher shop, and other similar uses, except that such uses shall not involve slaughter operations~~Retail.
- ~~(2) Repair of television, radio, and similar appliances and equipment.~~
- (2) Car Wash.
- ~~(3) Gasoline Station, Nonretail~~Non-Retail/Membership Only, in accordance with 399-90, where applicable., membership-only gasoline stations.
  - ~~(a) Notwithstanding the otherwise applicable terms of this section, the combining of one or two additional uses with such a gasoline service station on one property shall be permitted only upon the grant of conditional use approval by the Board of Supervisors, in accordance with the terms of Subsection B below.~~
- ~~(4) Personal service enterprises such as barbershop; beauty salon; shoe repair; tailor; clothes cleaning or pressing operation, including associated dropoff/pickup facility; plumber; electrician.~~
- (4) Crematorium.
- ~~(5) Office for the professional practice of medicine, law, engineering, architecture, real estate, insurance, or financial consultation.~~
- (6) Studio for performing or visual arts; gallery.
- ~~(6)(7) Single-Family Dwelling.~~
- ~~(7) Specialty shop and facilities for craftsmen, such as blacksmiths, tinsmiths, or cabinet makers.~~
- ~~(8) Newspaper printing, job printing.~~
- ~~(9) Florist shop; greenhouse.~~
- ~~(10)(8) Medical clinic providing outpatient care; a~~Animal hospitalHospital.

- ~~(11)~~(9) Research, engineering, or testing Laboratory.
- ~~(12)~~(10) Dropoff/collection center for recyclable materials, when operated by the Township, Chester County, or a nonprofit or citizens' recycling organization. Recycling Dropoff/Collection Chester.
- ~~(11)~~ Motor ~~vehiele~~Vehicle servicesServices in accordance with § 399-102.3 and 399-90, where applicable.. Repair, body work, vehicle towing service, or any combination thereof.
- ~~(12)~~ Warehousing.
- ~~(13)~~ Vehicle ~~towing~~Towing serviceService, including truck parking/storage and vehicle impoundment area, shall be in accordance with § 399-102.3 and 399-90, where applicable.
- ~~(14)~~ Forestry, ~~as defined by this chapter, including logging activities when~~ in accordance with the standards in Chapter 165~~§ 399-102.1.~~
- ~~(15)~~ No-~~impact~~ Impact homeHome oecupationOccupation, in accordance with the terms of § 399-93.
- ~~(15)~~(16) Industrial Use.
- ~~(17)~~ Retail ~~sale~~Sale of consumerConsumer fireworksFireworks, as licensed and regulated by the Pennsylvania Department of Agriculture and in compliance with Act 43, the Pennsylvania State Fireworks Law. Any person who intends to sell or store consumer fireworks within the Township shall provide proof of such licensure prior to such use being conducted within the Township, in addition to compliance with all other applicable Township ordinances and regulations.
- ~~(18)~~ Accessory Use on the same lot with and customarily incidental to any of the foregoing permitted uses.
- ~~(16)~~(19) Ministorage Facility.
- B. Uses allowed as conditional uses. The following uses shall be permitted when approved as a conditional use by the Board of Supervisors, in accordance with the terms of this article and the procedures stipulated in § 399-137 of this chapter.
- (1) Junkyard, when in further compliance with the standards contained in § 399-54 below.
  - (2) One or two of the uses listed in Subsection A above when proposed in combination with a nonretail, membership-only gasoline station.
  - (3) Any use deemed by the Board of Supervisors to be of the same general character as any of the uses specifically permitted under Subsection A.
  - (4) Convenience ~~store~~Store, as defined by this chapter, and consistent with the standards in § 399-102 of this chapter.
  - (5) Solar ~~farm~~Energy FacilityFarm, in accordance with the terms of § 399-102.5 of this chapter.
  - (6) Major ~~home~~Home oecupationOccupation, in accordance with the terms of § 399-93.
  - ~~(7)~~ Medical marijuanaMarijuana growerGrower/processorProcessor, in accordance with

the terms of § 399-102.7 of this chapter.

(8) Electric Substation.

~~(7)(9) Any use not specifically provided for or deemed to be permitted in any other Zoning District, and which is not inherently objectionable as contrary to the public health, safety, morals and/or general welfare.~~

~~C. Accessory uses. For each lot within the Commercial Service/Limited Industrial District, the following permitted accessory uses shall be allowed:~~

~~(1) Retail sales, where the products sold are closely related to a principal use.~~

**§ 399-52. Area and bulk regulations.**

The following standards apply to all uses permitted by right or conditional use within the Commercial Service/Limited Industrial District, with the exception of: junkyards permitted under § 399-51B(1), which shall be governed by the standards in § 399-54; and convenience stores permitted under § 399-51B(4), which shall be governed by the standards in § 399-102 of this chapter.

- A. Proof of adequate sewage facilities and water supply: as required by § 399-40A of this chapter.
- B. Minimum lot area. A net lot area of not less than 20,000 square feet shall be required in the Commercial Service/Limited Industrial District. Where the lot is to contain a combination of uses, as permitted in § 399-51A above, a minimum net lot area of 10,000 square feet per use shall be required.
- C. Minimum lot width. Each lot shall have a width of not less than 100 feet at the building setback line.
- D. Minimum front yard. There shall be a front yard on each lot which shall not be less than 50 feet in depth, or in the case of that portion of the property used for a nonretail membership-only gasoline station, not less than 35 feet from the edge of the right-of-way to the base of the gasoline pump island. Within the first 20 feet of depth of the required front yard, as measured from the street right-of-way line, there shall be no parking area or other impervious surface other than that needed at points of ingress to and/or egress from the lot.
- E. Minimum side yard. Where the side lot line abuts a nonresidential use within the Commercial Service/Limited Industrial District, there shall be a side yard along such side lot line having a width of not less than 10 feet. Where the side lot line abuts a residential zoning district boundary, there shall be a side yard along such side lot line having a width of not less than 40 feet.
- F. Minimum rear yard. Where the rear lot line abuts a nonresidential use within the Commercial Service/Limited Industrial District, there shall be a rear yard of not less than 25 feet. Where the rear lot line abuts a residential zoning district boundary, there shall be a rear yard of not less than 50 feet.
- G. Maximum impervious surface area: Not more than 75% of the net area of any lot may be covered by impervious surfaces.
- H. Minimum vegetative cover. Not less than 20% of any lot shall be planted and maintained with

existing and/or installed vegetation.

- I. Maximum height. No building or other structure erected, altered, or enlarged in the Commercial Service/Limited Industrial District shall exceed a height of three stories or 35 feet, whichever is less.

**§ 399-53. General design standards.**

The standards in this section apply to all uses permitted as of right or by conditional use in § 399-51 above.

- A. Signs: as required by Article XVI.
- B. Parking: as required by Article XV.
- C. Landscaping and site design: as required by § 399-78.
- D. Screening and buffering. There shall be a landscaped buffer along all property lines which abut a residential use or residential zoning district boundary. Plantings within this buffer shall have a minimum depth of 15 feet and shall be in accordance with § 399-79 of this chapter.
- E. Storage: as required by § 399-80.
- F. Access management and traffic control: as required by § 399-81.
- G. Interior circulation: as required by § 399-82.
- H. Lighting: as required by § 399-83.
- I. Loading: as required by Article XV.
- J. Erosion/sedimentation control and stormwater management, as required by Chapter 345, Stormwater Management.
- K. Traffic impacts. The Board may require that a traffic study be prepared and submitted as part of any application within the Commercial Service/Limited Industrial District. The content of the study shall be such as to enable the Board to assess the likely impacts of the proposed development on the existing transportation network of the Township and surrounding areas. The purpose of the study is to identify any traffic problems likely to result from the capacities, off-site traffic flow, public transportation, and pedestrian and other nonvehicular circulation. The Township shall review the methodology, assumptions, findings, and recommendations of the study. The Board, upon recommendation from the Township Engineer or its own traffic consultant, may impose upon the applicant additional improvements deemed necessary to accommodate impacts of the proposed development.

**§ 399-54. Standards and criteria for junkyards.**

An applicant for conditional use approval of a junkyard shall submit a plan (map and text), describing specifically how each of the following standards and criteria will be met:

- A. Area, bulk, and impervious surface requirements:
  - (1) Minimum lot area. A minimum net lot area of not less than 10 acres shall be provided.
  - (2) Minimum lot width. Each lot shall have a width of not less than 200 feet, measured at the building setback line.

- (3) Minimum yard regulations. The minimum requirements for front, side, and rear yards contained in § 399-52D, E and F, respectively, shall be applicable to a junkyard in the Commercial Service/Limited Industrial District.
- (4) Maximum impervious surface area. Not more than 30% of the net area of any lot shall be covered by impervious surfaces.

B. Standards for storage of junk.

- (1) No junk shall be stored or accumulated within 50 feet of the side and rear lot lines of the licensed premises, nor shall any junk be stored or accumulated within 50 feet of any street right-of-way line that the licensed premises abuts.
- (2) No item of junk shall be stored, maintained, situated, placed, or otherwise located within any designated floodplain area or within 100 feet of any river, stream, run, creek, irrigation ditch, or any other natural watercourse. The more stringent of these two standards shall govern in all cases.
- (3) Any view of the junkyard from a public road or from an adjoining property shall be effectively screened, as stipulated by § 399-53D of this article.
- (4) The maximum height of any outdoor unenclosed accumulation of junk materials within a junkyard shall be eight feet.
- (5) The premises shall at all times be maintained so as not to constitute a nuisance, or a menace to the health and welfare of the community or to residents nearby, or a place for the breeding of rodents and vermin.
- (6) That portion of the premises that is being used directly for the storage of junk shall be enclosed by a metal chain link fence constructed of heavy duty steel and supported upon steel posts, or in lieu thereof, a solid masonry or metal wall of a uniform design, texture, and structure. The land area between the fence or wall and any public street shall be landscaped in accordance with the terms of §§ 399-78 and 399-79. Such fence or wall shall not be less than six feet in height.
- (7) No garbage, other organic waste, or hazardous waste shall be stored on such premises.
- (8) The manner of storage and arrangement of junk and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnant water upon the land and to facilitate access for inspection purposes and fire fighting. All junk shall be arranged and maintained in a neat and orderly fashion. All junk shall be arranged in rows; each row shall be no greater in depth than 40 feet. Rows shall have at least 12 feet of clear space between them. Consideration shall be given at curves and turning points, for the wider aisles needed by fire-fighting equipment.
- (9) Every structure erected upon the premises and used in connection therewith shall be of fireproof construction, as deemed sufficient by the Township Engineer.
- (10) Gasoline, oil, air-conditioner refrigerant, coolant system fluids, or any similar potentially hazardous substance shall be removed from any junk or other items received at the junkyard prior to storage of such junk or other items on the premises. Removal and disposal or storage of such liquids shall be in a manner deemed acceptable by the Board upon advice of the Township Engineer, and shall meet all requirements of the

Pennsylvania Department of Environmental Protection. Such liquids shall not be deposited on or into the ground.

- (11) The only vehicle tires that may be accepted at the junkyard shall be those mounted on or contained within a vehicle that is deposited at the junkyard for salvage or disposal. Once such tires are removed from the vehicle being salvaged, they shall be stored under cover and otherwise handled in accordance with the requirements of the Pennsylvania Department of Environmental Protection. Post-salvage tires shall be disposed of off site; no burning or processing of tires or tire material shall be permitted. At no time shall the number of accumulated tires removed from vehicles within the junkyard exceed 500.
- (12) No junk or other material shall be burned on the premises.
- (13) No junk shall be buried on the premises.

ARTICLE XI  
I/R Institutional/Residential District

**§ 399-55. Statement of intent.**

The intent of the I/R - Institutional/Residential District is to recognize and provide further opportunity for the development of an area of the Township well-suited to a mix of institutional and residential uses. The district combines several substantial properties to form a distinct core of land with important infrastructural advantages. At the same time, the uses and site design criteria within this district are intended to assure continuity with those of the adjacent R-2 and MU Districts. Areas for educational, religious, and residential use are provided, through a process designed to maximize the integration and compatibility of the various uses and tracts. In so doing, the Township's intent is to take full advantage of opportunities within the district for creative solutions in matters of circulation, access, buffering, shared facilities, water supply, wastewater, etc.

**§ 399-56. Use regulations.**

A. Permitted uses. A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any of the following purposes, and no other:

- (1) Agriculture, in accordance-with the terms of §§ 399-85 and 399-97.
- (2) Single-family detached dwelling.
- (3) Cemetery.
- (4) Religious use.
- ~~(4)(5) Laboratory.~~
- ~~(5) Electric substation or similar public utility, provided that there shall be no exterior storage of equipment nor any bulk storage of liquid or gaseous fuels. For purposes of this subsection, the term "public utility" shall not include any person or entity furnishing mobile domestic cellular radio telecommunications or other wireless service.~~
- ~~(6) Accessory use Use on the same lot with and customarily incidental to any permitted use or conditional use approved within the IR District.~~
- (7) Forestry, ~~as defined by this chapter, including logging activities when~~ in accordance with the standards in Chapter 165§ 399-102.1.
- ~~(8) No-impact Impact home-Home occupationOccupation,~~ in accordance with the terms of § 399-93.
- (9) Animal Hospital.
- (10) Library.
- (11) Ministorage Facility.
- (12) Museum.
- (13) Office.

(14) Recreation Facility.

~~(8)~~(15) Theater.

B. Conditional uses. The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of this article and § 399-137:

(1) School.

(2) Clustered residential development.

(3) Major home occupation, in accordance with the terms of § 399-93.

~~(3)~~(4) Continuing Care Facility, in accordance with § 399-102.4.

**§ 399-57. Area and bulk regulations.**

A. The following regulations shall apply in the IR District to those uses permitted under the terms of § 399-56A:

(1) Minimum lot area:

(a) Gross: 1 1/2 acres.

(b) Net: 45,000 square feet.

(2) Minimum lot width: 175 feet, measured at the building setback line.

(3) Minimum front yard: 50 feet.

(4) Minimum side and rear yards: 40 feet, except that an accessory use structure may be located within a side or rear yard in accordance with § 399-75 of this chapter or, with respect to the sheltering of animals, in accordance with § 399-85D(2).

(5) Maximum impervious surface: Not more than 15% of the net area of any lot shall be covered by impervious surfaces.

(6) Maximum height. Except as provided in § 399-73 of this chapter, no building or other structure shall exceed a height of three stories or 35 feet, whichever is less.

B. The following regulations shall apply in the IR District to any school use permitted as a conditional use under the terms of § 399-56B:

(1) Minimum gross tract area: 20 acres.

(2) Minimum building setbacks. Any building shall be set back not less than the distance indicated from the following:

(a) Arterial or collector street: 100 feet.

(b) Local or internal street: 50 feet.

[1] The Board of Supervisors may permit an internal street setback of less than 50 feet for an existing nonresidential building if adequate health, safety, and welfare concerns are addressed.

(c) Parking area: 20 feet.

- (d) Dwelling units on adjacent tracts: 120 feet.
- (3) Minimum width of landscaped buffer along all property lines: 25 feet.
  - (a) This requirement shall not apply where the school tract abuts permanently protected open space.
- (4) Maximum floor area ratio: 40% of the gross area of the tract.
- (5) Maximum building coverage: 15% of the gross area of the tract.
- (6) Maximum impervious surface: 40% of the gross area of the tract.
- (7) Minimum vegetative cover: 50% of the gross area of the tract.
- (8) Maximum height. Except as provided in § 399-73 of this chapter or in Subsection B(8)(a) below, no building or other structure shall exceed a height of three stories or 40 feet, whichever is less.
  - (a) When approved as a special exception, maximum height of a building may be extended to 45 feet. Among the criteria in such a case, the Zoning Hearing Board shall consider the functional and structural needs for the increased height and the potential impact of the incremental height on views of and across the property.
- (9) Minimum distance between principal buildings on the tract: 40 feet.
- C. The following regulations shall apply in the IR District to any clustered single-family residential development permitted as a conditional use under the terms of § 399-56B:
  - (1) Minimum gross tract area: 20 acres.
  - (2) Maximum density of development: 0.75 dwelling units per acre of net tract area, and consistent with the additional standards for tract area contained in § 399-58C(2) below.
  - (3) Minimum net lot area: 10,000 square feet.
  - (4) Minimum lot width: 70 feet, measured at the building setback line.
  - (5) Minimum front yard: 30 feet.
  - (6) Minimum side yards: 30 feet aggregate, with neither less than 10 feet.
  - (7) Minimum rear yard: 25 feet.
  - (8) Maximum impervious surface: Not more than 45% of the net area of any lot may be covered by impervious surfaces.
  - (9) Maximum building height. Except as provided in § 399-73 of this chapter, no building or other structure shall exceed a height of three stories or 35 feet, whichever is less.
  - (10) Minimum amount of common open space: 65% of the gross area of the tract.

**§ 399-58. General design and site development standards.**

- A. The following design standards of this chapter shall be applicable to any use permitted under the terms of § 399-56A:

- (1) Parking: as required by Article XV.
  - (2) Signs: as required by Article XVI.
  - (3) Lighting: as required by § 399-83.
  - (4) Erosion/sedimentation control and stormwater management, as required by Chapter 345, Stormwater Management.
  - (5) Access and traffic control: as required by § 399-81.
  - (6) Landscaping and site design: as required by § 399-78.
  - (7) Interior circulation: as required by § 399-82.
  - (8) Loading: as required by § 399-112.
- B. Any school proposed as a conditional use under the terms of § 399-56B above shall be required to meet the following standards:
- (1) The requirements of Subsection A above shall be applicable, except that the standard for the width of a perimeter buffer in § 399-57B(3) above shall supersede any such standard in § 399-79 of this chapter.
  - (2) The school shall be served by a community sewage facilities system, as defined by this chapter. The plans for such system shall be consistent with the East Brandywine Township Sewage Facilities (Act 537) Plan and shall demonstrate compliance with all applicable regulations of the Chester County Health Department and the Pennsylvania Department of Environmental Protection, and with the requirements of § 350-47 of Chapter 350, Subdivision and Land Development.
  - (3) The school shall be served by a public water supply system, as defined by this chapter. Plans for the system must demonstrate adequate supply for the proposed school use, and must comply with the requirements of § 350-48 of Chapter 350, Subdivision and Land Development.
  - (4) Within the tract, a separate pedestrian walkway system shall be required to provide for general pedestrian movement among buildings, parking areas and, as appropriate, recreation and open space areas. Such walkways shall be buffered from vehicular traffic through landscaping and/or berming.
  - (5) Where applicable, every effort should be made to retain existing natural vegetation or utilize existing site vegetation for screening purposes.
- C. Any clustered single-family residential development proposed as a conditional use under the terms of § 399-56B shall be required to meet the following standards:
- (1) The requirements of Subsection A above shall be applicable.
  - (2) Tract area.
    - (a) The "gross tract area" to be devoted to a clustered residential development may be comprised of more than one tract, and such tracts may be noncontiguous.
    - (b) For purposes of density calculation, the tract or combined tracts shall comply with the definition of "net tract area" in § 399-9.

- (c) To satisfy the requirements of this article, the applicant must demonstrate to the satisfaction of the Board of Supervisors that the common open space portions of the proposed development, if not located entirely on the same tract as the proposed dwelling units, will have sufficient ease, of access and permanently restricted status to meet the long-term open space need of the prospective residents of the development.
  - (d) Where some or all of the required common open space is situated on and comprises less than the entirety of a second tract, that portion of the tract to be designated as common open space shall be clearly delineated, shall comply with all the standards and criteria for common open space specified in this article, and shall be subject to the terms of the conservation easement stipulated in Subsection C(5)(e). Only that portion of such a tract that is designated as common open space shall be eligible for the calculation of maximum density.
  - (e) Lands previously protected or restricted as open space through, for example, conservation easement or deed restriction, shall not be eligible to meet the open space requirements of this article.
- (3) The development shall be served by a community sewage facilities system, as defined by this chapter. The plans for such system shall be consistent with the East Brandywine Township Sewage Facilities (Act 537) Plan and shall demonstrate compliance with all applicable regulation of the Chester County Health Department and the Pennsylvania Department of Environmental Protection, and with the requirements of § 350-47 of Chapter 350, Subdivision and Land Development.
  - (4) The development shall be served by a public water supply system, as defined by this chapter. Plans for the system must demonstrate, adequate supply for the proposed residential uses, open space requirements, etc., and must comply with the requirements of § 350-48 of Chapter 350, Subdivision and Land Development.
  - (5) The common open space portion of the proposed development shall comply with the following standards:
    - (a) The common open space shall be designed to maximize the conservation of site features identified in the site inventory and analysis submitted in accordance with the terms of § 399-59.
    - (b) There shall be no impervious surfaces located within the common open space, except where deemed necessary in association with approved sewage facilities complying with Subsection C(5)(f)[5] or [6] or recreation uses, including trail surfaces.
    - (c) Ownership of the common open space shall be by one or more of the following methods:
      - [1] Private ownership by an adjacent individual or institutional landowner;
      - [2] Common ownership by an association comprised of the owners of the lots within the clustered development, such association to be established and operated as stipulated by the terms of Subsection C(5)(i) of this article;
      - [3] At the discretion of the Board of Supervisors, dedication to the Township or

another public or nonprofit entity acceptable to the Board.

- (d) All areas designated as common open space shall be subject to a conservation easement in accordance with the following:
  - [1] Such easement shall restrict further subdivision or development of the open space and shall set forth the terms for use, conservation, and maintenance as established by the Board of Supervisors.
  - [2] Such easement shall be granted in favor of a qualified conservation organization or, at the Board's discretion, the Township. Where the easement is not held by the Township, the Township shall be granted the right to enforce the covenants, restrictions, and easement established by the conservation easement document, in addition to the rights of the easement holder.
  - [3] Such easement shall be recorded in the Office of the Recorder of Deeds of Chester County and noted on the final plan, as recorded.
  - [4] The terms of the easement shall include the right of the Township, at any point in the future, to plan, locate, and/or construct any use or facility permitted in Subsection C(5)(f) below, including but not limited to a trail or pathway corridor within and across the common open space. Where a trail is deemed necessary and desirable by the Township, it shall be for purposes of providing a connecting link within the broader East Brandywine trail system, and shall be located so as to enable connection to existing or proposed trail segments on adjoining properties. Any such trail shall be constructed in accordance with the standards for trails contained in Chapter 350. The design, location, and characteristics of the trail shall be determined in consultation with the holder of the conservation easement, where that party is not the Township, and with the owner of the common open space.
- (e) Areas of common open space may be used for the following purposes, or combinations thereof:
  - [1] Cultivation of nursery stock or orchard trees;
  - [2] Woodland, meadow, wetland, or similar conservation purpose;
  - [3] Park or outdoor recreation area;
  - [4] Trail or pathway corridors, the use of which shall be limited to pedestrian, equestrian, and nonmotorized bicycles;
  - [5] Subsurface drain field or replacement area for an individual on-site sewage system serving a dwelling within a development, when in compliance with the terms of Subsection C(5)(g) below; sewage-related mechanical facilities (grinder pumps, sand filters, etc.) and elevated sand mounds or other types of systems that change the grading of the natural ground surface, have components that project above the ground surface, and/or spray treated effluent on the ground surface, shall not be permitted within areas of common open space;
  - [6] Community subsurface land application wastewater systems, including drip distribution or other types of community systems acceptable to the Township,

when consistent with the Township Sewage Facilities (Act 537) Plan and in compliance with the terms of Subsection C(5)(g), below; such systems may include sewage holding and settling ponds and associated monitoring wells and equipment. Sewage-related mechanical facilities (grinder pumps sand filters, etc.) and elevated sand mounds or other types of systems that change the grading of the natural ground surface, have components that project above the ground surface, and/or spray treated effluent on the ground surface shall not be permitted within areas of common open space; and

[7] Stormwater management facilities serving the development, when in compliance with the terms of Subsection Subsection C(5)(g), below.

(f) Sewage and stormwater management facilities.

[1] Where an individual on-site sewage system subsurface drain field and/or replacement area is proposed to be located within the common open space, as provided in Subsection C(5)(f)[5], above, the minimum amount of common open space otherwise required by this section shall be increased by an amount not less than the area required to accommodate the drain field and/or replacement area. The actual size of such area shall be subject to review and approval by the Township Engineer and the Chester County Health Department.

[2] Where a community subsurface land application wastewater system is proposed to be located within the common open space, as provided in Subsection C(5)(f)[6], above, the minimum amount of common open space otherwise required by this section shall be increased by an amount not less than the area required to accommodate the community wastewater system. The actual size of such area shall be subject to review and approval by the Township Engineer, the Chester County Health Department, and/or the Pennsylvania Department of Environmental Protection. The Board of Supervisors, at its sole discretion, may permit some or all of the area required to accommodate the community wastewater system to be eligible for calculating the minimum required common open space area where the Board determines that such wastewater system will not interfere, in whole or in part, with the functions and purposes of the common open space, and will not make the affected open space unsuitable and ineligible for other open space uses provided in Subsection C(5)(f), above.

[3] Regarding the use of common open space areas for stormwater management purposes:

[a] The following may be included within, and may be calculated as part of, common open space areas, as specified in Subsection C(5)(f)[7], above; areas devoted to stormwater management techniques utilizing green technology best management practices, as defined by this chapter, including areas designed to achieve sustained or enhanced groundwater recharge, bioretention, and infiltration, but excluding detention or retention basins.

[b] The Board of Supervisors, at its sole discretion, may reduce or eliminate the eligibility of land used for such facilities to be included in the

calculation of required minimum open space area where it determines that such facilities could cause the affected open space to be unsuitable and ineligible for other open space uses provided in Subsection C(5)(f), above.

- [c] No such stormwater management facilities shall be located in any primary conservation area; no such facilities shall be located in any woodland unless specifically authorized by the Board of Supervisors.
  - [4] Where necessary in relation to sewage facilities and/or stormwater management facilities located within common open space, easements shall be established to enable maintenance of such facilities by appropriate parties. Such easements shall be subject to review and approval by the Township Solicitor, and may be included within and calculated as part of the required common open space.
  - [5] Except where specifically approved by the Board of Supervisors, no area devoted to any individual or community sewage facilities or any stormwater management facilities or techniques may be included in any common open space area owned by East Brandywine Township or by any recreation authority of which the Township is a member.
- (g) Any area of common open space shall be subject to an open space management plan, the terms of which shall be as follows:
- [1] As part of the preliminary subdivision plan for a residential cluster design development, the applicant shall submit a conceptual plan for the long-term management of the common open space that is to be created as part of the development. Such a plan shall include discussion of:
    - [a] The terms and conditions under which the common open space will be owned, consistent with the provisions of Subsection C(5)(d);
    - [b] The party or parties responsible for managing and maintaining the common open space, including the professional and personnel resources that will be necessary, consistent with the terms of this section;
    - [c] The conservation, land management, and agricultural techniques and practices which will be used to conserve and perpetually protect the open space, including:
      - [i] Conservation plans approved by the Chester County Conservation District, where applicable;
      - [ii] Designation and proposed use or uses of any portion of the common open space containing Class I, Class II, and/or Class III agricultural soils;
      - [iii] A woodland management plan showing the measures to be taken to protect and maintain woodlands that may exist within the common open space;
      - [iv] Specific plans for those portions of the open space deemed appropriate to undergo a process of natural succession, including

documented consultation with a Township-designated or approved conservation organization or other party with native plant and landscape management expertise;

[v] A designated "mow-to line" on each lot abutting common open space, indicating where individual lot owners' maintenance ends and common open space management begins; and

[vi] Other vegetative types to be accommodated within the common open space, preferably to range from natural to and including mowed.

[d] The nature of public or private access that is planned for the common open space; and

[e] The source of money that will be available for such management, conservation, and maintenance on a perpetual basis.

[2] The conceptual management plan shall be transformed into a more detailed open space management plan and presented to the Township for review and approval as part of the final subdivision application. The Board of Supervisors may require that the detailed management plan be recorded with the final subdivision plan in the Office of the Recorder of Deeds of Chester County.

[3] Where the common open space is to be owned by a homeowners' association or through a condominium agreement, management and maintenance of the common open space shall be accomplished by either of the following methods:

[a] By a private conservation organization; or

[b] By an open space management entity deemed qualified by the Board of Supervisors, under the terms of a contract with the entity owning the common open space.

[4] In order to allow for the changing needs inherent in the perpetual management of land, the detailed management plan shall contain a provision allowing it to be changed upon written application to and approval by the Board of Supervisors, so long as the proposed change avoids the likelihood that the obligation for management and maintenance of the land will fall upon the Township without the consent of the Board. The party responsible for management of the open space shall discuss with the Board of Supervisors potential alternative uses and management terms for the open space. Unless the Board determines that alternative terms of use and management are preferred, such open space shall undergo a managed process of natural succession consistent with the terms of Subsection C(5)(h)[1][c]. The Board shall require that the responsible party submit a new open space management plan and shall consider the adequacy of such plan in its decision on the proposed change of use.

(h) Where any of the open space is to be owned in common among the lot owners, a homeowners' association shall be formed. Such homeowners' association shall be governed by the following regulations:

- [1] The owner or applicant proposing to establish a homeowners' association shall provide to the Township a description of the organization, including its bylaws and documents governing maintenance requirements and use restrictions for the open space. The terms and conditions of such bylaws and documents shall be subject to the review and approval of the Township.
  - [2] The association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) prior to the sale of any lots or dwelling units within the development.
  - [3] Membership in the association shall be mandatory for all purchasers of dwelling units within the development, and for their successors.
  - [4] Except where modified under terms of a lease, as authorized by Subsection C(5)(i)[9] below, the association shall be responsible for maintenance of and insurance on the common open space. Where the Township determines that the homeowners' association or other responsible party has failed to maintain the land in accordance with the management plan required by Subsection C(5)(i)[9], the Township shall have the right to assume maintenance responsibilities in the manner prescribed for planned residential developments in § 705(f) of the Municipalities Planning Code.
  - [5] <sup>3</sup>The members of the association shall share equitably the costs of maintaining, insuring, and managing the common open space, in accordance with procedures established for the association.
  - [6] In the event of any proposed transfer of the common open space by the homeowners' association, or the assumption of maintenance of the open space by the Township, notice of such action shall be given to all members of the homeowners' association by said association. Any proposed transfer of ownership of the common open space by the homeowners' association shall be subject to prior review and approval by the Board of Supervisors.
  - [7] The association shall have or hire adequate staff, as necessary, to manage and maintain the common open space.
  - [8] The homeowners' association may lease back some or all of the common open space lands to, or enter into a contract with, the developer, his/her heirs or assigns, the owner of the tract prior to its development, a tenant farmer, or any other person or corporation qualified to operate, manage, and maintain the open space or an identified portion thereof for the purposes set forth in this chapter. The lease or contract shall be subject to the approval of the Township, as shall any transfer or assignment of the lease or contract. A copy of the lease or contract, as approved and executed, shall be filed with the Township.
- (i) In accordance with Chapter 350, Subdivision and Land Development, a portion of the common open space area may be designated and designed for active recreational use to serve the needs of the residents of the development and, as deemed appropriate by the Township and acceptable to the applicant, other residents of the Township. The proposed area must be deemed by the Township to be satisfactory in size, location, and characteristics to meet the need for recreational land and

facilities. The standards for active recreation land and facilities, or a fee in lieu of such land and facilities, in § 350-50 of Chapter 350, Subdivision and Land Development, shall be applicable.

(j) Open space dimensions and design standards.

[1] Except as otherwise prescribed in this subsection, the common open space on a tract shall, to the maximum extent feasible, consist of a contiguous, undivided portion or portions of the tract, with the number of separate, discrete pieces of open space minimized.

[2] With the exception of perimeter and interior buffer areas, as addressed in Subsection C(5)(k)[3] and [4], below, no individual segment of common open space shall have an area less than one acre or 10% of the gross tract area, whichever is less, nor a width less than 100 feet at any point, except that the minimum area may be reduced to not less than 15,000 square feet and/or the minimum width may be reduced to not less than 15 feet, where:

[a] The land is being used solely as a trail corridor between areas of open space and/or residential development, either on or adjacent to the tract; or

[b] The Board of Supervisors determines that, in specific locations, smaller and/or more narrow segments of open space better accommodate site design objectives and do not detract from the functional, recreational, and/or resource protection values of the overall open space area.

[3] The area of common open space shall include the following minimum buffer areas along the tract boundary:

[a] A buffer area located between any residential lot line and the right-of-way line of any street existing at the time of application shall be provided for the purpose of buffering views of the residentially developed portion of the tract from the road. Such buffer area shall be landscaped in accordance with the requirements of § 399-79 of this chapter, unless modified with the approval of the Board of Supervisors, to mitigate and soften visual impacts on the road corridor from new residential lots. Unless an alternative dimension is agreed to and approved by the Board, the width of this open space buffer shall be not less than 50 feet. The applicant may propose an alternative for the Board's consideration, if the applicant can demonstrate that buffering can be accomplished more effectively with a combination of open space, vegetation, dwelling unit setbacks, topography, and/or architectural treatments.

[b] A buffer area with a minimum width of 30 feet, located between any residential lot line and any immediately abutting side or rear tract boundary line, shall be provided. Such buffer area shall be landscaped in accordance with the requirements of § 399-79 of this chapter.

[c] The buffer areas provided in accordance with Subsection C(5)(k)[3][a] and [b], above, may be included in the calculation of minimum required common open space for the residential cluster design development, and the area may be used for trails or other passive recreation and for utility

easements. No driveway shall cross or otherwise encroach upon this buffer area except to serve dwellings existing at the time of application or agricultural or other permitted uses of the common open space.

- [4] In the design of the clustered residential portion of the site, the applicant is encouraged to use areas of common open space to create internal buffering and separation between groups of dwellings and within the overall street pattern. Common open space used for these purposes may include areas less

than 100 feet in width and shall be eligible for inclusion in the calculation of the minimum required amount of common open space for the site, up to a maximum of 10% of the total amount of common open space on the tract. In designing the site, the applicant should, where feasible, utilize existing vegetation and topography, in addition to the common open space land, to achieve internal buffering. The site plan shall clearly indicate such areas of common open space, and shall demonstrate consistency with the design objectives in Subsection C(5)(k)[2][b].

- (k) Except where common open space is used for agriculture, it shall be physically separated, through fencing, hedgerow, or other means acceptable to the Township, from any adjacent land that is used for agricultural purposes.
- (6) The standards and criteria for common open space contained in this article shall supersede the standards in § 350-50 of Chapter 350, Subdivision and Land Development, except that the Board of Supervisors shall, at its discretion, retain the right to require a fee in lieu of open space where it determines that the common open space, as proposed, will not provide adequate recreation opportunities for the residents of the cluster development. The basis for calculation of such a fee shall be as stipulated in § 350-50 of Chapter 350, Subdivision and Land Development.
- D. Any tract in the IR District shall be developed under a single master development plan which shall include all lands to be considered for development, whether immediate or future.
- E. Where a tract is to be developed in stages in compliance with a master development plan, such development shall be executed in accordance with a development agreement. The owner, developer, and Township shall be parties to the agreement, which shall embody all details regarding compliance with this article to assure their binding nature on the overall tract and its development. The development agreement shall be recorded with the approved final subdivision or land development plan.

**§ 399-59. Review procedures, criteria, and application requirements for conditional uses.**

- A. Any application for conditional use approval under § 399-56B shall be evaluated and decided upon by the Board of Supervisors in relation to the requirement of this article and the standards and procedures set forth in § 399-137.
- B. In reviewing any application for conditional use under the terms of § 399-56B, the Board of Supervisors shall determine its compliance with the specific area and bulk regulations and site design and development standards of this article. In addition, the Board shall examine the application in relation to the following factors:
  - (1) Coordination of development with adjacent tracts, uses, and facilities. The applicant shall show evidence of efforts to coordinate with existing and proposed uses on adjacent tracts, and the results of those efforts, toward the objective of giving the IR District the appearance of a unified development. The Board may seek such evidence with regard to any or all of the following, as it deems appropriate:
    - (a) Property boundary compatibility.
    - (b) Potential for shared facilities, e.g., parking, sewage treatment and disposal water supply.

- (c) Internal circulation and highway access.
  - (d) Stormwater management and groundwater protection.
  - (e) Landscaping, buffering, and retention of existing vegetation.
  - (f) Design, use, and protection of open space and recreation resources.
  - (g) Lighting facilities.
- (2) Traffic impact. The applicant shall demonstrate proposed steps to prevent traffic congestion and hazards that could result from development of the tract as proposed. The applicant shall submit a traffic impact study, prepared in accordance with the following minimum guidelines:
- (a) Traffic impact on all roadways and intersections within a study area covering a half-mile radius of the site;
  - (b) Traffic volumes for average daily traffic at peak highway hour(s) and peak development-generated hours for all roadways in the study area;
  - (c) Documentation of the source(s) of trip generation rates used; and
  - (d) Documentation of any on-site or off-site improvements proposed by the applicant to mitigate any projected adverse impacts.
- (3) Natural features analysis and mitigation of potential impacts. The applicant shall submit an inventory and analysis of the site's natural features in accordance with the terms of § 350-24D of Chapter 350, Subdivision and Land Development. The Board of Supervisors may, at its discretion and upon the request of the applicant, modify or waive certain requirements of that section. At minimum, however, the site plan must demonstrate its compatibility with and responsiveness to the natural features inventory.
- C. It is strongly suggested that any applicant for conditional use approval meet with the Township Planning Commission prior to submission of a formal application and present an informal sketch plan showing the proposed use and the means by which the proposal will meet the standards of this article.
- D. The content of any application for conditional use approval shall be as prescribed in § 399-137B.
- E. Upon written request from the applicant, and if the Planning Commission and Board of Supervisors have previously reviewed a sketch plan of the proposed development, the Board may authorize simultaneous consideration of a preliminary subdivision or land development plan with the application for conditional use approval.

ARTICLE XIV  
**Supplemental Regulations**

**§ 399-88. Statement of intent.**

The regulations in this article are meant to provide standards for those seeking approval for certain ~~supplemental~~ uses and activities that are authorized in various zoning districts and for other uses not specifically designated within one or more zoning districts. It is the intent of the Township that, where these uses or activities occur, they comply strictly with the standards that have been created to address their particular impacts and characteristics.

**§ 399-89. Public utility corporations.**

This chapter shall not apply to any existing or proposed building or extension thereof, or to any land, used or to be used by a public utility corporation if, upon petition of the corporation, the Public Utility Commission shall, after a public hearing of which the Township is notified in accordance with § 619 of the Municipalities Planning Code, decide that the present or proposed situation or use of the building or land in question is reasonably necessary for the convenience or welfare of the public.

**§ 399-90. Automobile service stations.**

The following specific development standards shall be met for any automobile service station, where such use is authorized by this chapter, so as to control the mode of development and method of operation and to assure that the location does not adversely affect the health, safety, and welfare of the community, especially in terms of traffic impacts and potential incompatibility with adjoining uses.

- A. Minimum lot area. Any automobile service station lot shall contain a minimum gross area of one acre and a minimum of 3,000 square feet of gross lot area for each pump, whichever is greater. Such lot also shall contain a minimum of 35,000 square feet of net lot area. A pump may have more than one hose. Minimum lot frontage shall be 150 feet.
- B. Setbacks. Pump islands and any similar equipment or facilities shall be set back at least 30 feet from any property line or street right-of-way. The overhang of canopies may extend to within 20 feet of a property line, but the supporting structure for such canopies to protect automobiles positioned for service at pump islands shall be set back at least 30 feet from a property line or street right-of-way.
- C. Service bays. Service bays shall be limited to one per 7,000 square feet of gross lot area. All service bays shall be contained entirely within the principal building. Where any side or rear yard is adjacent to a residential district, no more than three service bays shall be permitted on the property. Service bay doors shall not face a residential use or residentially zoned property.
- D. Fencing. The site shall be fenced with a six-foot brick or stone masonry wall or solid fence of wood or other material, deemed appropriate by the Zoning Officer, along each property line which abuts any residential use or residentially zoned property. Additional plantings or other noise abatement procedures may be required, as stipulated in § 399-84C of this chapter.
- E. Supplemental services requiring conditional use approval. The following activities may be operated in conjunction with the principal use of an automobile service station when authorized as a conditional use by the Board of Supervisors in accordance with the terms of

§ 399-137 of this chapter:

- (1) Convenience commercial center for the retail sale of food, beverages, personal care items, and similar goods;
  - (2) Leasing or rental of vehicles, trailers, or similar equipment;
  - (3) Car-washing.
- F. Trash disposal. All used tires and parts, trash, and similar objects shall be stored within a solid brick or concrete enclosure in the rear half or, in the case of corner sites, the rear quarter of the site, and shall be secured against dispersal by wind or water from such site.
- G. Gasoline deliveries. No delivery tanker shall park within the public right-of-way during gasoline delivery, nor shall any hose be permitted within the public right-of-way.
- H. Landscaping and buffering. Landscaping and buffering shall be provided in accordance with §§ 399-78 and 399-79 of this chapter. Landscaping provided along any street frontage must preserve sight lines for entering and exiting traffic. This does not preclude careful placement of street trees with high foliage or low-growing shrubbery (below 30 inches).
- I. Curb cuts and corner radius. On corner sites, a twenty-foot curb radius shall be provided and no point of access shall be located within 100 feet of the street intersection, as measured from center line to center line. At intersections where a primary flow of right turn traffic is anticipated, a longer curb radius may be required, again with a one-hundred-foot minimum separation between any point of access and the street intersection.
- J. Signs. Signs associated with any service station shall be in compliance with the standards of Article XVI of this chapter, including in particular § 399-119.
- K. Self-service facilities.
- (1) No automobile service station shall contain self-service islands or pumps at which customers dispense gasoline or other flammable liquids unless an attendant, trained in the dispensing of such liquids, is on duty and in position to observe the self-service areas and to assist as necessary.
  - (2) The standards of this § 399-90 shall not be applicable to the development and operation of nonretail, membership-only gasoline stations. Such facilities shall comply with the applicable standards of Article X of this chapter.

**§ 399-91. Accessory dwellings.**

- A. Specific intent. In allowing opportunities for creation of accessory dwelling units within existing single-family detached dwellings or authorized existing accessory structures, it is the specific intent of this section to address directly the needs of extended families. Through the standards in this section, the Township seeks to balance the desires of extended families to provide a discrete residence for a family member with the need to protect the existing residential character of the surrounding neighborhood.
- B. Standards for accessory dwellings. Where authorized as a special exception under the terms of this chapter, accessory dwellings may be created in accordance with the following standards. Where permitted as a use by right under the terms of this chapter, an accessory dwelling shall be subject to the terms of Subsection C, below.

- (1) There shall not be more than one accessory dwelling unit created on any single-family residential lot.
- (2) An accessory dwelling may be occupied by not more than two persons. A single occupant or, in the case of two occupants, one of the two, must be related by blood, marriage, or adoption to the owner of the principal residence.
- (3) One of the two dwelling units shall be occupied by the owner of the lot on which both proposed dwelling units are to be located.
- (4) The floor area of an accessory dwelling unit shall not be less than 500 square feet and shall not be more than 800 square feet.
- (5) Where an accessory dwelling is proposed to be located within a primary single-family dwelling, the property must have minimum gross and net lot areas not less than those required for a single-family detached dwelling in the zoning district in which it is located.
- (6) Where an accessory dwelling is proposed to be located within an accessory structure, such structure must comply with the following standards:
  - (a) The accessory structure must exist on the same lot as a single-family detached dwelling.
  - (b) The lot containing the accessory structure must have a minimum gross area of not less than 1.5 acres and a minimum net lot area of not less than 45,000 square feet, or the minimum gross and net lot area required in the applicable zoning district, whichever requirement is larger.
- (7) Changes to existing structures.
  - (a) Where a single-family detached dwelling is proposed to contain an accessory dwelling unit, the structure may be expanded as necessary to accommodate the dwelling unit, subject to the limitation on maximum square footage for such accessory dwelling unit as stipulated in Subsection B(4), above. No such expansion shall be located, in whole or in part, in any front yard. Ord. No. 02-2013]
  - (b) Where an accessory structure is proposed to contain an accessory dwelling unit, changes to the existing structure that are deemed necessary to accommodate the dwelling unit (e.g., removal of garage doors, addition of windows or doors) may be approved by the Zoning Hearing Board as a condition of any special exception it may grant for the accessory dwelling unit.
  - (c) No exterior changes, including expansion of the structure, shall be made which, in the judgment of the Zoning Hearing Board, are not in conformance with the existing single-family character of the neighborhood.
  - (d) The applicant shall submit architectural plans for the accessory dwelling unit and shall provide documentation of the structural integrity of the existing structure in terms of its suitability for adding the accessory dwelling unit.
- (8) Where a community sewage system is available to serve the property, the accessory dwelling shall be connected to and served by such system. Where a community sewage system is not available, the applicant shall submit to the Township a permit issued by the Chester County Health Department for an on-site sewage disposal system. Such

permit shall certify that the sewage disposal facilities are adequate for the projected number of residents. Where the existing on-site system is found by the Health Department to be inadequate to serve the projected demand, no approval shall be given for the accessory dwelling until the system is improved to meet the Health Department requirements and a permit is issued by the Department.

- (9) One off-street parking space shall be required for the accessory dwelling unit, in addition to those utilized by the principal dwelling. The additional parking space shall not be located within any required yard area. The Zoning Hearing Board, in its consideration of a special exception, may waive or modify this provision upon evidence from the applicant that the occupant or occupants of the accessory dwelling unit will not generate the need for an additional parking space.
  - (10) To ensure compliance with this chapter, an architectural plan shall be submitted as part of the application for special exception, accurately drawn to scale, indicating the location and size of the existing and proposed dwelling units and parking areas, and any proposed exterior alterations.
  - (11) Upon the approval by the Zoning Hearing Board of a special exception, the applicant shall execute, acknowledge and deliver to the Recorder of Deeds for Chester County for recording, a memorandum of the decision of the Zoning Hearing Board. Such memorandum shall be in a form approved by the Township, and shall contain the following: the name of the owner(s), and street address (as the same appears on the tax records); the current deed reference and tax parcel of the subject property; any conditions or restrictions imposed by the decision of the Zoning Hearing Board; a statement that such conditions are intended to be a covenant running with the land. A true and correct copy of such memorandum stamped by the Recorder of Deeds shall be filed with the Township prior to the issuance of a certificate of use and occupancy.
  - (12) A use and occupancy permit shall be required prior to the occupancy of an accessory dwelling unit. The permit form, as provided by the Township, and accompanying required fee shall be submitted by the property owner. An application to renew the permit shall be submitted annually prior to the intended continuation of occupancy. It shall be unlawful for the accessory dwelling unit to be occupied beyond the operative period of a permit. The accessory dwelling unit shall be subject to inspection by the Zoning Officer prior to issuance of the initial use and occupancy permit and then at least once every three years thereafter while the dwelling unit is occupied, on or about the date of initial occupancy. The Zoning Officer shall also inspect the accessory dwelling unit whenever there is a change in ownership of the property. Whenever there is a change in occupancy of the accessory dwelling unit, an inspection of the dwelling unit and issuance of a use and occupancy permit must precede the new occupant residing in the dwelling unit.
- C. An accessory dwelling unit permitted as a use by right shall comply with the following standards:
- (1) There shall be no more than one accessory dwelling unit created on any single-family residential lot.
  - (2) The accessory dwelling shall be located within the existing single-family detached dwelling and shall not be located in an accessory structure.

- (3) The accessory dwelling may be occupied by not more than two persons. A single occupant, or, in the case of two occupants, one of the two, must be related by blood, marriage, or adoption to the owner of the principal residence.
- (4) One of the two dwelling units shall be occupied by the owner of the single-family dwelling in which the accessory dwelling unit is to be created.
- (5) The minimum floor area of the accessory dwelling unit shall not be less than 500 square feet.
- (6) Changes to the existing single-family dwelling.
  - (a) The exterior of a single-family detached dwelling proposed to contain an accessory dwelling unit may be altered to add windows and/or doors necessary in the design and construction of the accessory dwelling unit. Such windows and doors may be added only to the side or rear walls of the structure.
  - (b) No other alterations to the exterior of the structure shall be permitted unless necessary for health or safety reasons, as determined by the Zoning Officer.
  - (c) The applicant shall submit architectural plans for the accessory dwelling unit and shall provide documentation of the structural integrity of the single-family dwelling in terms of its suitability for adding the accessory dwelling unit.
- (7) The accessory dwelling unit shall be connected to and served by a community sewage system.
- (8) A use and occupancy permit shall be required prior to the occupancy of the accessory dwelling unit. The permit form, as provided by the Township, and accompanying required fee shall be submitted by the property owner. An application to renew the permit shall be submitted annually prior to the intended continuation of occupancy. It shall be unlawful for the accessory dwelling unit to be occupied beyond the operative period of the permit. The accessory dwelling unit shall be subject to inspection by the Zoning Officer prior to issuance of the initial use and occupancy permit, and then at least once every three years thereafter while the dwelling unit is occupied, on or about the date of initial occupancy.

**§ 399-92. Other accessory uses and structures.**

Uses considered customarily accessory and incidental to any permitted use under this chapter shall include those generally provided for within the various zoning districts. In addition, the uses listed herein shall specifically be deemed accessory in accordance with the following terms:

A. Uses accessory to agriculture:

- (1) Greenhouse.
- (2) Display and sale of farm products, in accordance with the following:
  - ~~(a) At least 75% of such products shall have been grown on the property on which they are offered for sale.~~
  - ~~(b)~~(a) Parking space for at least three cars shall be provided on the lot. where building area exceeds 600 square feet, one additional parking space shall be

provided for each additional 200 square feet of building area.

~~(e)~~(b) Sale of farm products shall be conducted either from a temporary stand, dismantled at the end of the growing season, or from a permanent building, the location of which complies with all Township setback standards for that zoning district. Any temporary structure shall be set back at least 25 feet from the right-of-way line of the road.

- (3) Keeping, breeding, and management of livestock and poultry, in accordance with § 399-85 of this chapter.
- (4) Tenant house, in accordance with the standards and conditions in § 399-97G of this chapter.

B. Uses accessory to dwelling:

- (1) Private garage, private parking space, barn.
- (2) Private stable or other shelter for animals (but not including kennel), in accordance with the terms of § 399-85 of this chapter.
- (3) Private greenhouse, garden shed.
- (4) The renting of rooms within the dwelling in which the lessor resides, or in a building accessory thereto, to not more than two non-transient persons, with or without the provision of table board for such persons.
- (5) Home occupation, in accordance with § 399-93 of this chapter.

C. Uses accessory to public park. Customary recreational, refreshment, and service uses and buildings in any public park, playground, or other recreational area.

**§ 399-93. Home occupations.**

A. Home occupations shall be classified as either:

- (1) No-impact home occupation, as defined in § 399-9, and where permitted by right under the terms of the base zoning districts; or
- (2) Major home occupation, as defined in § 399-9, and where permitted as a conditional use under the terms of the base zoning districts.

B. No-impact home occupations shall meet all of the following requirements:

- (1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- (2) The exterior appearance of the structure or premises must be maintained as a residential property. No exterior evidence of the activity in the form of lighting or the display, inventorying, or stockpiling of goods, shall be visible. One sign, no larger than two square feet in area and consistent in all other respects with Article XVI of this chapter, shall be permitted for any home occupation.
- (3) No retail sales shall be conducted, with the exception of:
  - (a) Telephone and/or Internet solicitation;

- (b) Those products of the home occupation or items deemed accessory to or directly associated with the home occupation.
  - (4) The practice of a home occupation shall be permitted, provided that the principal practitioner is a resident of the dwelling unit.
  - (5) No more than two persons not residing in such dwelling unit shall be employed at any given time by the practitioner of the occupation.
  - (6) The activity may be conducted only within the principal dwelling unit and may not occupy more than 25% of the habitable floor area of the dwelling unit or 500 square feet, whichever is less.
  - (7) The activity shall not require the delivery of materials and goods by trucks larger than standard panel trucks equipped with not more than one rear axle.
  - (8) The activity may not use any equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, that is detectable in the neighborhood.
  - (9) The activity may not generate any solid waste or sewage discharge in volume or type that is not normally associated with residential use in the neighborhood.
  - (10) There shall be no customer or client traffic, whether vehicular or pedestrian, and no pickup, delivery, or removal functions to or from the premises, in excess of those normally associated with residential use.
  - (11) All home occupations shall comply with the environmental performance standards contained in § 399-87 of this chapter.
  - (12) The resident practitioner shall demonstrate that adequate off-street parking shall be provided for both the home occupation and the dwelling unit. In no event shall the parking spaces provided be less than two for the dwelling unit and one for each nonresident employee. Any parking space designed to serve the home occupation shall not be located within any required minimum front yard area.
  - (13) There shall be no more than ~~one~~ two home occupations per dwelling unit.
  - (14) Any dwelling unit in which a home occupation is conducted shall have its own direct access to ground level.
  - (15) The resident practitioner of any home occupation shall provide the Township with the names of all individuals employed by the business constituting the home occupation, and shall report all additions or deletions among those so employed as they occur.
  - (16) Prior to initiating the operation of a home occupation with employees not residing the dwelling, the resident practitioner shall be required to obtain a permit from the Township and pay a fee in an amount as established by resolution of the Board of Supervisors. ~~The Township may conduct an inspection of the premises as part of the review of the permit application. Such permit must be renewed every two years for continued operation of the home occupation, but no additional fee or inspection shall be required.~~
- C. The following are permitted as no-impact home occupations, provided they meet the standards in Subsection B above:

- (1) Dressmaking, sewing, tailoring;
- (2) Painting, sculpting, writing, music, or filmmaking;
- (3) Telephone answering, typing, bookkeeping;
- (4) Home crafts, such as model making, rug weaving, pottery, jewelry making, cabinetmaking;
- (5) Home cooking and catering, provided all food is catered off-premises;
- (6) Computer programming that involves services to outside clients;
- (7) Tutoring, limited to not more than two students at one time; tutoring of more than two students shall be considered a major home occupation as per Subsection E below;
- (8) Beautician or barber services by appointment only, limited to not more than two clients at one time; more than two clients shall be considered a major home occupation as per Subsection E below;
- (9) Professions such as architect, planner, engineer, financial consultant;
- (10) Any occupation that the Zoning Officer deems comparable to the above in terms of scale and impact.

D. The following are prohibited as home occupations:

- (1) Animal hospital;
- (2) Dancing studio;
- (3) Mortuary;
- (4) Private club;
- (5) Auto repair and painting, and other repair work of similar scale and impact;
- (6) Restaurant;
- (7) Kennel, commercial stable, or riding academy or training center.
- (8) Any other use that is not listed as a no-impact home occupation in Subsection C or a major home occupation in Subsection E.

E. Major home occupations shall be subject to approval by the Board of Supervisors as a conditional use and shall meet all of the following requirements:

- (1) Purpose. The purpose of the standards in this section is to provide opportunity for certain home occupation uses that do not comply fully with the criteria in Subsection B for no-impact home occupations permitted by right, primarily due to the nature of the proposed use. It is the intent of this section to assure that any such home occupation is:
  - (a) Compatible with other uses permitted in the respective zoning districts.
  - (b) Incidental and secondary to the use of the property as a residence;
  - (c) Helping to maintain and preserve the character of the neighborhood.

- (2) Except as otherwise specifically governed by the standards contained in this Subsection E, any applicant seeking approval of a home occupation as a conditional use shall comply with the standards in Subsection B.
- (3) If the resident conducting the home occupation is a tenant and not the owner of the property, the owner shall be party to the application for conditional use approval.
- (4) A home occupation approved under the terms of this section may be located only within a single-family detached dwelling or within an accessory building located on the same lot as a single-family detached dwelling.
- (5) Where a home occupation is conducted, in whole or in part, within an accessory building on the property, the total floor area devoted to the home occupation shall not exceed 25% of the floor area of the single-family detached dwelling or 600 square feet, whichever is less.
- (6) The Board of Supervisors may, as a condition of approval, require buffering or screening treatment along specific property lines where it determines that the proposed conditional use will create off-site impacts in the form of noise, glare, proximity of use or associated parking area to neighboring properties, or other conditions directly related to public health, safety, or welfare. In no case shall a major home occupation be permitted on a lot with a gross lot area less than 15,000 square feet.
- (7) Major home occupations shall be limited to those occupations customarily conducted within a single-family detached dwelling or a building accessory to a single-family detached dwelling. Major home occupations shall include, but not be limited to, the following activities:
  - (a) Office for medical, dental, legal, insurance agent, accountant; or similar professional purposes.
  - (b) Family child/adult day-care involving no more than six children or adults unrelated to the operator, and provided the following criteria are met:
    - [1] The owner must be registered with the Pennsylvania Department of Public Welfare (DPW) and must demonstrate compliance with all DPW regulations for such homes.
    - [2] Passenger dropoff and pickup areas shall be provided on-site and arranged so that passengers are not required to cross traffic lanes on or adjacent to the site and vehicles are not required to back out onto the abutting street.
    - [3] The requisite outdoor play area shall be surrounded by a safety fence or natural barrier impenetrable by children or small animals. Such fence or barrier shall not be located within any required minimum front yard area and shall be set back at least 15 feet from any side or rear property line.
    - [4] Operating days shall be weekdays only. Outside play shall be limited to the hours between 9:00 a.m. and 5:00 p.m.
  - (c) Preparation of food or food products to be sold or served off-site.
  - (d) Other accessory uses that do not qualify as no-impact home occupations under the terms of Subsection B but, in the determination of the Board of Supervisors, are

considered to be of the same general character as the home occupations listed herein and meet all the requirements for major home occupations contained in this section.

(8) Off-street parking.

(a) For any office use permitted by Subsection E(7)(a) above, a minimum of one parking space per 150 square feet of gross leasable floor area devoted to such use shall be provided, in addition to two spaces for the dwelling unit.

(b) Any other major home occupation shall comply with the requirements contained in Subsection B above.

(9) The applicant shall document, and the Board shall specifically evaluate, the amount of customer, client, and/or patient traffic anticipated to be generated by the proposed home occupation use. The level of such traffic may be greater than that associated with a no-impact home occupation, but shall not exceed an amount that, as determined by the Board, will disrupt the residential character of the neighborhood in which the property is located.

(10) No more than two persons not residing in such dwelling unit shall be employed at any given time by the practitioner of the occupation.

(11) The Township may conduct an inspection of the premises as part of the permit application. Such permit must be renewed every two years for continued operation of the home occupation, but no additional fee or inspection shall be required.

(9)(12) No more than two major home occupations shall be permitted on the same lot.

### § 399-94. Institutions.

Institutions, as defined and provided for in this chapter, shall comply with the following standards:

- A. A minimum gross lot area of four acres and a minimum net lot area of 55,000 square feet shall be required for an institution housing up to six residents/clients and any associated supervisory personnel.
- B. An additional one acre of gross lot area shall be required above the four-acre minimum for every two additional resident/clients and associated supervisory personnel, or any portion of such increment.
- C. Minimum requirements for off-street parking shall be those applicable to a single-family dwelling. The Zoning Hearing Board may require additional parking for an institution housing more than three resident/clients and associated supervisory personnel, and may employ as a guideline the standard of an additional two off-street parking spaces for each additional four resident/clients and associated supervisory personnel.
- D. The applicant shall demonstrate that all necessary approvals and permits from the Pennsylvania Department of Labor and Industry have been obtained or waived, particularly with respect to fire protection, safety measures, construction standards, and design standards to accommodate the handicapped. The Zoning Hearing Board may, in the alternative, authorize approval of the special exception contingent upon the requisite approvals from the Pennsylvania Department of Labor and Industry being obtained.
- E. The Zoning Hearing Board, in reaching its decision on any request for approval of an

institution, shall consider the proximity of the proposed use to any other similar institution within the Township and/or to similar facilities in adjacent municipalities, and shall not approve any such request where resulting proximity might unduly alter the intended character of the neighborhood through the relative concentration and scale of such uses.

**§ 399-95. Inns; bed-and-breakfast facilities.**

- A. Inn or similar lodging. Consistent with the definitions and the use provisions of this chapter, a commercial lodging facility may be operated in accordance with the following additional standards:
- (1) An inn or similar lodging shall contain a maximum of 15 rooms, with each room to be occupied by no more than two adult persons.
  - (2) In addition to the plan submission requirements of § 399-42, any proposal for new construction as an inn shall demonstrate its compatibility with the character of the existing neighborhood and building facades.
- B. Bed-and-breakfast facility. The following standards shall apply to the operation of any bed-and-breakfast facility permitted by this chapter:
- (1) A bed-and-breakfast facility shall be permitted only in single-family detached, owner-occupied dwellings.
  - (2) The principal use of the property shall remain that of a single-family residential dwelling.
  - ~~(3) No more than three guest rooms may be offered on any individual residential property.~~
  - ~~(4)~~(3) There shall be provided one full bathroom (one toilet, wash basin, bath and/or shower) for each two guest rooms.
  - ~~(5)~~(4) Length of stay shall not be more than seven uninterrupted days for any guest.
  - ~~(6)~~(5) Meals shall ~~consist of breakfast only, and only for guests of~~ be served only to guests of the establishment. Owners shall comply with all federal, state, and local requirements for the preparation, handling, and serving of food.
  - ~~(7)~~(6) Any amenities (swimming pool, tennis court, etc.) shall be solely for the use of the resident owner and occupants of the bed-and-breakfast facility.
  - ~~(8)~~(7) The owner shall maintain a current guest register.
  - ~~(9)~~(8) Area and bulk standards shall be those that apply to single-family detached dwellings within the applicable zoning district.
  - ~~(10)~~(9) One on-site parking space shall be provided per guest room, and shall not be located in any required yard area.
  - ~~(11)~~(10) One sign shall be permitted in association with a bed-and-breakfast operation. Any such sign shall comply with the standards for home occupation signs contained in § 399-93A(9) of this chapter.
  - ~~(12)~~(11) Each bed-and-breakfast facility shall be equipped, at minimum, with smoke detectors and fire extinguishers in accordance with the requirements of the Pennsylvania

Department of Labor and Industry and with the stipulations of the Township Fire Code. Guests shall be provided information regarding the floor plan of the dwelling and the location of emergency exits.

~~(13)~~(12) No permit for a bed-and-breakfast facility will be issued by the Zoning Officer unless the applicant furnishes written approval from the Chester County Health Department concerning the adequacy of the on-site sewage system to serve the increased demand resulting from the bed-and-breakfast facility.

### **§ 399-96. Conversion of dwellings.**

- A. Statement of intent. The intent of this section is to provide an alternative use for structurally sound, large and primarily older single-family detached dwellings. This section is also intended to allow an increase in the supply of smaller dwelling units and provide for a more efficient use of the existing housing stock, while protecting the character of sound, stable residential neighborhoods and preserving the basic character of dwellings that might otherwise become obsolete.
- B. Standards for conversions. A single-family detached dwelling, existing on the effective date of this chapter, may be converted into and used as a two-family or multifamily dwelling, when authorized as a special exception in accordance with the terms of § 399-145 of this chapter and with the following stipulations. Where permitted as a use by right under the terms of this chapter, a single-family detached dwelling existing on the effective date of this chapter may be converted into and used as a two-family or multifamily dwelling, subject to the terms of Subsection C, below.
- (1) Site and architectural plans for the conversion of said dwelling shall be submitted to the Zoning Hearing Board. Where two or more families are to be housed above the ground floor, such plans shall bear the approval of the Pennsylvania Department of Labor and Industry as required by law.
  - (2) Such plans shall provide adequate and suitable parking space for a minimum of two vehicles per proposed dwelling unit. Not more than 50% of any required minimum yard area shall be utilized for such parking.
  - (3) Such dwellings(s) shall be subject to the height, width, yard, and other applicable regulations effective in the zoning district where the existing single-family structure is located. Minimum required gross lot area for the structure, following conversion, shall be calculated as follows:
    - (a) In the R-1 District, 50% of the product of the minimum gross lot area for a single-family dwelling times the number of dwelling units (existing and proposed) to be contained in the converted structure;
    - (b) In the R-2 District, 75% of the product of the minimum gross lot area for a single-family dwelling times the number of dwelling units (existing and proposed) to be contained on the converted structure;
    - (c) In the R-3 District, 100% of the product of the minimum gross lot area for a single-family dwelling times the number of dwelling units (existing and proposed) to be contained in the converted structure.
  - (4) There shall be no external alteration of the building except as may be necessary for

reasons of safety. Fire escapes and outside stairways shall, where practicable, be located to the rear of the building.

- (5) Any new dwelling unit resulting from conversion shall have a minimum floor area of not less than 950 square feet.
  - (6) Regardless of the size of the existing structure, the total number of dwelling units following conversion shall not exceed five.
  - (7) Except where a community sewage system is available, the applicant shall submit to the Township a permit for an on-site sewage disposal system issued by the Chester County Health Department, certifying that the proposed sewage disposal facilities are adequate for the projected number of residents.
  - (8) The Zoning Hearing Board may specify the maximum number of dwelling units to be created within any such structure, and may prescribe such further conditions and restrictions with respect to the conversion and use of such dwelling, and to the use of the lot, as the Board may consider appropriate.
- C. Where permitted as a use by right under the terms of this chapter, the conversion of a single-family detached dwelling shall comply with the following standards:
- (1) Site and architectural plans for the conversion of a single-family dwelling shall be submitted to the Zoning Officer as part of an application for a building permit. Where two or more families are to be housed above the ground floor, such plans shall bear the approval of the Pennsylvania Department of Labor and Industry as required by law.
  - (2) Such plans shall provide adequate and suitable parking space for a minimum of one vehicle per proposed dwelling unit.
  - (3) The converted residential structure and lot shall comply with the applicable area and bulk regulations for single-family dwellings in the zoning district in which they are located, except that the required minimum gross lot area shall be 50% of the product of the minimum gross lot area required for a single-family detached dwelling times the number of dwelling units (existing and proposed) to be contained in the converted structure.
  - (4) There shall be no external alteration of the building except as may be necessary for reasons of health or safety. Fire escapes and outside stairways shall, unless clearly impracticable, be located to the rear of the building.
  - (5) Any new dwelling unit resulting from conversion shall have a minimum floor area of 800 square feet.
  - (6) Regardless of the size of the existing structure and lot, the total number of dwelling units following conversion shall not exceed five.
  - (7) All dwelling units within the converted structure shall be connected to and served by a community sewage system.

### **§ 399-97. Agriculture.**

- A. The minimum gross lot area for all agricultural uses shall be 10 acres.
- B. Maximum impervious cover on any agricultural property shall be 10% of the gross lot area. Both

temporary and permanent structures shall be considered impervious surfaces when computing this percentage.

- C. Agricultural buildings (excluding dwellings) shall comply with the following standards:
  - (1) Minimum lot width at street line: 300 feet.
  - (2) Minimum setback from all lot lines: 100 feet.
  - (3) Minimum separation from any residential structures on the same lot: 100 feet.
- D. Silos and bulk bins shall be exempted from area and bulk regulations when attached to a building.
- E. Manure, compost, and material of similar character may not be bulk stored within 300 feet of the boundary of any property used and/or zoned for residential purposes.
- F. Agricultural runoff:
  - (1) Runoff from agricultural buildings and other impervious surfaces shall be directed around areas where manure is stored or otherwise concentrated.
  - (2) The property shall be graded or otherwise managed so that runoff as described in Subsection F(1) above, shall be confined to the lot.
  - (3) The storage and disposal of manure shall be prohibited in areas where continuous or intermittent contact occurs between the material and the groundwater table.
  - (4) Storage areas for manure shall be a minimum of 100 feet from any water supply source and, whenever feasible, shall be located downhill from it; such storage areas also shall be located a minimum of 100 feet from any lake or stream.
  - (5) There shall be an eight-foot grass strip between any road cartway and any area that is plowed or tilled; the Board of Supervisors may modify or require additional measures where topography or other conditions so dictate.
- G. Tenant house.
  - (1) On a property being used for agricultural purposes which is 10 acres or greater in size, one tenant house shall be permissible in addition to the primary residence on the property, so long as the following conditions are complied with:
    - (a) Only one such additional dwelling shall be permitted on any property, regardless of the size of the property.
    - (b) Where a second dwelling already exists on the property as of the effective date of this chapter, it shall constitute the permissible tenant house, and no additional such dwellings shall be constructed. Where no such dwelling exists as of the effective date of this chapter, a tenant house may be constructed on the property.
    - (c) Where a tenant house is to be constructed under the terms of this section, the structure shall be situated such that any subsequent request to subdivide the property and create a separate parcel for the tenant house would be in conformance with the currently applicable Township regulations governing such a request.

- (2) The opportunity for placement of a tenant house in accordance with this section shall be in addition to any other applicable provisions of this chapter.

H. Mushroom houses shall be permitted as an agricultural use, provided they comply with the minimum area requirements and all other applicable standards of this section.

### **§ 399-98. Waste lagoons.**

No lagoon or similar reservoir or basin for the storage or containment of industrial, chemical, hazardous, and/or toxic waste, ~~or agricultural waste or excrement,~~ shall be permitted anywhere in the Township.

### **§ 399-99. Temporary structures.**

A. Temporary dwelling units.

- (1) No temporary structure, whether fixed or mobile in nature, shall be established for any dwelling purpose for any length of time unless approved as a special exception by the Zoning Hearing Board. Such approval shall be granted only where the applicant demonstrates that a permanent use, in compliance with the applicable terms of this chapter, is being pursued with due diligence and that the temporary dwelling will be utilized for the minimum practical time period and removed immediately upon the expiration of that period. The maximum allowable time period for keeping a temporary dwelling unit on the property shall be six months, unless the Zoning Hearing Board shall, upon further request of the applicant, grant one extension of that period for a maximum of six additional months.
- (2) A use and occupancy permit shall be required prior to the utilization of any such temporary dwelling unit, and shall be issued only in accordance with the above stipulations. The temporary dwelling unit shall further comply with all applicable area and bulk standards for the zoning district in which it is to be situated.

B. Sales and construction trailers.

- (1) Temporary structures, located on a tract undergoing development, that are utilized for construction management purposes may, while serving that function, remain on the tract only during active development of the property. Removal shall occur immediately upon completion of the development process. Sales trailers may be located on such a tract only during active development of the property, but shall be removed no later than one year following the start of construction. No extension of this time limit shall be permissible, except upon the grant of a special exception from the Zoning Hearing Board.
- (2) A use and occupancy permit shall be required prior to the utilization of any such temporary structure, and shall be issued only in accordance with the above stipulations. The temporary structure shall further comply with all applicable area and bulk standards for the zoning district in which it is to be situated.

### ~~**§ 399-100. Helistops and other aviation facilities.**~~

~~A. Helistops are permitted as a conditional use in the Mixed Use District upon approval by the Board of Supervisors, subject to the terms of § 399-137 and the following provisions:~~

- ~~(1) The proposed helistop will not be detrimental to the health, welfare, and safety of~~

~~Township residents and their property. In particular, where the proposed helistop is to be located on a property that abuts property used or zoned for residential purposes, the Board, in granting a conditional use approval, may impose additional conditions upon the placement and operation of the proposed helistop, including but not limited to setback from the residential boundary, hours of operation, flight patterns, specific noise mitigation, etc., that would be intended to minimize off-site impacts of the proposed helistop.~~

- ~~(2) The landing pad must be at least 60 feet square or a circle with a sixty foot diameter. This pad must be paved and level.~~
- ~~(3) There must be a four-foot fence around the helistop, except for those helistops on a rooftop. The fence shall be located so as not to obstruct the glide angle of a helicopter using the helistop.~~
- ~~(4) At least two approach lanes to each landing pad shall be provided and maintained free of obstructions, and shall be located not less than 90° apart. Each approach lane shall be located within 45° left or right of the prevailing winds and shall fan out at an angle of 10° from the width of the landing pad to a width of 1,000 feet, and shall have a glide angle slope of eight to one measured from the outer edge of the pad. Approach lanes shall be located entirely within the property on which the helistop is to be situated, unless the Board is satisfied with arrangements reached between the applicant and adjacent property owners that assure that any portion of an approach lane beyond the applicant's property will be permanently maintained free of obstructions. Such agreement shall be secured by easement or deed restriction, and shall be so noted on any recorded plan.~~
- ~~(5) Clear areas for emergency landings of the helicopter in the event of mechanical failure shall be available. These emergency landing areas shall be located within the normal glide range of the helicopter with one engine off when operating in the approved takeoff or landing lane from the helistop.~~
- ~~(6) An application for a helistop on a roof shall be accompanied by a certification by a registered engineer that the loads imposed by the helicopter will be supported by the structure.~~
- ~~(7) The helistop shall be used only for personal or executive use by a firm or individual.~~

~~B. It shall be unlawful for any person to land, discharge, load or take off in a helicopter any place within the Township other than at a helistop, except:~~

- ~~(1) In conjunction with a special event such as an athletic contest, a holiday celebration, or similar activity, after 30 days' advance notice has been given to the Zoning Officer and permission obtained from the Board of Supervisors to make such landing and takeoff.~~
- ~~(2) When necessary for law enforcement or other governmental purposes, and for emergencies.~~
- ~~(3) Upon 48 hours' prior notice to the Zoning Officer, in connection with a construction project where a helicopter is to be used to lift equipment related to such project.~~

~~C. Heliports and airports are not permitted in any zoning district.~~

~~D. The operation of ultralight vehicles, as defined by this chapter, shall be permitted only when such operation is approved as a conditional use by the Board of Supervisors, subject to the~~

~~terms of § 399-137 and the following provisions:~~

- ~~(1) Ultralight vehicles shall be operated only in accordance with Federal Aviation Regulations, Part 103.~~
- ~~(2) Landing and takeoff facilities for ultralight vehicles shall be confined to the property of the owner/operator of such vehicle to facilitate private, personal use, and shall be utilized by not more than two such vehicles.~~
- ~~(3) Any facility for landing and takeoff should be in compliance with the Pennsylvania Laws Relating to Aviation (Title 74, Part III of the Pennsylvania Consolidated Statutes).<sup>4</sup>~~

### **§ 399-101. Wireless communications facilities.**

#### **A. Purposes; findings of fact.**

- (1) The purpose of this chapter is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in East Brandywine Township (referred to herein as the "Township"). While the Township recognizes the importance of wireless communications facilities in providing high-quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
- (2) By enacting these provisions, the Township intends to:
  - (a) Accommodate the need for wireless communications facilities while regulating their location and number so as to ensure the provision for necessary services;
  - (b) Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
  - (c) Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower-based wireless communications facilities in the Township, including facilities both inside and outside the public rights-of-way;
  - (d) Address new wireless technologies, including, but not limited to, distributed antenna systems, data collection units, cable Wi-Fi and other wireless communications facilities;
  - (e) Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish and by requiring that competing providers of wireless communications services co-locate their commercial communications antennas and related facilities on existing towers;
  - (f) Ensure the structural integrity of commercial communications antenna support structures through compliance with applicable industry standards and regulations; and
  - (g) Promote the health, safety and welfare of the Township's residents.

B. General and specific requirements for non-tower wireless communications facilities.

(1) Regulations applicable to all non-tower WCFs located within the Township.

- (a) Permitted in all zoning districts subject to regulations. Non-tower WCFs are permitted in all zoning districts subject to the regulations and conditions prescribed below and subject to applicable permitting by the Township.
- (b) Nonconforming wireless support structures. Non-tower WCFs shall be permitted to co-locate upon legally, nonconforming wireless support structures and other nonconforming structures. Co-location of a WCF upon an existing wireless support structure is encouraged even if the wireless support structure is nonconforming as to use within a zoning district.
- (c) Standard of care. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
- (d) Wind. All non-tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and the Telecommunications Industry Association (ANSI/TIA-222-E, as amended).
- (e) Aviation safety. Non-tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- (f) Public safety communications. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (g) Radio frequency emissions. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (h) Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
  - [1] All abandoned or unused WCFs and accessory facilities shall be removed within two months of the cessation of operations at the site unless a time extension is approved by the Township.
  - [2] If the WCF or accessory facility is not removed within two months of the

cessation of operations at a site, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

- (i) Timing of approval. Within 30 calendar days of the date that an application for a non-tower WCF is filed with the Township, the Township shall notify the WCF applicant in writing of any information that may be required to complete such application. Within 90 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the WCF applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the WCF applicant to provide the information shall not be counted toward the Township's ninety-day review period.

[1] Timing of approval for SWF. Within 10 calendar days of the date that an application for a non-tower WCF that is also a SWF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. The Township shall have 10 days from the receipt of the additional information to issue a letter of completeness, or to request additional information as appropriate. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the sixty-day review period. Insurance. Each person that owns or operates a non-tower WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the non-tower WCF.

- (j) Indemnification. Each person that owns or operates a non-tower WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the non-tower WCF. Each person that owns or operates a non-tower WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a non-tower WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (k) Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:

- [1] The non-tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - [2] Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
  - [3] All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents in accordance with the requirements of the Electronics Industry Association and the Telecommunications Industry Association (ANSI/TIA-222-E, as amended).
- (l) Reservation of rights. In accordance with applicable law and as set forth in more detail in subsequent design and development standards herein, the Township reserves the right to deny an application for the construction or placement of any non-tower WCF for numerous factors, which include, but are not limited to, visual impact, design, and safety standards.
  - (m) Engineer signature. All plans and drawings for a tower and antenna shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
  - (n) Financial security. Prior to receipt of a zoning permit for the construction or placement of a tower-based WCF, the WCF applicant shall provide to the Township financial security sufficient to guarantee the removal of the tower-based WCF. Said financial security shall remain in place until the tower-based WCF is removed.
- (2) Regulations applicable to all non-tower WCF that do not substantially change the physical dimensions of the wireless support structure to which they are attached.
    - (a) Permit required. WCF applicants proposing the modification of an existing wireless support structure shall obtain a permit from the Township. In order to be considered for such permit, the WCF applicant must submit a permit application to the Township in accordance with applicable permit policies and procedures.
    - (b) Such non-tower WCFs that do not substantially change the physical dimensions of the wireless support structure may be eligible for a sixty-day time frame for review. The applicant shall assert such eligibility in writing to the Township and provide documentation reasonably related to determining whether the application is eligible for the shortened review time frame, and if warranted, such application shall be reviewed within the sixty-day time frame.
    - (c) Related equipment. Ground-mounted related equipment greater than three cubic feet shall not be located within 50 feet of a lot in residential use or zoned residential.
    - (d) Permit fees. The Township may assess appropriate, fair and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a non-tower WCF as set forth in fee schedules adopted by resolution by the Board of Supervisors.
  - (3) Regulations applicable to all non-tower wireless communications facilities that do substantially change the wireless support structure to which they are attached:
    - (a) Permitted in all zoning districts subject to regulations. Non-tower WCFs are

permitted in all zoning districts subject to the regulations prescribed herein and subject to the prior written approval of the Township.

- (b) Prohibited on certain structures. Non-tower WCFs greater than 10 feet in height shall not be located on single-family detached residences, single-family attached residences, or any residential accessory structure.
  - (c) Permit required. Any WCF applicant proposing the construction of a new non-tower WCF, or the modification of an existing non-tower WCF, shall first obtain a permit from the Township. New construction and modifications shall be prohibited without a permit. After receipt of the permit application, the Township Zoning Officer shall determine whether zoning relief is necessary under the Zoning Ordinance.
  - (d) Historic buildings. Non-tower WCFs may not be located upon any property that is within 300 feet of or is on a building or structure that:
    - [1] Is listed on the National or the Pennsylvania Register of Historic Places; or
    - [2] Is eligible to be so listed; or
    - [3] Is listed on the official historic structures and/or historic districts list maintained by the Township; or
    - [4] Has been designated by the Township to be of historical significance.
  - (e) Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The WCF applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
  - (f) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a non-tower WCF, as well as related inspection, monitoring and related costs.
- (4) Regulations applicable to non-tower WCF located outside the public rights-of-way that do substantially change the wireless support structure to which they are attached.
- (a) Development regulations. If feasible, non-tower WCFs shall be co-located on existing wireless support structures, such as existing buildings or tower-based WCFs, subject to the following conditions:
    - [1] The total height of any wireless support structure and mounted WCF shall not exceed the maximum height permitted in the underlying zoning district.
    - [2] In accordance with industry standards, all non-tower WCF applicants must submit documentation to the Township justifying the total height of the non-tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
    - [3] If the WCF applicant proposes to locate the related equipment in a separate

building, the building shall comply with the minimum requirements for the applicable zoning district.

- [4] A security fence of not less than six feet and not more than eight feet in height shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

(b) Design regulations.

- [1] Non-tower WCFs shall employ stealth technology and be treated to match the wireless support structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- [2] Antennas, and their respective accompanying wireless support structure, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.
- [3] Noncommercial usage exemption. Township residents utilizing satellite dishes and antennas for the purpose of maintaining television, phone, and/or Internet connections at their respective residences shall be exempt from the design regulations enumerated in this section of the Zoning Ordinance.

(c) Removal, replacement, modification.

- [1] The removal, replacement, or modification of non-tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF may not increase the overall size of the WCF or the numbers of antennas.
- [2] Any material modification to a WCF shall require notice to be provided to the Township, and possible supplemental permit approval to the original permit or authorization.

- (d) Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of the Zoning Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

(5) Additional regulations applicable to all non-tower WCFs located in the public right-of-way.

- (a) Co-location. Non-tower WCFs in the right-of-way shall be Co-located on existing wireless support structures, such as existing utility poles or light poles. If such co-location is not technologically feasible, the WCF applicant shall locate its non-tower WCFs on existing poles that do not already act as wireless support structures, with the Township's approval, subject to the required permitting by the Township and compliance with applicable regulations.

(b) Design requirements.

- [1] WCF installations located above the surface grade in the public ROW, including, but not limited to, those on streetlights and joint utility poles, shall

consist of equipment components that are no more than six feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.

- [2] Antennas and related equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- (c) Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all non-tower WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- (d) Equipment location. Non-tower WCFs and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
  - [1] In no case shall ground-mounted related equipment, walls, or landscaping be located within 18 inches of the face of the curb or within an easement extending onto a privately owned lot.
  - [2] Ground-mounted related equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
  - [3] Required electrical meter cabinets shall be screened to the satisfaction of the Township.
  - [4] Any graffiti on any wireless support structures or any related equipment shall be removed at the sole expense of the owner within 10 business days of notice from the Township of the existence of the graffiti.
  - [5] Any proposed underground vault related to non-tower WCFs shall be reviewed and approved by the Township prior to installation.
    - [a] Non-tower WCFs may not be located in any right-of-way within 300 feet of or on a building or structure that:
      - [i] Is listed on either the National or the Pennsylvania Register of Historic Places; or
      - [ii] Is eligible to be so listed; or
      - [iii] Is listed on the official historic structures and/or historic districts list maintained by the Township; or
      - [iv] Has been designated by the Township to be of historical significance.
- (e) Relocation or removal of facilities. Within 60 days following written notice from

the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, determines that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

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

(f) Reimbursement for ROW use.

- [1] In addition to permit fees as described in this Ordinance, every non-tower WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township.
- [2] The owner of each tower-based WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described in Subsection B(5)(f)[1] above.

C. General and specific requirements for all tower-based wireless communications facilities.

- (1) Regulations applicable to all tower-based wireless communications facilities in the Township.
  - (a) Standard of care. Any tower-based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any tower-based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
  - (b) Notice. Upon submission of an application for a tower-based WCF and the scheduling of the public hearing upon the application, the WCF applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. The WCF applicant shall provide proof of the notification to the Township.
  - (c) Conditional use authorization required. Tower-based WCFs are permitted only in

those zoning districts where authorized as a conditional use and only in such location within such districts and at a height necessary to satisfy their function in the WCF applicant's wireless communications system. No WCF applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The WCF applicant shall demonstrate that the antenna/tower/pole for the tower-based WCF is the minimum height necessary for the service area.

- [1] Prior to the Board's approval of a conditional use authorizing the construction and installation of a tower-based WCF, it shall be incumbent upon the WCF applicant for such conditional use approval to prove to the reasonable satisfaction of the Board that the WCF applicant cannot adequately extend or infill its communications system by the use of equipment such as repeaters, antenna(s) and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall structures. The WCF applicant shall further demonstrate that the proposed tower-based WCF must be located where proposed in order to serve the WCF applicant's service area and that no other viable alternative location exists.
  - [2] The conditional use application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF applicant, the power in watts at which the WCF applicant transmits, and any relevant related tests conducted by the WCF applicant in determining the need for the proposed site and installation.
  - [3] The conditional use application shall also be accompanied by documentation demonstrating that the proposed tower-based WCF complies with all state and federal laws and regulations concerning aviation safety.
  - [4] Where the tower-based WCF is located on a property with another principal use, the WCF applicant shall present documentation to the Board that the owner of the property has granted an easement for the proposed WTF and that vehicular access will be provided to the facility.
- (d) Engineer inspection. Prior to the Township's issuance of a permit authorizing construction and erection of a tower-based WCF, a structural engineer registered in Pennsylvania shall issue to the Township, on behalf of the applicant, a written certification of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure.
- (e) Visual appearance and land use compatibility. Tower-based WCFs i] shall employ stealth technology, which may include painting the tower portion silver or another color approved by the Board, or ii] shall have a galvanized finish. All tower-based WCF and related equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade that blends with the existing surroundings and neighboring buildings to the greatest possible extent. The Board of Supervisors shall consider whether conditional use

approval of the tower-based WCF will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the

character and type of development existing in the area; benefit neighboring properties by preventing a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques.

- (f) Co-location and siting. An application for a new tower-based WCF shall not be approved unless the Board of Supervisors finds that the wireless communications equipment planned for the proposed tower-based WCF cannot be accommodated on an existing or approved structure or building or on Township property. The Board may deny an application to construct a new tower-based WCF if the WCF applicant has not made a good faith effort to mount the commercial communications antenna(s) on an existing structure as set forth in this section. The WCF applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within 1/4 of a mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
  - [1] The proposed Antenna and related equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
  - [2] The proposed Antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower, and the interference cannot be prevented at a reasonable cost.
  - [3] Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - [4] A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- (g) Permit required for modifications. To the extent permissible under applicable state and federal law, any WCF applicant proposing the modification of an existing tower-based WCF that increases the overall height of such WCF shall first obtain a permit from the Township. Routine modifications shall not require a permit.
- (h) Gap in coverage. A WCF applicant for a tower-based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of tower-based WCFs.
- (i) Additional antennas. As a condition of approval for all tower-based WCFs, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennas on tower-based WCFs where

technically and economically feasible. The owner of a tower-based WCF shall not install any additional antennas without obtaining the prior written approval of the Township.

- (j) Wind. Any tower-based WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and the Telecommunications Industry Association (ANSI/EIA-222-E, as amended).
- (k) Site plan. A full site plan shall be required for all tower-based WCFs, showing all existing and proposed structures and improvements, for a minimum of 500 feet from the tower-based WCF, including but not limited to Antenna and related support structures, building, fencing, buffering and ingress and egress.
- (l) Height. Any tower-based WCF shall be designed at the minimum functional height. All tower-based WCF applicants must submit documentation to the Township justifying the total height of the structure. The maximum total height of a tower-based WCF, which is not located in the public ROW, shall not exceed 120 feet, as measured vertically from the ground level to the highest point on the structure, including antennas and subsequent alterations. Should the WCF applicant prove that another provider of wireless communications services has agreed to co-locate antennas on the WCF applicant's tower-based WCF and requires a greater tower height to provide satisfactory service for wireless communications than is required by the WCF applicant, the total height of such tower-based WCF shall not exceed 150 feet.
- (m) Related equipment. Either one single-story wireless communications equipment building not exceeding 500 square feet in area or up to five metal boxes placed on a concrete pad not exceeding 10 feet by 20 feet in area housing the receiving and transmitting equipment may be located on the site for each unrelated company sharing commercial communications antenna space on the tower-based WCF.
- (n) Public safety communications. Tower-based WCFs shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (o) Maintenance. The following maintenance requirements shall apply to all tower-based WCFs:
  - [1] All tower-based WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - [2] Maintenance shall be performed to ensure the upkeep of the facility to promote the safety and security of the Township's residents and utilize the best available technology for preventing failures and accidents in accordance with the requirements of the Electronics Industry Association and the Telecommunications Industry Association (ANSI/TIA-222-E, as amended).
- (p) Radio frequency emissions. No tower-based WCF may, by itself or in conjunction

with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

- (q) Historic buildings or districts. Tower-based WCFs shall not be located upon a property within 300 feet of or on a building or structure that:
  - [1] Is listed on either the National or Pennsylvania Registers of Historic Places; or
  - [2] Is eligible to be so listed; or
  - [3] Is included in the official historic structures and/or historic districts list maintained by the Township; or
  - [4] Has been designated by the Township to be of historical significance.
- (r) Signs. All tower-based WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC or any other federal or state agency.
- (s) Lighting. No tower-based WCF shall be artificially lighted, except as required by law. If lighting is required by law, the WCF applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Secretary.
- (t) Noise. Tower-based WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Township Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- (u) Aviation safety. Tower-based WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- (v) Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the tower-based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The WCF applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (w) Timing of approval. Within 30 calendar days of the date that an application for a tower-based WCF is filed with the Township, the Township shall notify the WCF applicant in writing of any information that may be required to complete such

application. All complete applications for tower-based WCFs shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such tower-based WCF, and the Township shall advise the WCF applicant in writing of its decision.

[1] Timing of approval for SWF. Within 10 calendar days of the date that an application for a tower-based WCF that is also a SWF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. The Township shall have 10 days from receipt of the additional information to issue a letter of completeness, or to request additional information as appropriate. Within 90 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ninety-day review period. If the application is subject to conditional use approval, such conditional use provisions will remain applicable to the application; however, the timing of approval shall not fall outside the timeline set forth in this section unless otherwise agreed upon by the applicant and the Township.

(x) Nonconforming uses. Nonconforming tower-based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this Ordinance.

(y) Removal. Where use of a tower-based WCF is to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue its use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

[1] All unused or abandoned tower-based WCFs and accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Township.

[2] If the WCF and/or accessory facility is not removed within six months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

[3] Any unused portions of tower-based WCFs, including antennas, shall be removed within six months of the time of cessation of operations. The Township must approve all replacements of portions of a tower-based WCF previously removed.

(z) Permit fees. The Township may establish, by resolution, appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing

and processing the application for approval of a tower-based WCF, as well as related inspection, monitoring, and related costs.

- (aa) FCC license. Each person that owns or operates a tower-based WCF shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
  - (bb) Reservation of rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any tower-based WCF for numerous factors, including, but not limited to, visual impact, design, and safety standards.
  - (cc) Insurance. Each person that owns or operates a tower-based WCF greater than 40 feet in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the tower-based WCF. Each person that owns or operates a tower-based WCF 40 feet or less in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each tower-based WCF.
  - (dd) Indemnification. Each person that owns or operates a tower-based WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the tower-based WCF. Each person that owns or operates a tower-based WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a tower-based WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
  - (ee) Engineer signature. All plans and drawings for a tower and Antenna shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
  - (ff) Financial security. Prior to receipt of a zoning permit for the construction or placement of a tower-based WCF, the WCF applicant shall provide to the Township financial security sufficient to guarantee the removal of the tower-based WCF. Said financial security shall remain in place until the tower-based WCF is removed.
- (2) Regulations applicable to tower-based wireless communications facilities located

outside the public rights-of-way.

(a) Development regulations.

- [1] Location. Tower-based WCF are permitted outside the public rights-of-way by conditional use in the MU Mixed-Use District and the CS/LI Commercial Service/Limited Industrial District.
  - [a] No tower-based WCF shall be located within 75 feet of any underground utilities or underground utility easements.
  - [b] Only tower-based WCFs greater than 40 feet in height shall be permitted by conditional use in the following zoning districts:
    - [i] MU Mixed-Use.
    - [ii] CS/LI Commercial Service/Limited Industrial.
- [2] Sole use on a lot. A tower-based WCF shall be permitted as a sole use on a lot, provided that the underlying lot is a minimum of 6,000 square feet and meets the minimum lot area of the district in which it is located. The minimum distance between the base of a tower-based WCF and any adjoining property line or street right-of-way line shall equal 110% of the proposed height of the tower-based WCF unless it is demonstrated to the reasonable satisfaction of the Board that, in the event of failure, the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining property uses, their occupants, pedestrians, or traffic.
- [3] Combined with another use. A tower-based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
  - [a] The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the WCF.
  - [b] Minimum lot area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the tower-based WCF and guy wires, the equipment building, security fence, and buffer planting if the proposed WCF is greater than 40 feet in height.
  - [c] Minimum setbacks. The minimum distance between the base of a tower-based WCF and any adjoining property line or street right-of-way line shall equal 110% of the proposed height of the tower-based WCF unless it is demonstrated to the reasonable satisfaction of the Board that, in the event of failure, the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining property uses, their occupants, pedestrians,

or traffic.

(b) Design regulations.

- [1] The tower-based WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. Application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- [2] To the extent permissible by law, any height extensions to an existing tower-based WCF shall require prior approval of the Township.
- [3] Any proposed tower-based WCF shall be designed structurally, electrically, and in all other respects to accommodate both the WCF applicant's antennas and comparable antennas for future users.
- [4] Any tower-based WCF over 40 feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.

(c) Surrounding environs.

- [1] The WCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
- [2] The WCF applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E, as amended, to document and verify the design specifications of the foundation of the tower-based WCF and anchors for guy wires, if used.

(d) Fence/screen.

- [1] A security fence having a minimum height of six feet and a maximum height of eight feet shall completely surround any tower-based WCF greater than 40 feet in height, as well as guy wires, or any building housing WCF equipment.
- [2] Landscaping. Landscaping shall be required to screen as much of a newly constructed tower-based WCF as possible. The Board may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping if, in the discretion of the Board, they achieve an equivalent degree of screening. Existing vegetation shall be preserved to the maximum extent possible.

(e) Accessory equipment.

- [1] Ground-mounted related equipment associated to, or connected with, a tower-based WCF shall be placed underground or screened from public view using Stealth Technologies, as described above.
- [2] All related equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are

situated and shall meet the minimum setback requirements of the underlying zoning district.

- (f) Access road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to a tower-based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.
  - (g) Parking. For each tower-based WCF greater than 40 feet in height, there shall be two off-street parking spaces.
  - (h) Inspection. The Township reserves the right to inspect any tower-based WCF to ensure compliance with the Zoning Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (3) Regulations applicable to tower-based wireless communications facilities located in the public rights-of-way.
- (a) Location and development standards.
    - [1] Such tower-based WCFs shall not be located in any public rights-of-way which directly front or abut the front yard setback area of a residential dwelling.
    - [2] Only tower-based WCF that are 50 feet or shorter in height are permitted in the public rights-of-way, by conditional use approval, along the following corridors and roadways, regardless of the underlying zoning districts:
      - [a] Bondsville Road;
      - [b] Corner Ketch Road;
      - [c] Creek Road;
      - [d] Dilworth Road;
      - [e] East Reeceville Road;
      - [f] Hopewell Road;
      - [g] Horseshoe Pike (Rt. 322);
      - [h] Little Washington Road;
      - [i] North Guthriesville Road;

- [j] Rock Raymond Road; and
  - [k] Zynn Road.
- [3] Such tower-based WCFs shall be permitted along the above-listed roads; however, they shall not be located along such roads in areas specifically designated as scenic road segments, within 50 feet of contributory features or within 50 feet of vista points as shown on the Scenic Resources Map of East Brandywine Township, dated April 2, 2009, and as thereafter amended.
- [4] Tower-based WCFs may not be located upon any right-of-way within 300 feet of or on a building or structure that:
- [a] Is listed on either the National or the Pennsylvania Register of Historic Places; or
  - [b] Is eligible to be so listed; or
  - [c] Is listed on the official historic structures and/or historic districts list maintained by the Township; or
  - [d] Has been designated by the Township to be of historical significance.
- (b) Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all tower-based WCFs in the right-of-way based on public safety, traffic management, physical burden on the right-of-way, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- (c) Equipment location. Tower-based WCFs and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
- [1] In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
  - [2] Ground-mounted equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
  - [3] Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
  - [4] Any graffiti on the tower or on any related equipment shall be removed at the sole expense of the owner within 10 business days of notice from the Township of the existence of the graffiti.
  - [5] Any underground vaults related to tower-based WCFs shall be reviewed and approved by the Township.

- (d) Design regulations.
  - [1] The tower-based WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
  - [2] Any proposed tower-based WCF shall be designed structurally, electrically, and in all other respects to accommodate both the WCF applicant's antennas and comparable antennas for future users.
- (e) Relocation or removal of facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a tower-based WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
  - [1] The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
  - [2] The operations of the Township or other governmental entity in the right-of-way;
  - [3] Vacation of a street or road or the release of a utility easement; or
  - [4] An emergency as determined by the Township.
- (f) Reimbursement for right-of-way use. In addition to permit fees as described in this Ordinance and established by resolution of the Board of Supervisors, every tower-based WCF in the right-of-way is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the right-of-way. Such compensation for right-of-way use shall be directly related to the Township's actual right-of-way management costs, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other right-of-way management activities by the Township. The owner of each tower-based WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above.

D. General and specific regulations for wireless communications facilities upon municipal use land or public use land.

- (1) Tower-based WCFs may be permitted upon public lands owned by the Township, regardless of the provisions of the underlying zoning districts, when approved by conditional use by the Board pursuant to the conditional use procedures and standards contained herein and subject to the following additional criteria:

- (a) Where a previously approved tower-based WCF is located upon public land owned by the Township, antenna(s) of providers other than the entity owning the tower may co-locate on the tower if the proposed co-location meets all of the requirements set forth in the Pennsylvania Wireless Broadband Collocation Act, 53 P.S. § 11702.1.
  - (b) When required by the Board, the tower-based WCF shall be architecturally screened and landscaped to simulate other structures existing in the Township, such as light poles, flagpoles, farm silos or trees (stealth features), and shall be painted one or more colors (blue, green or remain galvanized) as directed by the Board.
  - (c) The location of the tower-based WCF within the public land owned by the Township shall be at the discretion of the Board should it grant approval of the conditional use application and shall be an express condition thereof.
  - (d) The Township may enter into separate agreements and fee arrangements with tower-based WCF applicants beyond those permit fees and reimbursement costs set forth in previous sections of this Zoning Ordinance.
- (2) Non-tower WCFs may also be permitted upon public lands owned by the Township, regardless of the underlying zoning district, subject to those regulations and restrictions as set forth in the preceding sections governing all non-tower WCFs and subject to the following additional criteria:
- (a) The Board at its discretion can modify certain standards and regulations to allow a reasonable use of Township-owned property to accommodate non-tower WCFs.
  - (b) Where a previously approved tower-based WCF or other wireless support structure is located upon public land owned by the Township, antenna(s) of providers other than the entity owning the tower may co-locate on the wireless support structure, if the proposed co-location meets all of the requirements set forth in the Pennsylvania Wireless Broadband Collocation Act, 53 P.S. § 11702.1.
  - (c) Subject to applicable law, the location of the non-tower WCF within the public land owned by the Township shall be at the discretion of the Township.
  - (d) The Township may enter into separate agreements and fee arrangements with non-tower-based WCF applicants beyond those permit fees and reimbursement costs set forth in previous sections of this Zoning Ordinance.
- E. Consistency with state and federal laws and regulations. The provisions contained herein regulating wireless communications facilities are intended to comply with federal and state laws and regulations in effect as of the date of adoption of this section. To the extent that any of the provisions in this section conflict with any federal or state statute or regulations, the federal or state statutes or regulations shall control unless the applicable federal or state statutes or regulations allow for more stringent provisions in local ordinances. In which case, the more stringent provisions of local ordinances shall remain in effect and shall control in such instances.

### **§ 399-102. Convenience stores.**

The following standards shall apply to any convenience store, as defined and specifically permitted by this chapter. The standards in this section shall supersede similar standards that may be contained in the zoning district in which a convenience store is permitted. Standards in the base zoning district that are not addressed in this section shall be applicable to the convenience store use.

- A. Minimum lot area. A net lot area of not less than two acres shall be required for any convenience store.
- B. Floor area. The maximum floor area of a convenience store shall be 6,000 square feet. The minimum floor area of a convenience store shall be 3,000 square feet.
- C. Lighting. As required by § 399-83.
- D. Hours of operation. There shall be no limit on the operating hours of a convenience store. During the hours of 10:00 p.m. to 6:00 a.m. and on Sundays and legal holidays, however, the restrictions against noise contained in § 399-84 of this chapter shall be strictly applied. No deliveries to the site or trash removal from the site shall occur during these times.
- E. Curb cuts and corner radius: as required by § 399-90I.
- F. Gasoline pump setbacks: as required by § 399-90B.
- G. Gasoline deliveries: as required by § 399-90G.
- H. Landscaping and buffering: as required by § 399-90H. In addition, the Township may require supplemental fencing, consisting of materials and dimensions it deems appropriate, along any property line that abuts a residential use or residentially zoned property.
- I. Property management and mitigation of off-site impacts.
  - (1) Food and beverage shall not be consumed within the parking area or any other exterior portion of the site.
  - (2) Trash disposal shall be managed to prevent any problem of littering on or off the site. There shall be no dumpster or similar large-scale outdoor trash receptacle on the property.
  - (3) Noise and lighting shall be controlled to avoid any impact on nearby residential properties.
  - (4) Outside loud speakers shall be audible only to persons in the immediate vicinity of the fueling positions.
- J. Fueling positions. Where a convenience store offers the retail sale of automotive fuel, the maximum number of fueling positions, each containing one dispensing hose, shall be limited to one per 500 square feet, or portion thereof, of convenience store floor area. In no case, however, shall the number of fueling positions exceed 12.

- K. Architectural treatment. The applicant shall demonstrate that the proposed design of the building facade and related canopy or other structural elements on the property will minimize incompatibility with the character of existing buildings in the VC District and other immediately adjacent properties. Where the architectural history of the site and its immediate vicinity has been researched and documented, the Township may provide such information to the applicant and examine the proposed structures in relation to the documented history.
- L. Maximum impervious surface area. Not more than 65% of the net area of any lot may be covered by impervious surfaces.

~~§ 399-102.1. Woodland protection and logging standards.~~

~~A. Statement of intent. It is the purpose of this section to provide for the regulation of logging operations to ensure:~~

- ~~(1) That long-term production of forest crops and benefits are encouraged;~~
- ~~(2) That the right to harvest trees is exercised with due regard for the protection of the physical property of adjacent landowners;~~
- ~~(3) That the potential for negative environmental impacts resulting from improper logging operations is minimized and sound forest stewardship is practiced; and~~
- ~~(4) That unreasonable and unnecessary restrictions of the right to undertake logging operations are avoided.~~

~~B. Scope and applicability.~~

- ~~(1) The provisions and requirements of this section shall apply to any logging operation, as defined by this chapter, where the harvest area in which the logging operation will occur occupies one acre or more of land within East Brandywine Township.~~
- ~~(2) A zoning permit in accordance with the terms of this section shall be required for all logging operations, except as noted in Subsection B(4) below.~~
- ~~(3) It is not the intent of this section to regulate timber harvest for home use, normal property maintenance and upkeep, or in conjunction with a land use change.~~
- ~~(4) The following operations are specifically exempt from the requirement to obtain a zoning permit:~~
  - ~~(a) Removal of dead or diseased trees.~~
  - ~~(b) Removal of trees that are in such a condition or physical location as to constitute a danger to the occupants of a property or the structures thereon, or to a public right-of-way.~~
  - ~~(c) Removal of up to five trees per acre of woodland per year for the purpose of timber stand improvement where the harvested trees are not part of a commercial sale.~~
  - ~~(d) Christmas tree farming.~~

- ~~(e) Orchard operations.~~
- ~~(f) Removal of nursery stock.~~

~~C.—Responsibility.~~

- ~~(1) It shall be the responsibility of each landowner on whose land a logging operation is to be carried out to develop or have developed a written forestry/logging plan, in form and content as specified by this section, and to submit such plan to the Zoning Officer as part of the application for a zoning permit. No logging operation shall occur until the plan has been reviewed and approved by the Township. The landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan. The plan shall be available at the harvest site at all times during the logging operation and shall be provided to the Zoning Officer upon request.~~
- ~~(2) For any logging operation, the landowner shall notify the Zoning Officer at least 10 business days prior to commencement of the operation and within five business days of completion of the operation. Notification shall be in writing and shall specify the land on which the operation will occur and the anticipated starting or completion dates of the operation.~~

~~D.—Preparation and content of forestry/logging plan.~~

- ~~(1) Each forestry/logging plan for a logging operation within East Brandywine Township shall be prepared by an individual with professional forester qualifications.~~
- ~~(2) Any logging plan shall, at minimum, include the following:
  - ~~(a) Property description, including location and brief description of each stand on the property.~~
  - ~~(b) Goals and objectives of the logging operation.~~
  - ~~(c) A narrative stand analysis, describing stocking (in terms of basal area or relative density), species composition, and average diameter of stand.~~
  - ~~(d) Narrative description of the residual stand.~~
  - ~~(e) The following appendixes:
    - ~~[1] Proof of current general liability and/or worker's compensation insurance.~~
    - ~~[2] Copy of erosion and sedimentation control plan with a letter of adequacy from the Chester County Conservation District, and including all associated permits and reports, as applicable.~~
    - ~~[3] Proof of a PennDOT highway occupancy permit or an East Brandywine Township driveway permit for temporary access, as applicable.~~~~
  - ~~(f) A site map containing the following information:
    - ~~[1] Site location and boundaries, including both the boundaries of the property on~~~~~~

~~which the logging operation will take place and the boundaries of the proposed harvest area within the property.~~

~~[2] Location of all earth disturbance activities such as roads, landings, and water control measures and structures.~~

~~[3] Location of all proposed crossings of waters of the commonwealth.~~

~~[4] The general location of the proposed operation in relation to Township and state roads, including proposed access to those roads.~~

~~[5] Topography, including areas with slope between 15% and 25% and areas with slope greater than 25%, and soils of the property and harvest site.~~

~~[6] Location of any wetlands or other sensitive environmental areas and the proposed measures to protect such areas.~~

~~(g) Demonstration of compliance with all applicable state laws and regulations and Township ordinances, including but not limited to:~~

~~[1] Erosion and sedimentation control regulations contained in 25 Pa. Code Chapter 102, promulgated pursuant to the Clean Streams Law (35 P.S. § 691.1 et seq.);~~

~~[2] Stream crossing and wetland protection regulations contained in 25 Pa. Code Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. § 693.1 et seq.); and~~

~~[3] Stormwater management plans and regulations issued pursuant to the Storm Water Management Act (32 P.S. § 680.1 et seq.), including the requirements of Chapter 345, Stormwater Management, of the East Brandywine Township Code.~~

~~(h) Demonstration of compliance with all applicable federal laws and regulations, including but not limited to the best management practices (BMPs) as set forth at 33 CFR 323.4(a)(6)(i) through (xv).~~

~~(i) Identification of, and measures that will be taken to protect, specimen vegetation (as defined in Chapter 350 of the Land Use Code).~~

~~(j) The forestry/logging plan shall include a plan for the reforestation of the site, including the retention of a sufficient number of younger, healthy trees. The plan shall be consistent with accepted forest management practices including, but not limited to, the use of deer fencing and herbicides. Plant material to be used for reforestation purposes shall conform to the standards of the publication "American Standard for Nursery Stock," ANSI or USAS Z60.1, of the American Association of Nurserymen, as amended. All plant material used on the site shall have been grown within the same USDA hardiness zone as the site and shall be nursery grown, unless it is determined by the Township that the transplanting of trees partially fulfills the requirements of this section. The plan also shall address measures to use and/or dispose of downed trees and other slash.~~

~~(k) Where a logging operation is proposed on land with a slope between 15% and 25%, the forestry/logging plan shall include all applicable information required by § 399-14E of this chapter.~~

~~E. Forestry practices in relation to logging operations. The following requirements shall apply to all logging operations:~~

- ~~(1) Felling or skidding on or across any public road is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation, whichever party is responsible for maintenance of the road.~~
- ~~(2) Clear-cutting, as defined by Chapter 300, shall not be permitted as part of any logging operation.~~
- ~~(3) There shall be no logging permitted on any land with a slope of 25% or greater.~~
- ~~(4) No tree shall be felled across a property line without the consent of the adjoining landowner.~~
- ~~(5) Litter resulting from any logging operation shall be cleaned up and removed from the site before it is vacated by the operator.~~
- ~~(6) Upon completion of the cutting and removal of trees from the site, all remaining tops and slash shall be removed from the site. The forestry/logging plan shall detail the means by which this will be accomplished. Reducing all tops and slash to wood chips which are evenly distributed across the subject site shall qualify as having removed all materials. It shall be the equal responsibility of the logging operator and the property owner to accomplish the removal of remaining tops and slash. In the event such removal is not satisfactorily accomplished, the Township may, as it deems necessary and appropriate, undertake and complete such removal and collect the cost of same from the property owner by civil action, including actions as authorized under the Municipal Liens Law.~~
- ~~(7) There shall be no logging permitted on any land within 50 feet of a public roadway or property line. Tops, slash or other debris shall not be permitted within this zone.~~
- ~~(8) Responsibility for road maintenance and repair; road bonding. Pursuant to Title 75, Pennsylvania Consolidated Statutes, Chapter 49; and Title 67 Pa. Code Chapter 189, the landowner and the operator shall be responsible for repairing 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. The applicant shall execute an agreement requiring the applicant to maintain, repair, and/or replace any public road permitted for use under this section. The applicant must provide financial security to insure compliance. The financial security may consist of a funded escrow account or letter of credit, subject to the review and approval of the Township Solicitor. The Township Engineer may inspect the public road and require additional financial security in the event the Township Engineer determines that the amount of financial security is insufficient to maintain and/or restore the public road. The applicant must cease use of and/or access to the public road upon the Township's written notice that such damage and/or potential damage exists and/or the applicant fails to provide adequate financial~~

~~security, which the Township Engineer then determines is inadequate. The applicant agrees to pay and provide sufficient financial security to insure payment of all inspections and/or professional consultant fees necessary for the inspection and/or enforcement of the agreement.~~

~~(9) Upon completion of the logging operation, the applicant shall notify the Township Engineer, who shall be authorized to inspect the completed logging site and the roads within the Township used for the logging operation. Based upon the inspection, the Township Engineer shall either recommend the release of the performance guarantee by the Board of Supervisors or shall document actions that must be taken by the applicant at the site and/or on the roads prior to release of the performance guarantee. Where a logging operation is conducted for a period in excess of 12 months, the landowner or operator shall submit proof, at the beginning of each new twelve-month period, to the Township that the guarantee bond remains in existence for an amount that will then be required to correct damage to any public road.~~

~~(10) A performance guarantee, in a form consistent with the terms provided for such guarantees by the Township S/LDO, shall be provided by the landowner or operator to assure that the required terms for reforestation of the site are accomplished. Such guarantee shall be for an amount not less than \$3,000 per acre, or fraction thereof, of tract area being harvested.~~

~~F.—Enforcement.~~

~~(1) Enforcement of the terms of this section shall be as prescribed in Article XXI of this chapter.~~

~~(2) Inspections. The Zoning Officer may go upon the site of any timber harvesting operation, before, during, or after logging to:~~

~~(a) Review the logging plan or any other required documents for compliance with this section; and~~

~~(b) Inspect the operation for compliance with the logging plan and other on-site requirements of these regulations.~~

~~(3) Enforcement notice.~~

~~(a) Upon finding that a timber harvesting operation is in violation of any provision of this section, the Zoning Officer shall issue the operator and the landowner an enforcement notice as prescribed in § 399-153 of this chapter.~~

~~(b) The Zoning Officer may order the immediate suspension of any operation upon finding that: i) corrective action has not been taken by the date specified in the enforcement notice; ii) the operation is proceeding without a logging plan; or iii) the operation is causing immediate harm to the environment. Suspension orders shall be in writing and shall be issued to the operator and the landowner. The operator or the landowner may appeal a suspension order issued by the Zoning Officer within 30 days of issuance.~~

~~(4) Penalties. Any landowner or operator who violates any provision of this section and/or fails to comply with the terms of an enforcement notice shall be subject to the penalty provisions of this chapter as prescribed in § 399-155.~~

**§ 399-102.2. Day-care facility.**

- A. Where permitted and approved as a special exception, or where permitted as a conditional use in the TND-1 District or the TND-2 Overlay District, a day-care facility proposed as a principal use providing day care for more than six children or adults who are not relatives of the caregiver shall comply with the standards of this section.
- B. Any such facility shall hold any required federal or state license and certificate and shall meet all current state or federal regulations including standards governing adequate indoor space, accessible outdoor play space, and any applicable state or local building and firesafety codes. Any such facility shall be fully protected by smoke detectors and fire extinguishers.
- C. There shall be one off-street parking space provided for each employee and one safe passenger unloading space measuring 10 feet by 20 feet for each six children that the facility is licensed to accommodate.
- D. When an off-premises outdoor play area is proposed to be utilized, it must be located within 1,000 feet and safely accessible without crossing at grade any arterial street or other hazardous area.
- E. The outdoor play area required by state licensing shall be surrounded by a safety fence or natural barrier.
- F. Outside play shall be limited to the hours between 8:00 a.m. and 7:00 p.m.
- G. Where the property to be occupied by the proposed day-care facility has frontage on an arterial or collector street, as designated by the Township, the Zoning Hearing Board shall evaluate the building location and may, as it deems appropriate for purposes of safety, access, and compatibility with surrounding properties, require a larger setback dimension from the arterial or collector street than is otherwise required by the base zoning district.
- H. Where the proposed lot abuts a residential zoning district or existing residential use, the applicant shall submit plans for vegetative screening along such lot line(s), with such plans subject to approval or modification by the Zoning Hearing Board.
- I. The proposed means of vehicular access to the lot shall be reviewed by the Township Engineer, who shall make a recommendation to the Zoning Hearing Board regarding safety, adequacy of ingress and egress, and internal circulation.
- J. Sewage facilities shall be provided to the site in accordance with the requirements of the Pennsylvania Department of Environmental Protection and the Chester County Health Department.
- K. Fencing shall be provided, as necessary, to protect occupants from hazardous areas such as open drainage ditches, wells, holes, and arterial and major collector roads. Natural or

physical barriers may be used in place of fencing, so long as such barriers functionally restrict occupants from these areas.

- L. Day-care facilities shall not provide medical or personal care services which extend beyond simple first aid and assistance with dressing, bathing, diet, and medication prescribed for self-administration, unless the facility is licensed by the Pennsylvania Department of Public Welfare to provide such additional services.
- M. The applicant shall submit a plan showing existing or proposed outdoor play areas, outdoor play equipment, fencing, access drives, adjacent streets, adjacent hazardous land uses, on-site hazardous areas (as described above), delivery areas, parking spaces, and the child dropoff circulation pattern.
- N. Where a day-care facility is permitted as a conditional use, it shall adhere to the standards of Subsections A through M, above. In addition, such facility shall provide no direct pedestrian access to, and shall have no outdoor play space adjacent to, Route 322 (Horseshoe Pike), Bondsville Road or East Reeceville Road.

### **§ 399-102.3. Vehicle towing service.**

Where permitted under the terms of this chapter, a vehicle towing service shall comply with the following regulations:

- A. Where a vehicle towing service is located on a lot adjacent to a residential zoning district or residential use, there shall be a setback from the adjacent residential zoning district boundary or residential use lot line of at least 100 feet, screened in accordance with § 399-79.
- B. Wherever the lot containing a vehicle towing service abuts a public or private street, the portion(s) of the lot abutting the public or private street shall contain screening material that complies with the standards in § 399-79.
- C. Where a portion of the lot is used as an impoundment area, such area shall be enclosed within a wall or fence at least eight feet in height that is at least 90% solid or opaque.
- D. No more than two adjoining rows of stored vehicles shall be permitted.
- E. There shall be provided at least a twelve-foot wide accessway which shall be kept free and clear at all times to provide for access to all parts of the premises for firefighting and other safety or emergency purposes.
- F. The maximum amount of time that any vehicle may be impounded on the property shall be 30 days.
- G. Where the property containing a vehicle towing service is adjacent to a residential use, the operator will seek to minimize off-site impacts from noise and related disturbance by limiting the delivery and off-loading of towed or transported vehicles during other than regular business hours.
- H. Lighting of any vehicle impoundment area shall be provided. Such lighting shall provide a minimum illumination level of 1/2 footcandle. All lighting shall be so designed to prevent direct glare onto adjacent dwelling units. Shielding shall be designed to eliminate direct light

and glare beyond an angle of 35° from the vertical plane of the lighting fixture.

**§ 399-102.4. Continuing ~~care~~ Care development ~~Facility~~.**

- A. A ~~continuing~~ Continuing care ~~Care development~~ Facility shall be as defined by this chapter.
- B. In a ~~continuing~~ Continuing care ~~Care Facility~~ development, a building or buildings may be erected, altered or used and a lot or premises may be used or occupied for any of the following individual or combination of uses:
- (1) Independent dwelling units. Single-family detached dwellings, single-family semidetached dwellings, two-family detached dwellings, and single-family attached dwellings. Each dwelling unit shall contain complete kitchen, toilet, and bathing facilities, and shall have at least one outside window.
  - (2) Independent living apartment units. Multifamily dwellings in which each group of apartment units is associated with one or more common areas designated for the exclusive benefit of the group. Each apartment unit shall contain at least one outside window. Each apartment unit shall provide space and facilities for cooking and related kitchen activities, bathing, and toilet functions. Common areas may also be provided for recreation, relaxation, laundry services, bulk storage, and similar activities.
  - (3) Assisted-care facilities. For the purposes of a continuing care development only, premises, or a portion thereof, in which food, shelter, and licensed personal assistance or supervision are provided for residents requiring supervision and assistance in such matters as dressing, bathing, diet or medication prescribed for self-administration, but not requiring hospitalization or skilled nursing care. Facilities shall include a living/sleeping area and a private powder room, although a shared bath shall be permitted.
  - (4) Skilled care or nursing care facilities. For the purposes of a continuing care development only, premises or a portion thereof used to house and care for persons requiring continuous, assisted, or skilled nursing care.
  - (5) Accessory uses. For the purposes of a continuing care development only, offices, activity areas, craft, woodworking and hobby shops, recreation facilities, pools, gift shops, adult day care, child day care, ancillary personal services facilities, dining facilities, ancillary health care facilities, maintenance facilities, bank, library, central kitchen and dining room, snack bar, village store, pharmacy, chapel, and similar uses incidental to the main or principal uses. The total square footage of all accessory uses within the continuing care retirement community shall not exceed 20% of the square footage of all buildings within the continuing care retirement community. This percentage shall not be exceeded in any one phase of the development. No individual retail accessory use may exceed 2,000 square feet in size.
  - (6) Prohibited uses. No building shall be erected, altered or used and no premises shall be used for any activity which is continuously noxious, injurious, or offensive by reason of dust, smoke, odor, fumes, noise, vibration, gas, illumination, or similar substances or conditions.
- C. Minimum tract area. A ~~continuing~~ Continuing care ~~Care Facility~~ development shall require a minimum gross tract area

of 10 acres.

- D. The residents must be at least 55 years of age, except that:
- (1) Spouses of residents may be less than 55 years old;
  - (2) Residents of younger age may be permitted if they need such care because of physical disabilities; and
  - (3) A live-in caregiver, where needed to assist a resident, may be less than 55 years old.
- E. The ~~continuing-Caring care-Care Facility development~~ shall be developed in accordance with the following standards:
- (1) Water and sewage facilities.
    - (a) A ~~continuing-Caring care-Care Facility development~~ shall be serviced by a central water supply system.
    - (b) A ~~continuing-Caring care-Care Facility development~~ shall be served by a community sewage system, consistent with the Township Act 537 Plan.
  - (2) Density. The maximum density of development shall not exceed five dwelling units per net acre of tract area. Equivalent density shall be calculated as follows:
    - (a) Each independent living unit/cottage: one dwelling unit.
    - (b) Assisted-care facility: each bed = 1/2 dwelling unit.
    - (c) Skilled-care facility: each bed = 1/2 dwelling unit.
  - (3) Maximum impervious coverage: 45% of the net tract area.
  - (4) Maximum building height. The maximum height of all buildings shall be as provided under the terms of the base zoning district.
  - (5) Building length. The maximum horizontal length of a building shall be 160 feet. At its discretion, the Board may authorize an increase in length to 200 feet where the design includes architecturally attractive offsets.
  - (6) Setbacks. The following minimum setbacks shall be observed:
    - (a) Independent living apartment buildings, skilled care facilities, assisted care facilities, and accessory uses: 50 feet from any perimeter property line of the ~~continuing-Caring care-Care Facility development~~, including any perimeter public street right-of-way.
    - (b) Independent living cottage and accessory uses: 40 feet from any perimeter property line of the ~~continuing-Caring care-Care Facility development~~, and 50 feet from any perimeter public street right-of-way.
    - (c) Where the tract abuts an agricultural use, the minimum setbacks in Subsection E(6)(a) and (b), above, shall be increased to 100 feet.

- (7) Building separation. Any minimum building separation dimension for dwelling units in the base zoning district shall be applicable to a continuing care development.
- (8) Common areas and facilities. Where facilities serving the entire development, such as parking lots, pedestrianways, driveways, alleys, lighting facilities, drainage facilities, landscape planting areas, buffer open spaces, and recreation areas are provided in common areas, provisions for their perpetual ownership, maintenance, and care shall be established by and be the complete responsibility of the property owner.
- (9) Common open space. An area of not less than 30% of the gross tract area shall be retained and designated as common open space. Uses, dimensions, and environmental characteristics of the common open space shall be in accordance with the terms of § 399-58 of this chapter.
- (10) Recreation spaces. One or more recreation spaces (each with a minimum area of 1,200 square feet) shall be provided within areas of common open space. The total area of such recreation spaces shall be not less than 100 square feet per unit. All recreation spaces shall be located in areas suitable for the type of outdoor active or passive recreation being proposed. All recreation spaces shall be at least 20 feet from any building. The types of recreation areas shall relate to the expected ages of the residents.
- (11) Access to structures.
  - (a) Every building erected shall be on a lot adjacent to a public street or have access to an approved internal driveway network.
  - (b) All structures shall be located so as to provide safe and convenient access for servicing fire protection and off-street parking.
  - (c) Sidewalks shall be provided, in locations as deemed appropriate by the Board, to assure adequate pedestrian access to buildings, parking areas, accessory uses, community services and facilities, and recreation and open space areas. Sidewalk construction shall conform to the standards in § 350-43 of Chapter 350, Subdivision and Land Development.
  - (d) Wheelchair access shall be provided to all dwellings and all accessory uses.
- (12) Access drives. The following minimum cartway widths shall be provided for any access drive within a continuing care retirement community:

<b>Function</b>	<b>Minimum Cartway Width (feet)</b>
One-way traffic, no parking	9
Two-way traffic, no parking	18
One-way traffic, parallel parking on one side	18
Two-way traffic, parallel parking on one side	27

<b>Function</b>	<b>Minimum Cartway Width (feet)</b>
One-way traffic, parallel parking on two sides	34

(13) Minimum parking standards. The following minimum parking standards shall apply to the development of a continuing care retirement community.

- (a) Independent dwelling units. One and one-half spaces for each independent dwelling, plus one space for every five independent dwelling units to be used primarily by visitors to such units. For the purposes of calculating parking requirements for single-family units, a garage shall not be considered a parking space.
- (b) Apartment dwelling units. One and one-half spaces for each apartment dwelling unit.
- (c) Assisted care, skilled care, and personal care facilities. One space for every four beds in such facilities.
- (d) Staff parking. One space for each staff doctor.
- (e) Employee parking. One space for each employee working on the largest shift.

**§ 399-102.5. Solar energy facilities.**

- A. Statement of intent. It is the intent of this section to allow for the safe use of solar energy systems within the Township while providing simple guidelines to minimize any negative impacts on residents or properties throughout the Township. These may include, but are not limited to, matters of public safety, glare, and stormwater management. The requirements of this section are not intended to hinder the ability of citizens to supplement their energy supply through the proper use of solar energy systems. Use of solar energy systems, in accordance with these regulations, is supported and encouraged within the Township. This section also establishes standards for the safe and appropriate operation of solar farms.
- B. The following development and design standards shall be applied to the construction and installation of any solar energy system:
  - (1) Solar energy systems are permitted in all zoning districts as an accessory use.
  - (2) A building permit specific to a solar energy system is required for the installation of any such system. The applicant shall reimburse the Township for any administrative costs and legal fees incurred during the application process, and for inspection costs incurred by the Township during installation of the system.
  - (3) Energy produced by a solar energy system shall be primarily for personal use on the property where the system is located. Energy produced in excess of personal needs on the property may be sold to a local electric provider, but only as an ancillary and secondary result of the solar energy system.

- (4) The local electrical distribution utility company shall be contacted concerning the connection of a system to the grid and to address any further issues. The applicant shall provide written proof to the Township as part of the permit application that the local electrical distribution utility company was contacted and informed of the applicant's intent to install a solar energy system. Contacting the local electric company is not necessary for off-grid systems.
- (5) Advertising on solar energy systems, other than reasonable identification of manufacturer and operator, is prohibited. This includes any signage, streamers, ribbons, flags, banners, or similar materials, but does not include the posting of appropriate warning signs.
- (6) All solar energy systems shall be professionally constructed and shall be installed in accordance with all applicable codes, regulations, and manufacturer's specifications. Solar energy systems shall be certified by Underwriters Laboratories, Inc., and the National Renewable Energy Laboratory, the Solar Rating and Certification Corporation, or other certifying agency determined acceptable by the Township. The Township reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.
- (7) A solar energy system may be placed on the roof (roof-mounted) or on the ground (ground-mounted).
- (8) Additional standards for roof-mounted solar energy systems.
  - (a) A roof-mounted solar energy system may be mounted on a principal or accessory building. The system shall in no place hang off or extend beyond the edge of the roof. For sloped roofs, the system shall not extend higher than the current peak of the roof. For flat roofs, the system shall not extend higher than five feet vertically above the roof and shall not be higher than the maximum allowable height for buildings in the applicable zoning district. The system shall not be placed on a front roof unless the Zoning Officer determines that this represents the only feasible location where a solar energy system would be functional.
  - (b) An applicant for any roof-mounted solar energy system with a pitch different from the roof (not flush-mounted) must, as part of the building permit application, submit justification for the proposed design and demonstrate: [i] how the design will accommodate potential impact from snow and wind; and [ii] how any potential off-site impact from glare will be mitigated. Such documentation shall be prepared by a professional or professionals acceptable to the Township.
  - (c) For any proposed roof-mounted solar energy system, the building permit application shall include certification of its structural integrity, prepared by a professional or professionals acceptable to the Township.
  - (d) For roof-mounted systems, an effort shall be made to make the wiring and hardware blend in with the roof and building facade.
- (9) Additional standards for ground-mounted solar energy systems.

- (a) A ground-mounted solar energy system shall comply with the same setback requirements as an accessory building in the applicable zoning district. The system shall not be taller than 15 feet.
  - (b) A ground-mounted solar energy system shall not be located in a front yard.
  - (c) Where a ground-mounted solar energy system is proposed to be located in a residential zoning district and/or adjacent to a residential use, such system shall be screened from view from adjacent properties in the neighborhood that could be impacted by glare from the system. Screening may be accomplished by vegetation, fences, or walls in accordance with the terms of this chapter. The Township may require the applicant to submit a glare study, in sufficient detail to determine whether screening will be required, and may further require such study to address specific areas of concern, such as road segments or neighborhoods that could be particularly susceptible to glare from the proposed system.
  - (d) All wiring for ground-mounted solar energy systems carrying electric current shall, to the maximum extent practicable, be buried underground to ensure safety. All wiring shall comply with the appropriate version of the National Electric Code.
  - (e) The surface area of a ground-mounted solar energy system shall be considered impervious surface and subject to the applicable terms of this chapter. The surface area of the panel or panel array shall be calculated as the area of the shadow cast on the ground by the panel(s) with the sun directly overhead. Impervious areas constructed as part of the solar installation that are outside of the calculated shadow area shall be added to the impervious calculation to determine total impervious area.
- C. Passive solar energy systems installed during the construction of a building that do not include solar panels are not subject to the terms of this section. If improvements are being made to a building to increase its use of passive solar energy, a building permit may be required.
- D. Solar energy systems installed prior to enactment of this section are not required to comply with the terms of this section. However, any expansion of these systems at any point shall then require the updated system to be in compliance with this section.
- E. The following standards shall be applied to the installation and construction of any solar farm:
- (1) A solar farm shall be permitted as a principal use in the R-1 Residential, R-2 Residential, and CS/LI Commercial Service/Limited Industrial District when approved as a conditional use by the Board of Supervisors in accordance with the terms of this chapter.
  - (2) A solar farm may be permitted on any Township-owned property at the sole discretion of the Board of Supervisors.
  - (3) A solar farm shall comply with the minimum net lot area, minimum setback, and maximum impervious surface coverage requirements for a single-family dwelling in the

applicable zoning district. In the CS/LI District, the solar farm shall comply with the requirements for a single-family detached dwelling in the R-3 District.

- (4) A security fence at least eight feet in height must enclose the perimeter of any solar farm site.
- (5) All appropriate warning signage and signage identifying operators shall be clearly posted at the site.
- (6) All wiring and on-site power lines shall be placed underground, to the maximum extent practicable. Any wiring carrying live current that is above ground shall be clearly labeled as such.
- (7) The following shall be included in any application for conditional use approval:
  - (a) A descriptive plot plan that includes setbacks, property lines, roads/rights-of-way, buildings, number of solar panels, solar panel size, and impervious surface coverage calculation.
  - (b) An application for a solar farm that is to be connected to the electric grid may not be approved until written evidence is provided to the Township showing a written notice has been provided to the local electrical distribution utility company notifying them of the applicant's intentions to build an interconnected customer-owned solar farm.
  - (c) If the applicant is not the property owner, an affidavit or other satisfactory evidence of agreement between the applicant and property owner confirming that the former has the permission to apply for conditional use approval is required.
  - (d) The applicant shall provide any other relevant studies, reports, or approvals as may be reasonably requested by the Township.
  - (e) A decommissioning plan, detailing the expected duration of the solar farm and how the facility will be deconstructed once it is no longer in use, shall accompany the application. The applicant shall provide financial security in a form and amount suitable to the Township to guarantee the removal of the equipment when its useful lifespan has been reached.
  - (f) Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways. The Township may require the applicant to submit a glare study in sufficient detail to demonstrate that this standard can be met. The glare study shall be consistent with the terms of Subsection B(9)(c) of this section and may be a basis to deny the conditional use application if deemed inadequate by the Board of Supervisors.
  - (g) A solar farm shall be sited in such a way that it presents no threat to traffic or to public health and safety.
- (8) If any solar farm has stopped operating for longer than one year, the Township may require that the facility be decommissioned at the owner's expense. A bond or other surety, satisfactory to the Township, shall be provided to cover the anticipated cost of

deconstruction of the solar farm.

**§ 399-102.6. Age-qualified residential community.**

- A. An age-qualified residential community shall be as defined in Chapter 300 of the Code of East Brandywine Township.
- B. In an age-qualified residential community, a building or buildings may be erected, altered or used and a lot or premises may be used or occupied for any of the following individual or combination of uses when approved as a conditional use by the Board of Supervisors:
  - (1) Single-family detached dwelling.
  - (2) Multifamily townhouse (single-family attached).
  - (3) Accessory uses. For the purposes of an age-qualified residential community only, accessory uses shall include a community center, walking trails, open space, parking areas, signs, and other similar amenities.
- C. Minimum net tract area. An age-qualified residential community shall require a minimum net tract area of 75 acres.
- D. Maximum density and intensity of use.
  - (1) Maximum number of dwellings. The maximum number of dwellings within an age-qualified residential community shall be determined by calculating the net tract area, as defined by and in accordance with § 300-17 of this Code.
  - (2) Common open space. An area of not less than 40% of the net tract area shall be retained and designated as common open space, which shall comply with the standards of this section.
- E. Water and sewer service.
  - (1) An age-qualified residential community shall be served by a public sewage facilities system, as defined by this Code. The plans for such system shall comply with the Township's Act 537 Plan and all applicable regulations of the East Brandywine Township Municipal Authority, the Chester County Health Department, and the Pennsylvania Department of Environmental Protection and with the requirements of Chapter 350, Subdivision and Land Development, of the Code of East Brandywine Township.
  - (2) An age-qualified residential community shall be served by a water supply system, as defined by this Code. The plans for such system must demonstrate adequate supply for the proposed use, and must comply with:
    - (a) The standards of this section;
    - (b) The regulations of the East Brandywine Township Municipal Authority; and
    - (c) The water supply requirements of Chapter 350, Subdivision and Land

Development, of the Code of East Brandywine Township.

F. Area and bulk regulations for dwellings.

(1) Lot regulations shall be as follows:

Type of Dwelling	Gross Lot Area (Minimum)	Net Lot Area (Minimum)	Lot Width (Minimum)	Maximum Impervious Coverage
Single-family detached	6,000 square feet	5,000 square feet	60 feet	55% of gross lot area*
Multifamily townhouse	3,200 square feet [equivalent lot size]	3,200 square feet [equivalent lot size]	24 feet	N/A

\* No single-family detached lot shall have more than 55% of impervious coverage, or 4,000 square feet of impervious coverage, whichever is less.

(2) Minimum setbacks shall be as follows:

Type of Dwelling	Front Yard	Side Yard	Rear Yard
Single family detached	20 feet**	7.5 feet	25 feet
Multifamily townhouse	20 feet	7.5 feet**	25 feet

\*\* There shall be a minimum separation between buildings of 20 feet.

(3) Notwithstanding § 399-75A of the Zoning Ordinance, for single-family detached dwellings, a one-story roofed front porch, attached porch steps and the eaves, fascia, gutter and other architectural elements of the porch roof may project up to five feet into the minimum front yard setback; provided the front porch may not be enclosed in any manner, including by walls, glass, screens, windows and/or doors; and provided further that no balcony, platform, deck or living space may be constructed above the front porch.

G. Maximum building height. The maximum height of all buildings shall be 35 feet.

H. Street and sidewalk specifications. In recognition of the fact that development of an age-qualified residential community results in a more compact layout than traditional residential development, streets and sidewalks in an age-qualified residential community shall comply with the following standards, which shall control over any inconsistent standard in any applicable land use ordinance:

- (1) The minimum center line radii for horizontal curve for streets shall be 75 feet.
  - (2) Tangents of at least 10 feet shall be required between reverse curves in streets.
  - (3) Streets entering from opposite sides of another street shall either be directly across from each other or offset by at least 150 feet measured from the centerline.
  - (4) No center line of any driveway shall be closer than 40 feet to the center line of any parallel cartway.
- I. Common open space. An area of not less than 40% of the net tract area shall be retained and designated as common open space, which shall comply with the standards of this section and the applicable standards of § 399-58C(5), as well as § 350-50. Common open space areas may include primary conservation areas, provided that primary conservation areas shall not constitute more than 35% of the common open space provided.
- (1) The common open space shall be designed to maximize the conservation of site features identified in the conservation plan prepared and submitted in accordance with the terms of § 399-24D.
  - (2) There shall be no impervious surfaces located within the common open space except where deemed necessary in association with approved sewage facilities complying with § 399-102.6I(6)f; recreation uses, including trail surfaces and community amenities such as a community center; and/or where ownership of an area of common open space is conveyed to the Township for use by it. The net tract area shall have a maximum impervious coverage of 25%, provided that impervious surfaces located in any such areas conveyed and/or dedicated to the Township for the Township's exclusive use shall not be included in the calculation of impervious coverage.
  - (3) Ownership of the common open space shall be by one or more of the following methods:
    - (a) The land is being used solely as a trail connector between areas of open space and/or residential development.
    - (b) Common ownership by an association comprised of the owners of the lots or dwellings within the age-qualified residential community, such homeowners' association to be formed pursuant to the Uniform Planned Community Act, 68 P.S. § 5101 et seq. The declaration and other governing documents for the homeowners' association shall be in form and content acceptable to the Township. The declaration shall include an open space management plan for the common open space.
    - (c) At the discretion of the Board of Supervisors, dedication to the Township or another public or nonprofit entity acceptable to the Board; provided, nonetheless, that where ownership of an area of common open space is conveyed to the Township for use by it, that area shall not be deducted from the common open space in the age-qualified residential community for the purposes of meeting the minimum requirements for such open space.

- (4) All areas designated as common open space shall be subject to a conservation easement. In addition to complying with the applicable terms for conservation easements in § 399-58C(5), such easement shall be granted in favor of a qualified conservation organization, the applicable homeowners' association, or, at the Board's discretion, the Township. Where the easement is not held by the Township, the Township shall be granted the right to enforce the covenants, restrictions, and easement established by the conservation easement document, in addition to the rights of the easement holder.
- (5) Areas of common open space may be used for the following purposes, or combinations thereof:
  - (a) Cultivation of nursery stock or orchard trees;
  - (b) Woodland, meadow, wetland, or similar conservation purpose;
  - (c) Park or outdoor recreation area;
  - (d) Amenities such as, but not limited to, a community center;
  - (e) Trail or pathway corridors, the use of which shall be limited to pedestrian and nonmotorized bicycles;
  - (f) Community subsurface land application wastewater systems, when in compliance with the terms of § 102.6I(6), below.
  - (g) Stormwater management facilities serving the development, when in compliance with the terms of § 399-102.6I(6), below; and
  - (h) Required buffer areas between any residential lot line and the right-of-way line of any street existing at the time of application.
- (6) Sewage and stormwater management facilities.
  - (a) Subsurface facilities for the land disposal of treated sewage effluent including drip irrigation or seepage beds acceptable to the Township and the East Brandywine Township Municipal Authority, when consistent with the Township Sewage Facilities (Act 537) Plan, and subject to review and approval by the Township Engineer, the Municipal Authority Engineer, the Chester County Health Department, and/or the Pennsylvania Department of Environmental Protection. Such systems may include underground holding tanks and surface ponds for storage of treated sewage effluent and associated monitoring wells and equipment. Sewage-related mechanical facilities (grinder pumps, sand filters, etc.) and elevated sand mounds or other types of systems that change the grading of the natural ground surface, have components that project above the ground surface, and/or spray treated effluent on the ground surface shall not be permitted within areas of common open space;
  - (b) The following may be included within, and may be calculated as part of, common open space areas: areas devoted to stormwater management techniques utilizing green technology best management practices, as defined by this chapter, including areas designed to achieve sustained or enhanced groundwater recharge,

bioretention, and infiltration, but excluding detention or retention basins.

- (c) The Board of Supervisors, at its sole discretion, may reduce or eliminate the eligibility of land used for such facilities to be included in the calculation of required minimum open space area where it determines that such facilities could cause the affected open space to be unsuitable and ineligible for other open space uses provided in § 399-102.6I(5), above.
  - (d) No sewage or stormwater management facilities shall be located in any primary conservation area; no such facilities shall be located in any woodland unless specifically authorized by the Board of Supervisors.
  - (e) Where necessary in relation to sewage facilities and/or stormwater management facilities located within common open space, easements shall be established to enable maintenance of such facilities by appropriate parties. Such easements shall be subject to review and approval by the Township and Municipal Authority Solicitor, and may be included within and calculated as part of the required common open space.
  - (f) All sanitary sewage facilities necessary to provide public sewer service to the age-qualified residential community, including mains, pumping stations and facilities for disposal of treated sanitary sewage effluent shall be offered for dedication to the East Brandywine Township Municipal Authority or private utility providing service to the community.
  - (g) Except where specifically approved by the Board of Supervisors, no area devoted to community sewage facilities or any stormwater management facilities or techniques may be included in any common open space area owned by East Brandywine Township or by any recreation authority of which the Township is a member.
- (7) Any area of common open space shall be subject to an open space management plan, the terms of which shall comply with the requirements of § 399-58H. Where the common open space is to be owned by a homeowner's association, management and maintenance of the common open space shall be in accordance with the open space management plan.
  - (8) Where a portion of the common open space area is to be used for active recreation, its designation and design shall be in accordance with Chapter 350, Subdivision and Land Development, § 350-50.
  - (9) The open space dimensional and design standards in § 399-58C(5)(k) shall be applicable.
  - (10) The design of common open space areas shall be in compliance with the requirements for buffering and screening contained in § 399-58C(5).
  - (11) Except where common open space is used for agriculture, it shall be physically separated, through fencing, hedgerow, or other means acceptable to the Township, from any adjacent land that is used for agricultural purposes.

- J. The design standards set forth in § 399-29, Design standards, of the Code shall apply to any age-qualified residential community.

**§ 399-102.7. Medical marijuana grower/processor and dispensary.**

The following standards shall apply to any medical marijuana grower/processor or dispensary, where such use is permitted as a conditional use under the terms of this chapter.

A. Medical marijuana grower/processor.

- (1) A medical marijuana grower/processor shall provide proof of registration with the Pennsylvania Department of Health, or proof that registration has been sought and is pending approval, and shall at all times maintain a valid, accurate, and up-to-date registration with the Department of Health. Should registration be denied or revoked at any time, any conditional use approval shall immediately become void.
- (2) A medical marijuana grower/processor shall at all times operate in compliance with all Department of Health regulations pertaining to such facilities.
- (3) No more than one grower/processor shall be permitted on any one site or in any one building.
- (4) The site or facility shall provide adequate policing to prevent the unintended transfer of marijuana plants off the premises.
- (5) Off-street parking shall be provided in accordance with the requirements for industrial and warehouse use, as contained in § 399-108D of this chapter.
- (6) Off-street loading facilities shall be provided in accordance with the standards for the Village Commercial District, as contained in § 399-112 of this chapter.
- (7) A medical marijuana grower/processor use shall not be operated or maintained on a parcel within 1,000 feet of the nearest point on the property line of a residentially zoned property or a parcel containing a public, private, or parochial school or a day-care center.
- (8) A medical marijuana grower/processor shall submit a disposal plan to, and obtain approval from, the Zoning Officer or his or her designee. Medical marijuana remnants and by-products shall be disposed of according to an approved plan and shall not be placed within an exterior refuse container.
- (9) No retail sales of medical marijuana and no use of medical marijuana shall be permitted on the premises of a medical marijuana grower/processor.

B. Medical marijuana dispensary.

- (1) A medical marijuana dispensary shall provide proof of registration with the Pennsylvania Department of Health, or proof that registration has been sought and is pending approval, and shall at all times maintain a valid, accurate, and up-to-date registration with the Department of Health. Should registration be denied or revoked at

any time, any conditional use approval shall immediately become void.

- (2) A medical marijuana dispensary shall at all times operate in compliance with all Department of Health regulations pertaining to such facilities.
- (3) A medical marijuana dispensary may not operate on the same site as a medical marijuana grower/processor.
- (4) A medical marijuana dispensary shall not be operated or maintained on a parcel within 1,000 feet of the nearest point on the property line of a residentially zoned property or a parcel containing a public, private, or parochial school or a day-care center.
- (5) The site or facility shall provide adequate policing to prevent the sale of medical marijuana products other than for state-licensed medical purposes.
- (6) No more than one dispensary shall be permitted on any one site or in any one building.
- (7) A medical marijuana dispensary must operate entirely within an indoor, enclosed, and secure facility. No exterior sales and no sidewalk displays shall be permitted. No drive-through, drop-off, or pick-up services shall be permitted.
- (8) No use of medical marijuana shall be permitted on the premises of a medical marijuana dispensary.
- (9) There shall be no emission of dust, fumes, vapors, or odors which can be seen, smelled, or otherwise perceived from beyond the lot line of the property where the medical marijuana dispensary is operating.
- (10) A medical marijuana dispensary shall submit a disposal plan to, and obtain approval from, the Zoning Officer or his or her designee. Medical marijuana remnants and by-products shall be disposed of according to an approved plan and shall not be placed within an exterior refuse container.
- (11) Off-street parking shall be provided in accordance with the requirements for indoor retail business use, as contained in § 399-108-B(1) of this chapter.

### **§ 399-102.8. Restaurants.**

For any Restaurant the applicant shall propose and carry out measures, deemed satisfactory to the Board, that assure compliance with the following requirements:

- A. Food and/or beverage is not to be consumed within the parking area or any other exterior portion of the restaurant site.
- B. Trash shall be managed as to prevent any problems of littering, on the site.
- C. Noise and lighting shall be controlled so as to avoid any impact on adjacent residential properties.

ARTICLE XXII  
VC Village Commercial District

**§ 399-158. Intent.**

The VC Village Commercial District is intended to reflect and support the properties and existing uses in the Village of Lyndell and provide similar opportunities at other commercially developable locations, and to assure that new uses or changes in use are largely compatible with compact neighborhood commercial character and complementary adjacent residential uses. Unobtrusive transition to the surrounding residential district is to be achieved. The district seeks to appropriately provide for and manage current and future business uses, including mixed-use opportunities.

One purpose of the VC District is to accommodate development which maintains and/or creates a cohesive sense of place, not dominated by large expanses of parking. It provides for development of complementary mixed uses, including residential uses, as well as small-scale commercial, service, and employment-oriented development, while discouraging conventional single-story strip development.

**§ 399-159. Use regulations.**

A. Uses permitted by right. A building may be erected, altered or used, and a lot may be used or occupied, for any one of the following purposes, or for as many as three such purposes in combination, and no other:

- (1) Single-~~family~~Family detached~~Detached dwelling~~Dwelling.
- (2) Dwelling ~~unit~~Unit or units, when arranged to form an integral part of a building in which the ground floor, or at a minimum the front portion thereof, is constructed and maintained for any use permitted under Subsection A(3) through ~~(12)~~(13) herein, and when in compliance with § 399-160I.
- (3) Retail ~~sale of dry goods, hardware, variety and general merchandise, clothing, food, flowers, pharmaceuticals, personal care items, household supplies or furnishings; musical, professional or scientific instruments; and similar items, but specifically excluding the sale of new or used automobiles, trucks, or similar vehicles.~~
- ~~(4) Personal service enterprises, including but not limited to: barbershop; beauty salon; shoe repair; tailor; dropoff/pickup facility associated with off-site laundry or clothes cleaning operation; repair of appliances and equipment; but explicitly excluding automotive service or repair garage facility.~~
- ~~(5)~~(4) Restaurant, subject to the provisions of § 399-102.8., retail bakery, confectionery, or other places serving food and/or beverages, provided that no fast-food restaurant shall be permitted.
- ~~(6)~~(5) Office, as defined in § 300-17.
- ~~(7)~~(6) Studio for performing or visual arts; gallery.
- ~~(8)~~(7) The teaching of not more than 10 pupils simultaneously, or in the case of musical instruction, not more than two pupils at a time.
- ~~(9)~~(8) Inn, but not including motel/hotel.

~~(10)(9)~~ Gift, art, and/or antique shop.

~~(10)~~ Museum ~~or~~

~~(11)~~ Library.

~~(12)~~ Animal Hospital.

~~(11)(13)~~ Bank.

~~(12)~~ Specialty shop and facilities for craftsman, such as blacksmith, tinsmith, or cabinet maker.

~~(13)(14)~~ Accessory use ~~Use~~ on the same lot with and customarily incidental to any of the foregoing permitted uses, including but not limited to those uses described in § 399-92.

~~(14)(15)~~ No-impact Impact home Home occupationOccupation, in accordance with the terms of § 399-93.

~~(15)(16)~~ Forestry, as defined in Chapter 300 and in accordance with the terms of ~~§ 399-102.1~~ Chapter 165.

B. Uses by special exception.

(1) Any of the following uses shall be permitted when approved as a special exception by the Zoning Hearing Board, in accordance with the terms of this article and the standards and criteria contained in § 399-145 of this chapter:

(a) Conversion of a single-family dwelling, subject to the provisions of § 399-96.

(b) Accessory dwelling unit, in accordance with the terms of § 399-91.

(c) Religious use.

(d) Bed-and-~~breakfast~~ Breakfast facilityFacility, in accordance with the terms of § 399-95.

(e) Any use deemed by the Zoning Hearing Board to be of the same general character as any of the uses specifically permitted under Subsection A.

C. Conditional uses. The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of § 399-163 and other applicable provisions of this article and of § 399-137:

(1) Planned ~~village~~ Village commercial-Commercial centerCenter, comprising one or more buildings containing four or more of the uses permitted under the terms of Subsection A.

(2) In a Class I or Class II Historic Resource, and defined in § 399-62, multifamily dwellings in accordance with § 399-67.

(3) Major home occupation, in accordance with the terms of § 399-93.

(4) Day-~~care~~ Care facilityFacility as a principal use.

(5) Convenience Store, as defined by this chapter, and consistent with the standards in §

399-102 of this chapter~~Convenience store as defined in Chapter 300.~~

**§ 399-160. Area and bulk regulations.**

The following regulations shall apply to any use permitted in this article as of right, by special exception, or as a conditional use, unless superseded by terms herein that are explicitly applicable to a specific use.

- A. The regulations in this section shall be applicable only when, as a prerequisite, it can be demonstrated that adequate sewage facilities and water supply for the use in question can be provided and approved. Criteria for determining such adequacy shall include compliance with the requirements of this article and other applicable provisions of this chapter, as well as the requisite approvals and permits from the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection. Any proposed use for which water and/or sewage facilities are deemed inadequate to serve such use shall comply with the area and bulk regulations for single-family dwellings in the R-3 District.
- B. Minimum lot area. Except as otherwise specified by this chapter for particular uses, a net lot area of not less than 20,000 square feet shall be required in the VC District. Where the lot is to contain a combination of uses, as permitted in § 399-159, a minimum lot area of 10,000 square feet per use shall be required.
- C. Minimum lot width. Each lot shall have a width of not less than 100 feet at the building setback line.
- D. Minimum front yard. There shall be a front yard on each lot which shall be not less than 15 feet in depth.
- E. Minimum side and rear yards.
  - (1) On each lot except a corner lot, there shall be no required side yard where buildings are erected on the side lot line and share a common party wall with a building on an adjacent lot. Where buildings are not so erected, there shall be a side yard along each side lot line having a width of not less than 10 feet.
  - (2) On each corner lot, any side yard shall have a width of not less than 15 feet.
  - (3) There shall be a rear yard on each lot which shall be not less than 35 feet.
  - (4) Where a proposed nonresidential use abuts a residential zoning district boundary or an existing residential use, the minimum abutting side yard shall be increased to 20 feet and/or the minimum abutting rear yard shall be increased to 50 feet.
  - (5) Any accessory use structure may be located within a side or rear yard only in accordance with § 399-75 of this chapter or, with respect to the sheltering of animals, in accordance with § 399-85D(4).
- F. There shall be a landscaped buffer along any nonresidential side and/or rear property lines which abut a residential zoning district boundary or existing residential use. Plantings within the buffer shall have a minimum depth of 10 feet and shall comply with the terms of § 399-79 of this chapter.
- G. Maximum impervious surface. Not more than 75% of the net area of any lot may be covered

by impervious surfaces.

- H. Minimum vegetative cover. Not less than 20% of the gross area of any lot shall be planted and maintained with existing and/or installed vegetation.
- I. Maximum height. No building or other structure erected, altered, or enlarged in the VC District shall exceed a height of three stories or 35 feet, whichever is less.
- J. Dwellings in combination with nonresidential use.
  - (1) Any dwelling unit permitted under the terms of § 399-159A(2) above shall have a floor area of not less than 950 square feet.
  - (2) Total floor area devoted to dwelling units within the structure shall not exceed four times the total floor area of the ground-floor nonresidential use or uses.
  - (3) Entrance to any dwelling unit may be shared with another unit or units but shall be independent of the nonresidential use or uses.
  - (4) Off-street parking required for each dwelling unit shall be in accordance with Article XV of this chapter and shall be in addition to the parking requirements for the nonresidential uses or uses.
  - (5) Where two or more dwelling units are to be created above the ground floor, requisite approvals of interior layout, emergency exits, etc., shall be obtained from the Pennsylvania Department of Labor and Industry and a copy provided to the East Brandywine Fire Company upon receipt of such approval.

**§ 399-161. Design standards.**

Except as otherwise specified by this chapter for particular uses, the following design standards of this chapter shall, as applicable, govern all uses within the VC District:

- A. Signs: as required by Article XVI.
- B. Parking: as required by Article XV.
- C. Access and traffic control: as required by § 399-81.
- D. Landscaping and site design: as required by § 399-78.
- E. Screening and buffering: as required by § 399-79.
- F. Storage: as required by § 399-80.
- G. Interior circulation: as required by § 399-82.
- H. Lighting: as required by § 399-83.
- I. Loading: as required by Article XV.
- J. Erosion/sedimentation control and stormwater management, as required by Chapter 345, Stormwater Management.
- K. Sewage facilities and water supply. For any new use or change of use that will result in water usage and/or sewage disposal needs which will exceed those of the existing use of the

property, the Zoning Officer shall require the applicant to submit appropriate documentation from the Chester County Health Department, certifying the sufficiency of the proposed sewage facilities and the quality and quantity of the proposed water supply in relation to the proposed use or uses. The Zoning Officer shall, as he deems it necessary, consult with the Township Engineer on any aspect of the proposed sewage facilities or water supply and shall deny the application where the proposed sewage facilities or water supply are deemed to be inadequate.

- L. For any application for special exception or conditional use approval, the Zoning Hearing Board or Board of Supervisors, respectively, may require the applicant to demonstrate how the proposal is consistent with the applicable design objectives of the Guthriesville Village Written and Graphic Design Guidelines appended to this chapter.

**§ 399-162. (Reserved)**

**§ 399-163. Standards and criteria for conditional uses.**

A. Planned Village Commercial Center.

- (1) Minimum gross tract area: 32,000 square feet.
- (2) Minimum net tract area per individual use: 8,000 square feet.
- (3) Minimum tract width: 125 feet.
- (4) Minimum front yard: 35 feet.
- (5) Minimum side and rear yards: 15 feet where the tract abuts a nonresidential zoning district; 50 feet where the tract abuts a residential zoning district.
- (6) Minimum setback of parking area from any tract boundary line: eight feet.
- (7) Maximum total impervious surface coverage: 70% of the gross tract area.
- (8) Minimum vegetative cover: 25% of the gross tract area.
- (9) Frontage landscaping. There shall be a frontage landscaped area provided at the street right-of-way line, extending a minimum of eight feet into the front yard, and extending the entire frontage. Any unpaved area between the street right-of-way line and the edge of the cartway also shall be continuously maintained as a landscaped area. The landscaped area shall comply with the standards of § 399-79 of this chapter. No improvements other than access drives shall be permitted within these landscaped areas. Landscaping materials shall be selected and designed so as not to obstruct vision along the street and shall be resistant to road salt and pollution associated with vehicular traffic.
- (10) Perimeter buffering. There shall be a landscaped buffer along all side and rear property lines which abut a residential zoning district boundary or use. Plantings within the buffer shall have a minimum depth of 10 feet and shall comply with the terms of

§ 399-79 of this chapter.

(11) Access standards.

- (a) A single, shared access shall be provided to serve the entire tract. Access shall take the form of an internal road which directs traffic to a single entrance with divided lanes, or by means of reverse-frontage access.
- (b) Entrances shall be a minimum of 24 feet wide and shall have a depth of 40 feet before being intersected by an internal access aisle.

(12) Ownership. The tract of land to be developed shall be held in one ownership, or shall be the subject of an application filed jointly by the owners of the entire tract, and shall be under unified control. If ownership of the entire tract is held by more than one person or entity, the application shall identify and be filed on behalf of all the said owners. Approval of the plan shall be conditioned upon agreement by the applicant or applicants that the tract shall be developed under single direction in accordance with the approved plan and agree in writing to be bound thereby with respect to development of the tract.

(13) Covenants and restrictions. The language, terms, and conditions of any proposed covenants or restrictions shall be subject to review and recommendation by the Township Solicitor.

B. Day-care facility as a principal use.

- (1) A day-care facility as a principal use may provide child day care or adult day care, as those terms are defined in Chapter 300.
- (2) Such facility shall be in compliance with the terms of § 399-102.2.

C. Multifamily dwellings in a Class I or Class II historic resource, in accordance with the terms of § 399-67.

- (1) Proposed multifamily dwellings shall comply with the density, area and bulk, and any other applicable requirements of § 399-37 of this chapter.
- (2) There shall be no requirements for common open space in association with proposed multifamily dwellings.

D. Convenience store.

- (1) A convenience store shall be in compliance with the terms of § 399-102.
- (2) Any property proposed for use as a convenience store in the VC District shall have frontage on and take direct access from U.S. Route 322 (Horseshoe Pike).