

# **ZONING ORDINANCE**

## **TOWNSHIP OF BARRETT MONROE COUNTY, PENNSYLVANIA**

**A SEWAGE PERMIT AND WELL PERMIT  
WILL BE REQUIRED BEFORE A  
BUILDING PERMIT WILL BE ISSUED.**

As Amended:    November 6, 1978  
                     November 7, 1979  
                     August 11, 1982  
                     October 29, 1982  
                     March 20, 1986  
                     April 13, 1988  
                     July 6, 1989  
                     December 13, 1989  
                     April 12, 1991  
                     January 13, 1999  
                     April 2, 1999  
                     May 4, 2005  
                     April 11, 2007

## CONTENTS

ARTICLE I	TITLE AND PURPOSE	PAGE 3
ARTICLE II	ESTABLISHMENT AND DESIGNATION OF DISTRICTS	PAGE 4
ARTICLE III	DISTRICT REGULATIONS	PAGE 5
ARTICLE IV	NONCONFORMING USES AND BUILDINGS	PAGE 26
ARTICLE V	OFF-STREET PARKING REQUIREMENTS	PAGE 28
ARTICLE VI	ADMINISTRATION	PAGE 30
ARTICLE VII	AMENDMENTS	PAGE 35
ARTICLE VIII	OTHER PROCEDURES	PAGE 37
ARTICLE IX	DEFINITIONS	PAGE 39
ARTICLE X	CONSERVATION DESIGN OVERLAY DISTRICT	PAGE 47

## ZONING ORDINANCE

An Ordinance regulating and restricting the height, number of stories, and size of buildings and other structures, their construction, alteration, extension, repair, maintenance, and all facilities in or about such buildings and structures, the percentage of lot that may be occupied, the size, depth and width of yards and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, manufacturing, residence or other purposes; establishing districts and the boundaries thereof for said purposes; providing for the appointment of a Zoning Hearing Board and setting forth the duties and functions of said Board; and providing for the administration and enforcement of the Ordinance and Penalties for violation thereof.

## **ARTICLE 1**

### **TITLE AND PURPOSE**

#### **1.100 SHORT TITLE**

This Ordinance shall be known and cited as the "Barrett Township Zoning Ordinance".

#### **1.200 STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES**

This Ordinance is hereby adopted in order:

- 1.201 To promote public health, safety, morality and the general welfare;
- 1.202 To encourage the most appropriate use of land;
- 1.203 To conserve and stabilize the value of property;
- 1.204 To provide adequate open spaces for light and air, and to prevent the spread of fires;
- 1.205 To prevent undue concentrations of populations;
- 1.206 To lessen congestion on streets and highways.



## ARTICLE II

### ESTABLISHMENT AND DESIGNATION OF DISTRICTS

#### 2.100 NAMES OF ZONES

The several districts hereby established and into which the Township is divided are designated as follows:

R-1 Low Density Residential Zone  
R-2 Medium Density Residential Zone  
B-1 General Business Zone  
M-1 Manufacturing Zone  
T-1 Resort Business Zone  
S-1 Special Use Zone

#### 2.200 ZONING MAP

The location and boundaries of said zoning districts are hereby established as shown on the Zoning Map of the Township of Barrett, dated February, 1986, revised February, 1988, September, 1988 and further revised July 21, 1995, attached hereto and incorporated herein by reference, and hereby made a part of this ordinance. The said map and all notations, references, and designations shown thereon shall be as much a part of this Ordinance as if the same were all fully described and set forth herein.

#### 2.300 INTERPRETATION OF BOUNDARIES

Where uncertainty exists as to the boundaries of any of the aforesaid districts as shown on said Zoning Map, the Board upon written application or upon its own motion shall determine the location of such boundaries.

#### 2.400 LIMITATION OF LAND USE

Except as provided in this Ordinance, no building or part thereof or other structure shall be erected, altered, added to, or enlarged; nor shall any land, building, structure of premises be used, designated, or intended to be used for any purpose other than as for the uses hereinafter listed as permitted in the district in which such building, land or premises is located.

#### 2.500 DISTRICT REGULATIONS

The minimum regulations governing the size of lots, yards, height of buildings, and maximum building coverage, within each zoning district, shall be as set forth in schedule I, attached hereto and incorporated herein by reference.

**ARTICLE III**  
**DISTRICT REGULATIONS**

**3.100 PRINCIPAL PERMITTED USES**

3.110 R-1 Districts No use shall be permitted in any R-1 District other than those enumerated hereunder:

- a. Single-family detached dwellings, except trailers, tourist cabins or motels.
- b. Churches and parish houses
- c. Colleges and Universities
- d. Essential Services such as police and fire stations
- e. Schools, except trade schools for adults.
- f. Public parks and playgrounds.
- g. Temporary tract offices and tract signs.
- h. Other uses which may be similar in character to those enumerated under this Section 3.110 or shall be determined by the Board.
- i. "Antennas mounted on an existing Public Utility Transmission Tower, existing building or other exiting structure, (subject to the restriction set forth in Section IVB.8.), and Communication Equipment buildings (pursuant to subsection 5.254)." as a permitted use in the R-1, R-2, B-1, M-1, T-1 and S-1 Zoning Districts
- j. Single family detached dwellings in a conservation design, according to the provisions of Article X, Conservation Design Overlay District.

3.120 R-2 Districts No uses shall be permitted in any R-2 District other than those enumerated hereunder.

- a. All uses permitted in any R-1 District
- b. Funeral homes.
- c. New construction or conversions of dwellings to provide for not more than three (3) dwelling units in a single structure.
- d. "Antennas mounted on an existing Public Utility Transmission Tower, existing building or other exiting structure, (subject to the restriction set forth in Section IVB.8.), and Communication Equipment buildings (pursuant to subsection 5.254)." as a permitted use in the R-1, R-2, B-1, M-1, T-1 and S-1 zoning districts respectively.

**3.130 B-1 Districts**

- a. Retail uses such as grocery stores, fruit stores, supermarkets drug stores, and similar retail

establishments, including residences as part of the business structure.

- b. Service establishments such as barber shops, beauty parlors, dry-cleaning and Laundromat establishments and other similar services including residences as part of the business structure.
- c. Other retail business or service establishments including offices, banks, restaurants, automobile service stations, automobile repair shops, and similar uses.
- d. Outdoor storage facilities shall be permitted in accordance with Section 3.310.
- e. Wholesale business, but not wholesale livestock business or any other type of wholesale activity which would emit objectionable noises, odors, or other nuisance elements which may be detected at the property lines of such uses.
- f. Job Printing establishments.
- g. Other uses which shall be similar in character to those enumerated under this Section 3.130 as shall be determined by the Board.
- h. "Antennas mounted on an existing Public Utility Transmission Tower, existing building or other exiting structure, (subject to the restriction set forth in Section IVB.8.), and Communication Equipment buildings (pursuant to subsection 5.254)."

3.140 M-1 Districts. No uses shall be permitted in any M-1 Districts other than those enumerated hereunder.

- a. Railroad yards, freight stations, animal hospitals and veterinary clinics, laboratories, distribution plants and transportation establishments, and quarries.
- b. The manufacture, assembly or packing of products not objectionable or injurious due to smoke, noise, odors, glare, dust or hazardous nuisances. Such products may include cloth, metal, plastic, paper, wood, leather, precious or semiprecious metals or stones, electronic or electrical instruments or devices, candy, food products, pharmaceuticals and the like, but not including the production of such goods as fish, or meat products, sauerkraut, spices, coffee, vinegar or the rendering or refining of fats and oils.
- c. Other uses which shall be similar in character to those enumerated under this section 3.140 as shall be determined by the Board.
- d. Outdoor Storage facilities shall be permitted in accordance with Section 3.310.
- e. Heavy equipment storage and maintenance facilities.
- f. "Antennas mounted on an existing Public Utility Transmission Tower, existing building or other exiting structure, (subject to the restriction set forth in Section IVB.8.), and Communication Equipment buildings (pursuant to subsection 5.254)."
- g. Assisted living units, and/or life care facilities

- 3.150 T-1 Districts. No uses shall be permitted in any T-1 District other than those enumerated hereunder:
- a. All uses permitted in any R- District.
  - b. All types of Resort and Tourist uses including hotels, motels, tourist homes, and other similar facilities for transients.
  - c. Mobilehome parks subject to the following conditions, requirements, and standards:
    1. All interior roadways shall have a right-of-way width of at least thirty (30') feet, and a paved cartway width of at least twenty (20') feet.
    2. Each mobilehome space shall have at least two (2) parking spaces provided, and no parking shall be allowed along roadways.
    3. Each mobilehome space shall or lot shall contain not less than seven thousand five hundred (7,500 square feet) square feet.
    4. A buffer strip of at least one hundred (100') feet shall be maintained from any mobilehome lot and exterior property lines , or public roads or highways.
    5. Buffer strips shall be required along property lines to effectively screen the mobilehome park with evergreens or existing plant materials.
    6. All mobilehome parks shall have a minimum total land area not less than twenty (20) acres.
    7. All mobilehome parks shall meet all applicable standards of the Subdivision Ordinance of the Township of Barrett.
  - d. Recreational uses for resident families or guests, including outdoor tennis courts, swimming pools, golf courses, social halls and similar uses.
  - e. Beaches and swimming pools, with accessory bath houses and locker rooms.
  - f. Eating and drinking places, with entertainment.
  - g. Private camps, clubs, resort areas, etc.
  - h. Outdoor storage facilities shall be permitted in accordance with Section 3.310.
  - i. Service facilities.
  - j. Riding stables in accordance with Section 3.340 hereof.
  - k. New construction or conversions of dwellings to provide for more than three (3) dwelling units in a single structure.
  - l. Other uses which shall be similar in character to those enumerated under this section 3.150 as shall be determined by the board.



m. Campgrounds subject to the following conditions, requirements, and standards:

1. No campground space shall be leased or rented for a period of more than six (6) months.
2. All campgrounds shall have a minimum total land area not less than twenty (20) acres.
3. Each camping site shall have a minimum area of three thousand five hundred (3,500 square feet) square feet.
4. The maximum gross density of development in the area improved for camp sites shall not exceed six (6) sites per acre.
5. A buffer strip of at least one hundred (100') feet shall be maintained from any camp site and exterior property lines, or existing public roads or highways.
6. Buffer strips shall be required along property lines to effectively screen the campground with evergreens or existing plant materials.
7. All camp sites designed for recreational vehicles shall have connections to a central sewer and water system.
8. All campgrounds shall meet all applicable standards of the Subdivision Ordinance of the Township of Barrett.

n. "Antennas mounted on an existing Public Utility Transmission Tower, existing building or other exiting structure, (subject to the restriction set forth in Section IVB.8.), and Communication Equipment buildings (pursuant to subsection 5.254)."

o. Single family detached dwellings in a conservation design, according to the provisions of Article X, Conservation Design Overlay District.

3.160 S-1 Districts. No uses shall be permitted in any S-1 District other than those enumerated hereunder:

- a. Production of forest products.
- b. Electric and telephone public utility transmission and distribution facilities, including substations and water pumping stations.
- c. Single family detached dwellings with a minimum of two (2) acres of land.
- d. Cemeteries.
- e. Hospitals and Sanatoria
- f. Outdoor storage facilities shall be permitted in accordance with Section 3.310
- g. Junk yards and automobile graveyards in accordance with Section 3.390

- h. Other uses which shall be similar in character to those enumerated under this Section 3.160 as shall be determined by the Board.
- p. "Antennas mounted on an existing Public Utility Transmission Tower, existing building or other existing structure, (subject to the restriction set forth in Section IVB.8.), and Communication Equipment buildings (pursuant to subsection 5.254)."
- q. Single family detached dwellings in a conservation design, according to the provisions of Article X, Conservation Design Overlay District.

### 3.200 ACCESSORY USES

3.210 R-1 Districts. No accessory uses shall be permitted in any R-1 District other than those enumerated hereunder:

- a. Home Occupations, provided that such home occupations are clearly incidental and secondary to the use of the dwelling unit for residential purposes and provided that such home occupations comply with all of the following conditions:
  - 1. It is operated in its entirety within a single dwelling unit, or in a building or other structure accessory to a dwelling unit and only by the person or persons maintaining a dwelling therein and not more than two (2) additional persons shall be employed in the home occupation.
  - 2. Does not display or create outside the building any evidence of the home occupation except that (1) an unanimated, non-illuminated flat or window sign having an area of not more than two (2) square feet shall be permitted on each street front of the Zone lot on which the building is situated.
  - 3. Does not utilize more than twenty (20%) percent of the gross floor area of the dwelling unit, (except foster family care), and except that professional offices may utilize not more than fifty (50%) of the gross floor area of the dwelling unit.
  - 4. Includes not more than one (1) of the following uses:
    - (a) Medical, dental or other professional offices in accordance with provisions for off-street parking as required herein with not more than two (2) non-resident assistants.
    - (b) Rooming/and or boarding of not more than eight (8) persons (not to include care of diseased or mentally ill persons).
    - (c) Custom dressmaking or hair styling.
    - (d) Foster family care (for not more than four (4) children simultaneously).
    - (e) Tutoring for not more than four (4) students simultaneously; provided that all music or voice reproductions shall be kept at a level not audible outside the building.
- b. Off-street parking facilities for the sole use of the residents of the site where it is located, except as otherwise provided herein.

- c. Signs, including sale or rental signs, and directional signs having a gross surface area of not more than six (6) square feet, provided that there shall be not more than one (1) such sign placed upon any property.

- d. Other accessory uses and structures customarily incidental to a permitted use.

3.220 R-2 Districts. No accessory use shall be permitted in any R-2 District other than those enumerated hereunder.

- a. Any accessory use permitted in an R-1 District
- b. Any accessory use or structure incidental to a permitted use.

3.230 B-1 Districts. No accessory use shall be permitted in any B-1 District other than those enumerated hereunder:

- a. Any accessory use permitted in an R-1 or R-2 District whenever such use shall be incidental to a permitted dwelling use.
- b. Off-street parking facilities.
- c. Signs, as permitted in R-1 and R-2 Districts.
- d. Other signs, including business signs, shall have a gross surface area of not more than fifty (50 ) square feet, bearing the name of the occupant and products sold or displayed on the premises, provided that such signs may be illuminated but shall be of a non-flashing type.
- e. Other accessory uses customarily incidental to a permitted use.

3.240 M-1 Districts. No accessory use shall be permitted in any M-1 District other than those enumerated hereunder:

- a. Any accessory use permitted in a B-1 District
- b. Other accessory uses customarily incidental to a permitted use.

3.250 T-1 Districts. No accessory use shall be permitted in any T-1 District other than those enumerated hereunder:

- a. Any accessory use permitted in a B-1 District.
- b. Other accessory uses customarily incidental to a permitted use.

3.260 S-1 Districts. No accessory use shall be permitted in any S-1 District other than those enumerated hereunder:

- a. Any accessory use permitted in a B-1 District
- b. Other accessory uses customarily incidental to a permitted use.



### 3.300 SPECIAL REGULATIONS GOVERNING CERTAIN USES

3.310 Outdoor Storage Areas. Outdoor storage areas may be operated in areas where permitted provided that such operation shall be in accordance with the following provisions and such other conditions as may be required by the Board of protect the public health, safety, comfort, convenience and general welfare and especially with regard to abutting properties and the occupants thereof:

- a. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground. Tanks or drums of fuel directly connected with heating devices or appliances located on the same premises as the tanks or drums of fuel excluded from this provision.
- b. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities and the contents thereof from adjacent property. Such walls and fences shall be distant not less than twenty (20') from all property lines which abut an R-District or existing residential development, but in any other case shall be distant not less than ten (10') feet from any property line and shall be distant not less than twenty-five (25') feet from any public street. The area between the fence and the property line shall be properly planted and maintained at all times.
- c. No materials or wastes, expecially flammable, toxic or other-wise dangerous chemicals shall be deposited on any premises in such form or manner that they may be transferred off such premises by flood or other natural cause or force.
- d. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise attractive to rodents or insects shall be stored outdoors only in closed containers.

3.320 Signs. Signs may be erected and maintained only when in compliance with the following provisions:

- a. Signs in Residential Districts. The following types of non-illuminated, non-advertising signs are permitted in all Residential Districts as follows:
  - e. Nameplates and Identification Signs.
    - i. Signs indicating the name or address of the occupant, or a permitted home occupation, provided that they shall not be larger than two (2) square feet in gross surface area. Only one sign per dwelling unit shall be permitted.
    - ii. For hotels and for buildings other than dwellings a single identification sign not exceeding six (6) square feet in gross surface area and indicating only the name and address of the building and the name of the management may be displayed.
- f. Sale or Rental Signs. Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises, and signs bearing the word "Sold" or "Rented" with the name of persons effecting the sale or rental may be erected or maintained, provided:
  - i. The gross surface area of any such sign is not in excess of six (6) square feet; and

- ii. Not more than one (1) sign is placed upon any property.
- g. Signs Accessory to Parking Areas. Signs designating entrances or exits, to or from a parking area and limited to one (1) sign for each such exit or entrance and to a maximum gross surface area of two (2) square feet each shall be permitted. One sign per parking area designating the conditions of use or identity of such parking area of six (6) square feet shall be permitted.
- h. Development Signs. Signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer, or other persons interested in such sales or development, may be erected and maintained, provided:
  - (a) The gross surface area of the sign is not in excess of six (6) square feet; and
  - (b) Not more than two (2) signs are placed upon any such property.
  - (c) Any such sign shall be removed by the developer within thirty (30) days of the final sale of the property.
- i. Artisans' Signs. Signs of mechanics, painters and other artisans may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected, provided:
  - (a) The gross surface area thereof is not in excess of six (6) square feet;
  - (b) Such signs are removed promptly upon completion of the work.
- j. Private Driveways. Signs indicating the private nature of a driveway, or trespassing sign, provided that the gross surface area of any such sign shall not exceed two (2) square feet.
- k. Height and Projection of Signs. No sign in a R- District shall project into the public way or project higher than one story or twenty (20') feet whichever is lower.
- b. Signs in B, T and M Districts. Business signs shall be permitted as follows:
  - i. Freestanding Signs. Freestanding signs shall be permitted in all B, T, and M Districts only, provided that no such sign shall be located nearer than fifteen (15) feet to any front, side or rear property line. If such sign is located between fifteen (15') feet and twenty five (25') from any front, side or rear property line, then it may have a maximum gross surface area of twelve (12) square feet for each single face sign and twenty-four (24) square feet for each double face sign. If such sign is located between twenty-five (25') feet and thirty-five (35') feet from any front, side or rear property line, then it may have a maximum gross surface area of thirty-two (32) square feet. If such sign is located between thirty-five (35') feet and fifty (50') feet from any front, side or rear property line, then it may have a maximum gross surface area of forty-eight square feet. If such sign is located beyond fifty (50') feet from any front, side or rear property line, then it may have a maximum gross surface area of one hundred (100) square feet.

- ii. Illumination of Signs. Flashing signs and revolving illuminated signs shall be considered as a special use permitted in M- Districts provided that such signs shall not create any traffic hazard, or abut or face any residential property or any residential zone lot. Stationary illuminated signs are permitted in B-1, T-1 or M Districts only.
- c. General Regulations. The following regulations shall apply to all permitted signs.
  - i. Maintenance. Signs must be constructed of durable materials and maintained in good condition.
  - i. If a sign owner fails to maintain a sign in good condition, the Township Zoning Officer shall mail notice to the sign owner (if known) at his last known address, advising that the sign is not being properly maintained and setting forth the maintenance items not being properly maintained: said notice shall further advise that if said items are not corrected within thirty (30) days, the Township will dismantle and remove the sign. If the sign owner is not known or if no address for a known owner is available, then the aforesaid notice shall be given by posting in a conspicuous location at the Township building and by posting on the sign in question. If the sign condition is not rectified within the thirty (30) day period, either from the date of mailing or of posting, then the Township shall dismantle and remove the sign.
  - ii. Projection of Signs. Attached signs shall not project from any building more than three (3') feet in the direction of the street provided further that no such sign shall extend over the public street or public sidewalk area.
  - iii. Height of Signs. No sign shall be higher than the height limit in the district where such sign is located. No free-standing sign shall be permitted on any roof. Notwithstanding any of the above, no sign attached in any way to any building will be permitted to rise above the level of the roof.
  - iv. Maximum Number of Signs. A property with less than four hundred (400') of continuous road frontage shall be limited to one (1) sign. A property with more than four hundred (400) feet of continuous road frontage shall be limited to two signs along such continuous frontage.
  - v. Fees. Fees for a permit for a sign, a certificate of non conformance, or any renewal of either as required shall be set by the Board of Supervisors by resolution. No fee shall be charged for any permit connected with the erection of a sign necessary to the public welfare.
- d. Sign Plaza. Where two (2) or more businesses are located in the same complex or property, a sign plaza may be established wherein signs may be consolidated and confined within a single frame or as a combination of sign panels. Plans for the size, shape, color, lighting, manner of display lettering, and placement of any such consolidated or combined signs at any such sign plaza shall be referred to the Planning Commission for recommendations prior to approval by the township supervisors and the issuance of a permit by the Zoning Officer. Any such sign plaza shall be subject to the applicable procedures and requirements of the

Township Zoning Ordinance and to all applicable State and County Regulations, and shall be erected and maintained under the applicable regulations of the Pennsylvania Department of Transportation. Each panel comprising the sign plaza, indicating each business within the plaza area, shall not exceed 12 square feet and the plaza sign shall not exceed 64 square feet.

- e. Dealership and Franchise Signs. Dealership and franchise signs mandated by a manufacturer or franchisor shall not exceed 64 square feet. If a manufacturer or franchisor mandates more than one sign indicating two or more separate product lines and the product lines are customarily advertised by a dealer or franchisee on separate signs as required by the manufacturer or franchisor, the Board of Supervisors may, upon application by the land or business owner, waive the 400 foot frontage requirement set forth in Section 3.320 (c) (4), to enable the land or business owner to accommodate the requirements of manufacturer or franchisor.
- f. Setback for Signs Plaza, Dealership and Franchise Signs. Sign Plazas, dealership and franchise signs may not be located less than 15 feet from any road or highway right-of-way.

3.330 Amusement Center, Bowling Alley and Similar Places of Amusement.

- a. Such uses shall be conducted entirely within an enclosed structure.
- b. Parking areas shall be screened from adjoining residential properties.
- c. A principal structure shall be not less than twenty (20) feet from any property line.
- d. There shall be no offensive noise or vibration emitted from such uses.

3.340 Outdoor Recreational Facilities.

- a. Such uses shall include golf courses, ice-skating rinks, swimming pools and tennis courts.
- b. Unenclosed recreational facilities shall be located not less than twenty-five (25') feet from any property line except where greater distances are otherwise required herein and shall be effectively screened from adjoining residential purposes.
- c. Illuminated signs and other lights shall be directed away, or shielded, from adjoining residential properties in such a way as not to disturb the occupants thereof.
- d. No public address system is permitted except under provisions of Section 3.380.
- e. Riding Stables, permitted in accordance with Section 3.150, shall be located not less than two hundred (200') feet from the property line.

3.350 Drive-In Theatres.

- a. All drive-in theatres shall be subject to the regulations set forth under Section 3.340 and the following:
- b. The screen shall be obscured from public streets.
- c. There shall be only "one-way" interior circulation.



- d. No property line shall be closer to an R-1 District than five hundred (500') feet, except where topographic consideration makes such a requirement excessive or unnecessary.
- 3.360 Drive-In Eating and Drinking Places. Such businesses, where persons are served in automobiles shall be not closer than two hundred (200') feet to an R-District.
- 3.370 Commercial Nurseries and Greenhouses. Permitted in any District in accordance with the following:
- a. The minimum lot size shall be one acre.
  - b. The minimum setback shall be fifty (50') feet.
  - c. The minimum distance from property lines shall be twenty-five (25') feet except where it abuts an R-District; then it shall be fifty (50') feet.
  - d. Outdoor Storage in accordance with Section 3.310.
- 3.380 Public Address or Loudspeaker Systems. No public address system shall be permitted except where such system is not audible at any property line. Public address systems on a temporary basis, although audible at a property line, may be permitted.
- 3.390 Junk Yards, including Automobile Graveyards. Such uses shall be permitted only in S-1 Districts in accordance with the following:
- a. The maximum lot size for such uses shall be twenty thousand (20,000) square feet.
  - b. All such uses shall be completely enclosed by a solid fence, screen or wall of sufficient height so as to obscure all view of such use.

## SCHEDULE I

### LOT, YARD AND HEIGHT REGULATIONS

	R - 1	R - 2	B - 1	M - 1	T - 1	S - 1
Maximum Bldg. Coverage	35%	35%	50%	50%	25%	10%
Maximum Bldg. Height						
Stories	2 ½	2 ½	2 ½	2 ½	(d)	2 ½
Feet	35	35	35	35	(d)	35
Minimum Yard (in feet)						
Front	50	50	50	50	50	50
Side Yard (one/both)	15/30	15/30	5/10(a)	15/30(a)	15/30(a)	15/30
Rear Yard	25	25	20	20	25	25
Minimum Lot Dimensions (in feet)						
Width	125	125	100	---	100	100
Depth	150	150	100	150	200	200
Area (in square feet)						
Per Dwelling Unit (e)(f)	65,340	43,560	----	---	87,120	87,120
Other Use	65,340	43,560	20,000	(b)	(b)	(c)

Notes: (a) Supplementary yard requirements provided in Section 3.530 shall apply when abutting an R-1 District.

(b) Five (5) acres

(c) Five (5) acres except junk yards which shall have a maximum of 20,000 square feet.

(d) No restrictions on height except for residential structures which shall have a maximum height of 2 ½ stories or thirty-five (35) feet.

(e) The minimum area for each use or dwelling unit shall comply with the adjusted tract area and minimum net lot area requirements of Section 10.430A of this ordinance.

(f) In standard subdivisions of four or more lots without greenway lands (i.e. standard or conventional lotting), the minimum area for each dwelling unit shall be 108,900 square feet (2 ½ acres) in the R-1 and S-1 Zoning Districts, and 130,680 square feet (3 acres) in the T-1 Zoning District. In addition, such subdivisions shall be permitted by conditional use only, and shall comply with Section 8.500 of this Ordinance, Procedures and Standards for Conditional Uses. Standard subdivisions with three or fewer lots shall comply with the lot, yard and height regulations shown in Schedule I, above. Conservation subdivisions with greenway lands, shall comply with the lot, yard and height regulations in Section 10.400 of this Ordinance.

### 3.400 ADULT BOOK STORES, ADULT MOTION PICTURE THEATERS, AND CABARETS

#### (a) Definitions

1. Adult Book Store. A commercial establishment having as a substantial or significant portion of its stock in trade, books, magazines, photographs or other materials which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Specified Anatomical Areas" (as defined below), or an establishment with a segment or section devoted to the sale or display of such material.
2. Adult Motion Picture Theater. An establishment used for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Anatomical Areas" (as defined below) for observation by patrons therein.
3. Cabaret. A club, bar, tavern, theater, hall, or similar place which features topless or bottomless dancers, entertainers, or employees, or strippers, simulated sex acts, live or actual sex acts, or similar entertainers or entertainment.
4. Specified Sexual Activities.
  1. Human Genitals in a state of sexual stimulation or arousal;
  2. Acts of human masturbation, sexual intercourse or sodomy; and
  3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
5. Specified Anatomical Areas.
  1. Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

#### (b) PROHIBITION IN RESIDENTIAL ZONES.

It shall be unlawful to establish an adult Book Store, Adult Motion Picture Theater, or Cabaret in any residential zone.

#### (c) THREE THOUSAND FEET SEPARATION REQUIRED.

It shall be unlawful to establish an Adult Book Store, Adult Motion Picture Theater, or Cabaret within three thousand (3,000') lineal feet of any existing Adult Book Store, Adult Motion Picture Theater, or Cabaret.

#### (d) ALLOWANCE AS SPECIAL EXCEPTION

It shall be unlawful to establish an Adult Book Store, Adult Motion Picture Theater, or Cabaret within three thousand (3,000') feet of any school, church, or residential zone, except as a special exception in accordance with the procedure hereinafter set forth. The Zoning Hearing Board may authorize the establishment of an Adult Book Store, Adult Motion Picture Theater, or



Cabaret, within three thousand (3,000') feet of a school, church or residential zone as a special exception only if the following findings are made by the Board:

1. That the proposed use will not adversely affect the safe and comfortable enjoyment of properties in the neighborhood and will not be detrimental to the general character of the area.
2. That the establishment of the proposed use in the area will not be contrary to any program of neighborhood conservation and will not interfere with any program of urban renewal.

3.410 "Communication Towers (pursuant to subsection 3.600)" as a conditional use in the R-1, R-2, B-1, M-1, T-1 and S-1 zoning districts respectively.

### 3.500 SUPPLEMENTARY LOT, YARD AND HEIGHT REGULATIONS

- 3.510 Building Height Exceptions. District height limitations shall not apply to church spires, belfries, cupolas and domes, monuments, water towers, chimneys, smoke-stacks, flag-poles, radio towers, masts and aerials and parapet walls extending not more than four (4') feet above the limiting height of the building.
- 3.520 Minimum Front Yards. The front yard of an unimproved lot situated between two (2) improved lots having a principal building within twenty-five (25') feet of the side lot line of said unimproved lot may be reduced to the greatest depth of the front yard of the two (2) improved lots, but not to less than twenty-five (25') feet.
- 3.530 Minimum Side Yards. In addition to the side yard requirements set forth in Schedule I for B-1 Districts, a principal structure shall be not less than twenty (20') feet from any property line when the lot on which said structure is situated abuts an R-1 District or, when the business conducted therein is the type of business described in Section 3.330.
- 3.540 Yards for Dwelling Uses in B-1 Districts. Whenever a dwelling use shall be erected in a B-1 District, there shall be yards as required in an R-1 District except when the regulations for the district where said use is located shall be greater than for an R-1 District.
- 3.550 Accessory Structures.
- a. No accessory structure or building shall be located within the required front yard area. No accessory building shall be located in any side yard area nearer to the side lot line than fifteen (15') feet.
  - b. Attached Accessory Structures in R- Districts. An accessory structure attached to a principal building shall be considered to be a part of the principal building.
  - c. Non-Dwelling Accessory Structures. Shall have a rear yard of at least ten (10') feet, and side and front yards at least equal to those required for principal structures in the District in which located.
- 3.560 Special Zone Lot Provisions.
- a. Corner Lots. Visual obstructions at street intersections (excluding an existing building, post, column or tree) exceeding thirty (30'') inches in height shall be prohibited on any lot within the triangle formed by the street lot lines of the lot and a line drawn between points along the street lines thirty (30') feet distant from their points of intersections.
  - b. Required Area or Space Cannot Be Reduced. No zone lot, yard parking area or other space shall be reduced in area or dimension as to make it less than the minimum required by this Ordinance, but if already less, said area of dimension may be continued but not further reduced.

### 3.600 Communication Towers, Antennas and Communication Equipment Buildings.

#### A. Antennas and Communication Equipment Buildings.

1. Building mounted Antennas shall not be located on any single family dwelling or two family dwelling.
2. Building mounted Antennas shall be permitted to exceed the height limitations of the applicable Zoning District by no more than twenty (20) feet.
3. Omnidirectional or whip Communications Antennas shall not exceed twenty (20) feet in height and seven (7) inches in diameter.
4. Directional or panel Antennas shall not exceed five (5) feet in height and three (3) feet in width.
5. Any applicant proposing an Antenna to be mounted on a building or other structure shall submit verified drawing from a Pennsylvania registered professional engineer certifying and attesting that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
6. Any applicant proposing an Antenna to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antenna will be mounted on the structure for review by the Township Engineer.
7. Any applicant proposing an Antenna to be mounted on a building or other structure shall submit credible evidence of agreements and/or easements necessary to provide access to the building or structure on which the Antenna is to be mounted so that installation and maintenance of the Antennas and Communications Equipment Building can be accomplished.
8. Antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
9. Antennas shall not cause radio, TV or other wireless frequency interference with other communications facilities.
10. A Communications Equipment Building shall comply with the height and setback requirements of the applicable zoning district for an accessory structure.
11. The owner or operator of Antennas shall be licensed by the Federal Communications Commission to operate such Antennas.

#### B. Communication Towers.

1. In addition to the information required elsewhere in the Barrett Township Zoning Ordinance and the Barrett Township Subdivision and Land Development Ordinance, applications for communication towers shall include the following information and documentation.

- a. A report from a qualified and licensed professional engineer which:
  - i. Describes the communication tower height and design including a cross section and elevation.
  - ii. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
  - iii. Describes the communication tower's capacity, including the number and type of antennas that it can accommodate;
  - iv. Documents what steps the Applicant will take to avoid interference with established public safety telecommunications, or other licensed telecommunications;
  - v. Includes an engineer's license/registration number and seal.
- b. A letter of intent committing the communication tower owner and his, her or its successors to allow the shared use of the communication tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- c. Before the issuance of a zoning/building permit, the following supplemental information shall be submitted:
  - i. A copy of the FAA's response to the submitted "Notice of Proposed Construction or Alternation" (FAA Form 7460-1) shall be submitted to the Barrett Township Zoning Officer; and
  - ii. Proof of compliance with all applicable Federal Communications Commission, Federal Aviation Administration, Commonwealth Bureau of Aviation and any applicable airport zoning regulations.
- d. One copy of typical specifications for the proposed structures and antenna, including description of design characteristics and material.
- e. A site plan drawn to scale showing property boundaries, power location, communication tower height, guy wires and anchors, existing structures, elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property.
- f. Name and address of the owners of all antenna and equipment to be located at the site as of the date of the application.
- g. Written authorization from the site owner for the application, as well as a copy of any written agreement or other documentation pursuant to which the applicant has obtained the right to use the proposed site.
- h. Copy of valid FCC license for the proposed activity, or proof that the applicant is the winning bidder for an FCC license at auction and that the final issuance of the FCC license purchased at auction is pending.



- i. A written agreement to remove the communication tower within One Hundred Eighty (180) days of cessation of use, which written agreement shall be in form acceptable to the Township.
  - j. Written certification by Applicant and Applicant's engineer that the proposed antenna and equipment could not be placed on a pre-existing facility under the control of the applicant and function under applicable regulatory and design requirements without unreasonable modification.
  - k. A letter of intent committing the communication tower owner and the Common Carrier(s) utilizing the communication tower, and their respective heirs, personal representatives, successors and assigns to allow Barrett Township and any other governmental agency to utilize the communication tower in the case of an emergency, upon reasonable terms and conditions.
  - l. Any and all permits and/or approvals required from any and all local, state and federal authorities shall be obtained by the Applicant and copies of such permits and/or approvals forwarded to the Township upon receipt. Failure to obtain all required local, state and federal permits and/or approvals within six (6) months of the issuance of the zoning permit shall result in said zoning permit becoming null and void with no further action on the part of the Township.
  - m. The applicant shall submit certification from a Pennsylvania registered professional engineer that the proposed communications tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association.
2. Additional Standards for all communication towers erected, constructed or located within Barrett Township which are classified as a conditional use in the zoning district where proposed shall comply with the following requirements:
- a. A proposal for a new communication tower shall not be approved unless the Board of Supervisors finds that the communications equipment planned for the proposed communication tower cannot be accommodated on an existing or approved communication tower, public utility tower, building or other structure within Barrett Township, or within a one (1) mile search radius of the proposed tower if such one (1) mile search radius would include other municipalities, due to one or more of the following reasons:
    - i. The planned equipment would exceed the structural capacity of the existing or approved public utility tower, communication tower, building or other structure, as documented by a qualified and licensed professional engineer, and the existing or approved public utility tower, communication tower, building or other structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    - ii. The planned equipment would cause interference materially impacting the useability of other existing or planned equipment at the public utility tower, communication tower, building or other structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

- iii. Existing or approved public utility towers, communication towers, buildings and other structures within Barrett Township (or within the one (1) mile search radius of the proposed site for the communication tower if applicable) cannot accommodate the planned equipment at a height necessary to function reasonably.
  - iv. Addition of the planned communications equipment would result in electromagnetic radiation from such existing or approved public utility towers, communication towers, buildings and other structures exceeding applicable standards established by the FCC governing exposure to electromagnetic radiation.
  - v. After a bona fide, diligent attempt, a commercially reasonable agreement could not be reached with the owners of such other public utility towers, communication towers, buildings or other structures.
- b. The proposed communication tower in the specific location desired must be necessary for the efficient operation and provision of the wireless communications service to the neighborhood, area or region for which it is proposed.
  - c. The design of the proposed communication tower and related facilities and equipment shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of the properties owned by other property owners in the zoning district in which it is located.

### 3. Design Requirements.

- a. Any proposed communication tower shall be designed, structurally, electrically and in all respects, to accommodate both the Applicants antennas and comparable antennas for at least two (2) additional users if the communication tower is over one hundred (100) feet in height, or for at least one (1) additional user if the communication tower is over sixty (60) feet in height. Communication towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- b. Communication towers and antennas shall be designed to blend in to the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
- c. Communication towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. Any other exterior lighting at the communication tower sight shall be directed away from all adjacent properties.

- d. All communication equipment buildings and structures accessory to a communication tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects the architectural character of the neighborhood.
  - e. The use of any portion of a communication tower for signs other than warning or equipment signs is prohibited.
  - f. Access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be unproved to a width of at least 10 feet with a dust-free, all-weather surface for its entire length.
  - g. Drainage facilities shall be provided in accordance with Article Ten, Storm Water Management regulations.
  - h. All communication towers shall be surrounded by a twelve (12) foot high non-climbable fence with barbed wire extending in an outward direction around the top of the said fence.
  - i. Adequate off-street parking, but no less than one space, shall be provided to accommodate the needs of the communication tower and communication tower equipment building, which off-street parking shall be paved with a crushed stone surface at a minimum.
  - k. Subdivision and/or Land Development approval (as applicable) shall be required for all proposed communication towers.
  - l. All guy wires associated with any communication tower shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
4. Interference with Public Safety.
- a. No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new antennas and/or communication towers shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service, changes in existing service, or additions of new antennas, telecommunication providers shall notify Barrett Township at least ten (10) calendar days in advance of such changes and allow Barrett Township to monitor interference levels during the testing process.
  - b. Wireless Communication Facilities shall be maintained and kept in a state of repair so that the same shall not constitute a nuisance or hazard to the health or safety of the community or nearby residents or properties.
5. Abandoned or unused communication towers or portions of communication towers.



- a. Abandoned or unused communication towers or portions of communication towers shall be removed as follows:
  - i. All abandoned or unused communication towers and associated facilities shall be removed within one hundred eighty (180) days of the cessation of operations. A copy of the relevant portions of any signed lease, license or other agreement which requires the Applicant to remove the communication tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a communication tower is not removed within one hundred eighty (180) days of the cessations of operations at a site, the communication tower and associated facilities may be removed by Barrett Township and the cost of removal assessed against both the applicant and the owner of the property on which the communication tower and associated facilities exist.
  - ii. Unused portions of communication towers above the manufactured connection shall be removed within one hundred eighty (180) days of the time of antenna relocations. The replacement of portions of a communication tower previously removed requires the issuance of a new zoning permit.

6. Setbacks.

The setback of the base of a communication tower from all adjacent properties and/or lot lines shall be a distance equal to One Hundred (100%) percent of the Antenna Height, or the building setback requirements for the underlying zoning district, whichever is greater. For purposes of this section, the building setback for a single family dwelling shall be the applicable reference to determine setback requirements in R-1, R-2.

7. Lot size.

The minimum lot area requirement for a communication tower use shall be in accordance with the building setback requirements for the underlying zoning district, or the minimum area necessary to comply with the setback requirements of subsection 5.254B.6 above, whichever is greater.

8. Antenna Height.

The maximum Antenna Height shall not exceed One Hundred Fifty (150') feet in any zoning district.

ARTICLE IV  
NONCONFORMING USES AND BUILDINGS

4.100 CONTINUATION OF NONCONFORMANCE

A use, building or structure which shall be made nonconforming at the passage of this Ordinance or any applicable amendment thereto may be continued except as otherwise provided in t his Article IV.

4.200 RESTRICTIONS OF NONCONFORMANCE

4.210 Change of Use. Nonconforming uses of structures shall not be changed into a use which is permitted in a less restricted district; provided, however, that if the non-conforming use or structure is not permitted in any of the districts or permitted only as a special use then any change of use shall require that said new use or structure shall be a conforming use or structure. When nonconforming uses have been changes in accordance with the provisions of this Section, the use of the building or other structure or tract of land shall not thereafter be changed again except in accordance with these regulations.

4.220 Abandonment. The voluntary discontinuance of a nonconforming use for a period of one (1) year and/or change of use to a more restricted or conforming use of any period of time shall be considered an abandonment thereof and such nonconforming use shall not thereafter be revived. Intent to resume active operations shall not affect the foregoing. The provision of this Section 4.220 shall in no way affect or alter the provisions of Section 4.230 hereinafter set forth.

4.230 Repairs.

- a. Normal maintenance of a building or other structure containing a nonconforming use is permitted, including necessary non-structural repairs and incidental alterations not extending the nonconforming use, except as otherwise provided herein.
- b. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability, provided that no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.
- c. Any nonconforming building or structure damaged less than fifty (50%) percent of its then assessed value may be restored, reconstructed or used as before, provided that the volume of such use, building or structure shall not exceed the volume which existed prior to such damage, and that it be completed within one (1) year of such happening; provided however, that the privilege extended under Section 4.240 shall also be applicable hereunder.

4.240 Enlargement. A nonconforming use shall be permitted to be enlarged only up to twenty-five (25%) percent of the nonconforming use, structure, or structures as existed at the time of passage of this Ordinance or any applicable amendment thereto; provided that any enlargement thereof shall be in accordance with the regulations governing said use, and

the district in which it is situated including conformance with all off-street parking and loading requirements for the entire use and/or structure.

#### 4.300 TERMINATION OF NONCONFORMING USES

- 4.310 Partial Destruction. When fifty (50%) percent or more of the actual value of a non-conforming building or structure, or use is destroyed by fire or other casualty or Act of God, the use of such building, structure, or land as a nonconforming use shall thereafter be terminated.
- 4.320 Public Nuisances. Upon a complaint registered by the building Inspector or fifty (50%) percent of the property owners within two hundred (200') feet of the nonconforming use which is considered to be a hazard to the health, safety, welfare and morals of uses or structures adjoining such nonconforming use or uses, the Zoning Hearing Board shall hold a public hearing and within thirty (30) days thereafter make a finding in accordance with the standards, purposes and procedures set forth herein as to necessity of terminating such nonconforming use.

## ARTICLE V

### OFF-STREET PARKING REQUIREMENTS

#### 5.100 NUMBER OF PARKING SPACES REQUIRED

The number of off-street parking spaces required shall be as set forth in Schedule II below in accordance with the definitions of "floor area" set forth in Article VIII hereof.

#### SCHEDULE II

##### MINIMUM REQUIRED OFF-STREET PARKING SPACES

<u>USE</u>	<u>NUMBER OF SPACES</u>
1. Churches and Schools	One (1) for each 3.5 seats in an auditorium or one (1) for each classroom whichever is greater.
2. Community Buildings, Social Halls Country Clubs and Golf Courses	One (1) for each two hundred (200) square feet of floor area.
3. Dwellings, Motels	1.5 for each dwelling unit or rental unit.
4. Funeral Parlors	Fifteen (15) for each parlor.
5. Manufacturing and Wholesale Uses	One (1) for each 1,000 square feet of floor area, plus one (1) for each four (4) employees in the maximum working shift; the total parking area shall be not less than twenty-five (25%) percent of the building floor area.
6. Professional Offices	Ten (10) for each doctor, five (5) for each dentist or other professional.
7. Restaurants, etc.	One (1) for each 2.5 seats.
8. Retail and Service Establishments	One (1) for each 150 square feet of floor area.
9. Any permissible home Occupation not falling into one of the above categories.	Two (2) spaces for each proprietor and each employee.

#### 5.200 Size and Access

Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet exclusive of access drives or aisles, and shall be of usable shape and condition. Except in the case of dwellings, no parking area provided hereunder shall be established for less than three (3) spaces.

There shall be adequate provision for ingress and egress to all parking spaces. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive of not less than (10') feet in width in the case of a dwelling, and not less than twenty (20') feet in width in all other cases, leading to the parking or storage areas or loading or unloading spaces required hereunder in such manner as to secure the most appropriate development of the property in question, but, such easement of access or access drive shall not be located in any R-District which shall provide access to uses other than those permitted in such R-Districts.

Access to off-street parking area shall be limited to several well-defined locations and in no case shall unrestricted access along the length of a street or alley upon which the parking lots abut be permitted.

#### 5.300 MODIFICATION OF REQUIREMENTS

The Board may authorize on appeal, a modification, reduction or waiver of the foregoing requirements, if it should find that in the particular case appealed the peculiar nature of the use, or the exceptional shape or size of the zone lot or other exceptional situation or condition must justify such action.



ARTICLE VI  
ADMINISTRATION

6.100 ENFORCEMENT

This Ordinance shall be enforced by the Township Supervisors, or Zoning Hearing Board, if in the discretion of the Township Supervisors such Zoning Hearing Board is authorized and appointed by the Township Supervisors. No building shall be built or altered and no use of land or of a building shall be commenced or changed without the issuance of a permit by the Building Inspector, or Zoning Hearing Board, if such Board is authorized and appointed by the Township Supervisors; said Building Inspector to be named and appointed by the Township Supervisors.

Where a private sewage disposal system is required, no building permit may be issued until a permit for said private sewage disposal system has been issued by the Building Inspector.

6.200 BUILDING INSPECTOR

The Building Inspector is hereby given the duty, power and authority to enforce the provisions of this Ordinance. He shall examine all applications for permits, issue permits for the construction, alteration, enlargement and occupancy of all uses which are in accordance with the requirements of this Ordinance, and all nonconforming uses, record and file all applications for permits with accompanying plans and documents and make such reports as may be required.

Building permits for a variance from the requirements of this Ordinance, and building permits for special uses, and for uses of the same general character as those uses permitted in accordance with Article III, and other provisions of this Ordinance, shall be issued only upon written order of the Township Supervisors, or Zoning Hearing Board, if in the discretion of the Township Supervisors, such Zoning Hearing Board is authorized and appointed by the Township Supervisors.

6.300 ZONING HEARING BOARD

The Township Supervisors, or the Zoning Hearing Board, if in the discretion of the Township Supervisors such Zoning Hearing Board is authorized and appointed by the Township Supervisors, shall be responsible for the interpretation of this Ordinance, and shall adopt and make available to the public, rules in accordance with this Ordinance for the exercise of its functions and shall have the following duties and purposes:

- 6.310 Hear and Decide Appeals To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the Building Inspector in the enforcement of this Ordinance, or any Ordinance adopted pursuant thereto.

- 6.320 Permit Other Uses. To hear and decide requests for other uses not specifically enumerated herein, and to permit any use so deemed by the Board to be in general keeping with the uses authorized in such a district. In such cases, the Board will:
- a. Refer such requests or applications as required by this Section to the Planning Commission for its review and recommendations.
  - b. Determine that such uses will not adversely affect the public health, safety or welfare as are herein expressly provided for in harmony with the general purpose and interest of this Ordinance.
  - c. Impose appropriate conditions and safeguards where necessary.
- 6.330 Grant Variances. The Board may vary the strict application of any of the requirements of this Ordinance only for a use, which is permitted in the zone district. Such variance will be granted only if it meets the requirements established in Subsection 6.360 and upon appeal, after public notice and public hearing.
- 6.340 Interpretation of Ordinance and Boundaries Upon appeal from a decision by the Building Inspector to decide any question involving the interpretation of any provision of this Ordinance and where uncertainty exists, as to the boundaries of any zone district, the Board shall, upon written application or upon its own motion, determine the location of such boundaries of such districts as are established in Article II hereof and as designated on the Zoning Map of the township. Where a district boundary line divides a lot held in single and separate ownership, at the effective date of this Ordinance, the use regulations applicable to the less restrictive district shall extend over the portion of the lot in the more restrictive district a distance of not more than fifty (50') feet beyond the district boundary line.
- 6.350 Other Power and Duties The Board shall perform such other duties as may be provided or made necessary by this Ordinance including the following:
- a. To authorize the Building inspector to issue Building permits for variances, special uses, and other uses.
  - b. To hold public hearings as required and as may be permitted by this Ordinance.
  - c. To refer any pertinent matter to the Planning Commission for review and recommendations, and defer any decision thereon for a period of not more than thirty (30) days pending a report from the Commission.
  - d. To maintain a record of all decisions and the findings, or a summary of such findings, upon which said decision shall be based.
  - e. To grant relief in specific cases where a failure to do so would result in unconstitutional confiscation of property.



#### 6.360 Variances

- a. Upon appeal, and after public notice as well as personal notice to appellant, and after a hearing, the Board may grant a variance provided the following findings are made where relevant in a given case:
  1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.
  2. That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the use of the property.
  3. That such unnecessary hardship has not been created by the appellant;
  4. That the variance, if authorized, will not alter the essential character of the neighborhood, or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
  5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- b. A request for a variance shall be made by way of appeal to the Board from a decision of the Zoning Officer.
- c. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

6.370 Public Hearing and Notice Upon filing with the Board, of an appeal, or of a request for a variance as required by the terms of this Ordinance, or for such other purposes as provided herein where the Board deems it in the public interest, the Board shall fix a time and place for a public hearing thereon as follows:

- a. Public Notice. By advertising at least once in a newspaper of general circulation in the Township, not less than one (1) week nor more than three (3) weeks in advance of such hearing.
- b. Notice to Appellant. By mailing a notice thereof by registered mail to the Appellant.
- c. Notice to Local Officials. By mailing a notice to the Township Supervisors and Township Planning Commission.
- d. Notice to Interested Parties. By mailing a notice thereof to every association of residents of the Township, and any other interested party who shall have registered their names and addresses for this purpose with the Board.

- e. Notice to Owner and Neighbors. When the Board shall order, by mailing a notice thereof to the owner, if his residence is known, and to the occupant of every lot on the same street within three hundred (300') feet of the lot or building in question and of every lot not on the same street within one hundred (100') feet of said lot or building; provided that failure to give such notice as specified in this paragraph shall not invalidate any action by the Board.
  - f. Nature of Notice. The notice required shall be posted upon instruction from the Board, and shall state the location of the building or lot in question and the general nature of the question involved.
- 6.380 Filing Fees. Township Supervisors shall by resolution establish separate filing fees for the following categories of permits:
- a. Zoning Permits for uses not requiring Board action.
  - b. Zoning Permits for uses requiring Board action.
  - c. Variance Application.
  - d. Reclassification or Amendment.
  - e. Certificate of Nonconformance
  - f. Appeals to Zoning Hearing Board.
  - g. Application to amend this Ordinance.
- 6.390 Violations.
- a. Township may initiate appropriate action. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, or of any ordinance or regulation made under authority conferred hereby, the Board or other proper official, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, conversion, maintenance or use, to restrain, correct or abate such violation within ten (10) days and to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.
  - b. Violation punishable. Any person, firm or corporation violating any provision of this Ordinance shall, upon conviction, be punished by a fine not to exceed Five Hundred (\$500.00) Dollars for any offense, recoverable with costs, together with judgement or imprisonment not exceeding ninety (90) days that a violation is permitted shall constitute a separate offense. Said fines shall be payable to Barrett Township Supervisors.
- 6.400 Challenge to Validity of Ordinance or Map.
- a. A landowner, who desires to challenge on substantive grounds the validity of this Ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest, may submit the challenge to the Zoning Hearing Board for a report thereon. The Landowner's challenge shall be set forth in a written request to the Board for a hearing. Said request shall contain a short statement

reasonably informing the Board of the matters that are at issue and the grounds for the challenge.

- b. The request shall be accompanied by plans and other materials describing the use or development proposed by the landowner in lieu of the use or development permitted by this Ordinance or map. Such plans and materials shall provide reasonable notice of the proposed use or development and a sufficient basis for evaluating this Ordinance in light thereof.
- c. The Board shall commence a hearing within sixty (60) days of receipt of the request. Public notice of the hearing shall be given in accordance with Section 7.110 (a) hereof, listing the time and place of the scheduled hearing. Said notice shall state that the validity of the Ordinance or map is in question and shall state the times and location at which a copy of the landowner's request, along with his plans may be examined by the public.
- d. At the hearing, the Board shall take evidence and make a stenographic record. At the conclusion of the hearing, the Board shall decide all contested questions and shall make findings on all relevant issues of fact.
- e. The Board shall file its report on the validity of the challenge to the Ordinance within thirty (30) days after the close of the last hearing on the request, unless the time is extended by mutual consent between the landowner and the Board. A written copy of the board's report shall be made available to the Landowner.

ARTICLE VII  
AMENDMENTS

7.100 AMENDMENTS

7.110 Action by the Board of Township Supervisors. By the affirmative vote of a majority of the members, may from time to time amend, supplement, change, modify or repeal this Ordinance including the Zoning Map by proceeding in the following manner:

- b. Public Hearing. The Board of Township Supervisors by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment. At least fifteen (15) days notice of the time and the place of such hearing shall be published in at least one newspaper. The notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents and shall name the place or places where copies of the proposed amendment may be examined.
- c. Review by Planning Commission. In the case of an amendment other than one prepared by the Barrett Township Planning Commission, the Board of Township Supervisors shall submit each such amendment to the Barrett Township Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations. Furthermore, the Board of Township Supervisors shall submit each proposed amendment to the Monroe County Planning commission at least thirty (30) days prior to the hearing on the proposed amendment to provide that Planning Commission an opportunity to submit recommendations. Within twenty-one (21) days of receipt of the proposed amendment, the Barrett Township Planning Commission shall submit to the Board of Township Supervisors a report in writing with recommendations on the proposed amendment. If the Planning commission shall fail to file such report within the specified time, it shall be conclusively presumed that the Planning commission approved the proposed amendment.
- d. Opportunity to be Heard. At the public hearing, full opportunity to be heard shall be given to any citizen and all parties in interest.
- e. Majority Required. In case of a protest against such change, signed either by the owners of twenty (20%) percent or more either of:
  - 1. The area of the lots included in such proposed changes, or of;
  - 2. The area of those lots immediately adjacent to said affected properties, including also all lots any part of which lies within one hundred (100') feet of the boundary of the area of such change.

Then such amendment shall not become effective except by favorable vote of the majority of the members of the Board of Township Supervisors.

7.200 Curative Amendments

- a. A landowner who desires to challenge on substantive grounds the validity of this Ordinance or map, or any provision thereof, which prohibits or restricts the use or development of land



in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided by the board of Supervisors. The Board of supervisors shall commence a hearing thereon within sixty (60) days of receipt of the request. The curative amendment shall be referred to the Barrett Township Planning Commission and the Monroe County Planning Commission as provided in Section 7.110 (b) hereof.

- b. The request shall be accompanied by plans and other materials describing the use or development proposed by the landowner in lieu of the use or development permitted by this Ordinance or map. Such plans and materials shall provide reasonable notice of the proposed use or development and a sufficient basis for evaluating this Ordinance in light thereof. The request shall be accompanied by an amendment to the Ordinance proposed by the landowner to cure the alleged defects therein.
- c. Public notice of the proposed curative amendment shall be given in accordance with Section 7.110 (a) hereof, listing the time and place of the scheduled hearing. Said notice shall state that the validity of the Ordinance or map is in question and shall state the times and location at which a copy of the landowner's request, along with his plans, may be examined by the public.
- d. At the hearing, the Board of Supervisors shall take evidence and make a stenographic record. At the conclusion of the hearing, the Board of Supervisors shall decide all contested questions and shall make findings on all relevant issues of fact.
- e. The landowner's request for a curative amendment shall be deemed denied when:
  1. The Board of Supervisors notifies the landowner that it will not adopt the amendment;
  2. The Board of Supervisors adopts another amendment which is unacceptable to the landowner, or;
  3. The Board of Supervisors fails to act on the landowner's request within thirty (30) days after the close of the last hearing on the request, unless the time is extended by mutual consent between the landowner and the Board.

ARTICLE VIII  
OTHER PROCEDURES

8.100 INTERPRETATION

In the interpretation and the application of the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this Ordinance imposes greater restrictions upon the use of buildings or premises, or upon the height or bulk of a building, or requires larger open spaces, the provisions of this Ordinance shall control.

8.200 VALIDITY

If any section, subsection, sentence, clause, or phase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby, declares that it would have passed this Ordinance and each section or part thereof irrespective of the fact that any one or more sections or parts thereof be declared invalid.

8.300 REPEALER

All Ordinances or parts of Ordinances of the Township of Barrett in conflict with this Ordinance, to the extent of such conflict and no further, are hereby repealed.

8.400 EFFECTIVE DATE

This Ordinance shall take effect immediately upon the adoption hereof.

8.500 Conditional Use Procedures and Standards.

All conditional uses permitted in this Ordinance shall comply with the following procedures and standards.

8.510 Application

- A. The application shall be submitted in writing to the Township Zoning Officer, on a form to be supplied by the township, and shall include sufficient information to document compliance with the applicable standards of this Ordinance. A tentative sketch plan of the proposed development shall also be included.
- B. The application shall include a fee, which shall be set by resolution of the Board of Supervisors.
- C. The Township Zoning Officer shall submit one copy of the application to the Monroe County Planning Commission for its advisory review, one copy to the Township Planning Commission, one copy to the Township Board of Supervisors, and other copies to agencies and/or technical consultants whose review may be relevant.

8.520 Public Hearing

- A. The Township Board of Supervisors shall schedule a public hearing within 60 days of the date of application, pursuant to public notice, to consider the proposal.
- B. The Board of Supervisors shall render a written decision within 15 days of the close of the last hearing. This decision shall be sent by certified mail to the applicant at the address provided on the application form filed with the Township.
- C. The Township Board of Supervisors shall consider the comments and recommendations of the Township and County Planning Commissions, other advisors, and those present at the public hearing prior to deciding to approve or deny the proposed use.

8.530 Standards of Approval for Conditional Uses.

- A. The applicant shall demonstrate at the public hearing that the proposed use shall not be contrary to the public health, safety, and welfare of the community.
- B. In particular, the applicant shall demonstrate the adequacy of the proposed vehicular circulation system and other roadway improvements, pedestrian circulation system, utilities, buffering and screening, and protection of floodplains, steep slopes, and other natural features. These requirements are in addition to any other regulations required by this Ordinance.
- C. In allowing a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of this Zoning Ordinance.

## ARTICLE IX

### DEFINITIONS

#### 9.100 CONSTRUCTION OF ORDINANCE

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of the Ordinance, and words used in the present tense include the future, the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure", the word "used": shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used, and the word "shall" is mandatory and not optional; the word "abut" shall include the words "directly across from".

9.101 Accessory Use. A use customarily and clearly incident and subordinate to the principal use of the main building on the same lot.

9.101a Adjusted Tract Area. The gross tract area minus the constrained land. See "Lot Area, Net" in this section.

9.102 Alteration of Building. Any change or rearrangement in the structural parts or in the exit facilities of a building except such change as may be required for its safety; or any additional enlargement whether by extending or by increasing in height; or the moving from one location or position to another; or any change in use from one district classification to another.

9.102a Assisted Living Units. A residential community, which is planned for development in its entirety under unified control, including a group of apartments, engaged in providing some nursing and/or health-related care to residents or patients, who do not require the degree of care and treatment that an intermediate or skilled nursing care facility is designed to provide, or apartments solely for the occupancy of persons age 62 and older, who will be provided a program of supportive services to help maintain their independent living status.

"Alternative Tower Structure": Man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers."

"Antenna": Any exterior device or apparatus designed for cellular, digital, telephonic, radio, pager, commercial mobile radio, television, microwave or any other wireless communications through sending and/or receiving of electromagnetic waves, including without limitation, omnidirectional or whip antennas and directional or panel antennas. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas."

"Antenna Support Structure": Any communication tower or any other structure which supports and antenna."

"Antenna Height": The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, including any antennas attached thereto or forming a part thereof. If the support structure is on a sloped grade, then the



average between the highest and lowest grades shall be used in calculation the antenna height.

- 9.103 Basement. A building level, the height of which is more than fifty (50%) percent above the average level of the adjoining ground. A basement shall be counted as a story for purposes of height measurement.
- 9.104 Beginning of Construction. The incorporation of labor and materials within the walls of the building or buildings.
- 9.105 Board. The Zoning Hearing Board of Barrett Township.
- 9.106 Building. A structure having a roof supported by columns or walls for the housing or enclosure of persons animals or property.
- 9.107 Building Accessory. A detached, separate building the use of which is customarily subordinate and incidental to that of the main building and which is located on the same lot occupied by the main building.
- 9.108 Building Height. A vertical distance measured from the elevation of the proposed finished grade at the front of a building to the highest point on the roof for flat roofs, to the deck lines of mansard roofs, and to the mean height between the eaves and ridge for gable, hip, or gambrel roofs.
- 9.109 Building Line. A line parallel to the front, rear and side property lines, at a distance therefrom equal to the minimum yard depths required for the district in which the lot is located.
- 9.110 Building, Main or Principal. A building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be the main or principal building.
- 9.111 Cellar. A building level partly or wholly underground, the height of which is more than fifty (50%) percent below the average level of the adjoining ground. A cellar shall not be counted as a story for purposes of height measurement.
- 9.112 Condominium. A multi-family dwelling in which the individual dwelling units are separately owned.

"Co-Location". Locating wireless communications equipment from more than one provider on a single site.

Common Carrier. An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices.

Communications Equipment Building. An unmanned building or cabinet containing communications equipment required for the operation of antennas and covering an area on the ground not greater than 250 square feet.

Communication Tower. A guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or

equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or other similar forms of electronic communication. The term includes, but is not limited to, radio and television transmission towers, personal communications service towers (PCS), microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This definition does not include any structure erected solely for a residential, non commercial individual use, such as television antennas, satellite dishes or amateur radio antennas.

- 9.112a Conservancy Lot. A large, privately owned lot comprising part of an area of open land. The purpose of the conservancy lot is to provide surrounding residents with visual access to greenway land, while keeping the land under private ownership and maintenance. Only a small portion of such lots may be developed; the remainder must be protected through conservation easements and used in conformance with standard for greenway land. Public access to conservancy lots is not required. The undeveloped portion of a conservancy lot qualifies toward the minimum open space requirement.
- 9.112b Constrained Land. The sum of certain physical features, each of which is multiplied by a net-out factor in this ordinance.
- 9.113 Dwelling. A building or portion thereof arranged, designed or used to provide living facilities for one or more families, but not including hotel, motel, tourist cabin, apartment building.
- 9.114 Dwelling, Single Family, Detached. A detached building designed for and used exclusively for occupancy by one family.
- 9.115 Dwelling Unit. One or more living or sleeping rooms together with exclusive cooking and sanitary facilities for one person or one family.
- 9.116 Essential Public Utility Services. The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies, of underground or overhead gas, electric, steam, water or sewage transmission or distribution systems, including buildings, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies for the public health or safety or general welfare, excluding Wireless Communication Facilities as defined herein.
- F.C.C. The Federal Communications Commission.
- 9.117 Family. Either an individual or two or more persons related by blood or marriage. A group of not more than three persons not so related by blood or marriage, living in a single dwelling unit.
- 9.118 Floor Area. For the purposes of applying the requirements for off-street parking and loading, "floor area", in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sales of merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, for shop windows, for offices incidental to the management or

maintenance of stores or buildings, for toilet or rest rooms, for utilities or for dressing rooms, fitting or alteration rooms.

9.118a Greenway Land. That portion of a tract that is set aside for the protection of sensitive natural features, farmland, scenic views, and other unique features. Greenway land may be accessible to the residents of the development and/or the Township, or it may contain areas of conservancy lots which are not accessible to the public.

9.119 Gross Surface Area (of Sign). The gross surface area of a sign is the area of the smallest triangle, rectangle or circle, which can wholly enclose the surface area of the sign. All visible faces of a multi-faced sign shall be counted separately and then totaled in calculating the gross surface area.

9.119a Gross Tract Area. The total area of a lot or tract.

Guyed Tower. A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

9.119b Historic Resource. Any structure or site that is:

- a. Listed individually in the National Register of Historic Places ( a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- c. Individually listed on a state inventory of historic places.
- d. Individually listed on the Township's Open Space and Recreation Plan, as amended.

9.120 Hotel. A building containing restaurant facilities and rental sleeping rooms, none of which contain any cooking facilities but all of which contain private toilet facilities and have entrances from interior hallways.

Lattice Tower. A guyed or self-supporting three or four sided, open, steel frame structure used to support communications equipment.

9.120a Life Care Facilities. A residential community, which is planned for development in its entirety under unified control, for the aged or infirm, consisting of single, two, and/or multi-family dwellings, assisted living units, community, health and nursing care centers, activity and personal service shops, recreation areas, and common open space.

9.121 Lot. A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation, thereof, together with such open spaces as required by this Ordinance, and having frontage on a public street, a recorded private road or right-of-way.



- 9.121a Lot Area. The area contained within the property lines of a lot (as shown on a plan), excluding space within an existing or ultimate street right-of-way and within all permanent drainage easements, but including areas of all other easements assigned to an individual owner or to a given collective use by means of a subdivision of land. Open space required under this Ordinance shall not be counted as a portion of the lot area for the purposes of measuring lot area per dwelling unit.
- 9.121b Lot Area, Net. The gross lot area minus the constrained land, according to this Ordinance.
- Monopole Tower. A communication tower consisting of a single pole, constructed without guy wires and ground anchors.
- 9.122 Motel. A building or group of buildings containing rental sleeping rooms for the accommodation of transient guests with each rental room containing private toilet facilities and having an outside entrance adjacent to off-street parking facilities.
- 9.123 Nonconforming Building. A structure or sign the design or size of which does not conform to the regulations of this Ordinance for the district in which it is located; no structure shall be considered nonconforming because the yards of the property on which it is located do not conform to the regulations of this Ordinance.
- 9.124 Nonconforming Lot. Any zone lot in single owners, where the owner of said lot does not own any adjoining property, the subdivision of which could create one (1) or more conforming lots, which does not conform with the minimum and/or dimensions required in the District where such lot is situated or for any special use, as the case may be.
- 9.125 Nonconforming Use. A building, structure or premises, other than a dwelling, legally existing and/or used at the time of adoption of this Ordinance, or any amendment thereto, and which does not conform with the use regulations for the district in which located.
- Preexisting Towers and Antennas. Any tower or antenna erected prior to the effective date of this Ordinance. ( # 121 January 18, 1999)
- 9.125a Primary Conservation Areas. Lands within the 100 year floodplain, wetlands, and slopes in excess of 25 percent.
- Public Utility. The definition of this term is the same as the definition of this term in the Pennsylvania Public Utility Code.
- Public Utility Transmission Tower. A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.
- 9.125b Rock Outcroppings. Areas where the bedrock protrudes through the surface of the ground.
- 9.125c Secondary Conservation Area. Special Features of a property that would ordinarily be overlooked or ignored during the design process. Such features include the following, listed in order of significance:
- b. Hydric soils, swales, springs and lowland areas other than wetlands, including



adjacent buffer areas which may be required to insure their protection.

- c. Moderately steep slopes up to 25 percent, particularly those adjoining watercourses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental, to water quality.
- d. Healthy woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands and wildlife habitats.
- e. Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation.
- f. Hedgerows, groups of trees, large individual trees of botanic significance, and other vegetative features.
- g. Historic structures and sites.
- h. Visually prominent topographic features such as knolls, hilltops and ridges, and scenic viewsheds as seen from public roads (particularly those with historic features.)
- i. Existing trails connecting the tract to other locations in the Township.

Self Support Tower. A communication tower that is constructed without guy wires and ground anchors.

9.125d Sensitive Area Disturbance. Disturbance of environmentally sensitive areas, such as lands within the 100-year floodplain, wetlands, slopes in excess of 25 percent, and rock outcroppings.

9.126 Sign. A sign is any structure, device, light or natural object including the ground itself, or any part thereof, or any device attached thereto, or painted or represented thereon which shall be used to identify, advertise or attract attention to any object, product, place, activity, person, institution, organization, firm, group, commodity, profession, enterprise, industry or business, or which shall display or include any letter, word, model, number, banner, flag, pennant, insignia, device or representation used as an announcement, direction or advertisement and which is intended to be seen from off of the premises or from a parking lot. The word "sign" shall include signs which are affixed to the inside of windows and glass doors and are intended to be seen from roadways and parking lots, with the exception of such signs which are not used for a period in excess of seven (7) days. No other indoor sign shall be deemed a sign within this Ordinance. The flag, emblem, insignia, credit card decal, poster or other display or a nation, governmental unit, education, charitable, religious or similar group shall not be included in this definition.

9.127 Sign, Free Standing. A sign supported by one or more uprights, poles or braces placed in or upon the ground.

9.127c Slope. The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. Slope is expressed as a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

- a. Slope, Moderately Steep. Areas between 15 and 25 percent slope as measured over a minimum vertical distance of six feet or three contiguous contour segments at two foot contour intervals.
  - b. Slope, Steep. Areas with slopes in excess of 25 percent slope as measured over a minimum vertical distance of six feet or three contiguous contour segments at two foot contour intervals.
- 9.128 Story. That portion of a building, included between the surface of any floor and the surface of the floor next above, or if there be no floor above it, then the space between the floor and the ceiling next above it.
- a. Story, Half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story, provided, however, that any partial story used for residential purposes, other than for a janitor or caretaker and his family shall be deemed a full story.

Temporary Wireless Communication Facility. Any tower, pole, antenna, etc., designed for use while a permanent wireless communication facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

- 9.129 Tourist Home. A dwelling in which overnight accommodation for not more than six (6) persons are provided and offered to transient guests for compensation.
- 9.130 Trailer. A vehicle with or without its own motive power equipped for or used for living purposes and mounted on wheels.
- 9.131 Trailer Park. Land occupied or designed for occupancy by two or more trailers used for living purposes.
- 9.132 Use. The principal purpose for which a lot, and/or the main building thereof, is designed, arranged or intended and for which it may be used, occupied or maintained.

Wireless Communication Facility. An all encompassing definition; Any towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or any other spectrum-based transmissions/receptions.

- 9.133 Yard. An open space, as may be required by this Ordinance, of uniform width, or depth on the same lot with a building or a group of buildings, which open space lies between the principal building or group of buildings and the nearest lot lines and is unoccupied and unobstructed from the ground upward except as herein permitted:
- a. Yard, Front. An open space extending the full width of the lot between a building and the street right-of-way, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.
  - b. Yard, Rear. An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.
  - c. Yard, Side. An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground

upward except as specified elsewhere in this Ordinance.

**ARTICLE X    Conservation Design Overlay District**

**Section 10.100        Purposes.**

10.110        In conformance with the state enabling legislation, the purposes of this Article, among others, are as follows:

- A. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development.
- B. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development.
- C. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
- D. To implement adopted Township policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Barrett-Mt. Pocono-Paradise Open Space Recreation Plan (2002), including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents.
- E. To implement adopted land use, transportation, and community policies, as identified in the Township's Comprehensive plan.
- F. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
- G. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, floodplain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls).
- H. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties.
- I. To conserve scenic views and elements of the Township's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.

10.120        In order to achieve these purposes, this Article provides for flexibility in designing new residential subdivisions by allowing two forms of "by-right" development referred to as "options." as summarized below:

- A. Option One: Neutral Density and Basic Conservation, providing for residential uses at the density permitted by the underlying zoning. Greenway lands comprise 50 percent or more of the gross tract area. The flexibly designed layouts work well with both individual wells and septic systems located in the open space, or with central wells and sewage treatment facilities.
- B. Option Two: Enhanced Density with Greater Conservation, providing for higher density residential uses and a larger percentage (60% or more) of greenway land in more flexibly designed layouts. Public or community sewer and water systems are required.



- 10.130 Section 10.400 sets forth the development densities and required greenway land percentages.

**Section 10.200 General Regulations.**

The design of all new subdivisions in the Conservation Design Overlay District shall be governed by the following minimum standards:

- 10.210 Ownership: The tract of land may be held in single and separate ownership or by multiple owners. However, when a tract is held by multiple owners, it shall be planned as a single entity with common authority and common responsibility.
- 10.220 Site Suitability: As evidenced by the Existing Resources/Site Analysis Plan, the conceptual Preliminary Plan, and the detailed Final Plan, the tract incorporating this design option shall be suitable for supporting development in terms of environmental conditions, its size, and configuration.
- 10.230 Combining the Design Options: The various layout and density options described in this Article may be combined at the discretion of the Board of Supervisors upon recommendation of the Planning Commission, based upon demonstration by the applicant that such a combination would better fulfill the intent of this Ordinance, in particular the stated purposes of this Article, as compared with applying a single option to the property.
- 10.240 Intersections and Access: New intersections with existing public roads shall be minimized.
- 10.250 Sensitive Area Disturbance: The proposed design shall strictly minimize disturbance of environmentally sensitive areas, as shown on the Existing Resources and Site Analysis Plan. Lands within the 100-year floodplain, wetlands, slopes in excess of 25 percent, and rock outcroppings constitute such environmentally sensitive areas, where disturbance shall be strictly minimized. Demonstration by the applicant that these features will be protected by the proposed application shall be a prerequisite to approval of both the conceptual Preliminary Plan and the detailed Final Plan.
- 10.260 Community Wastewater Systems: All community wastewater disposal systems shall be designed and constructed in accordance with the regulations of the Pennsylvania Department of Environmental Protection, and shall be subject to the review and recommendation of the Township Engineer and Sewage Enforcement Officer.

**Section 10.300 Use Regulations.**

Land in the Conservation Design Overlay District may be used for the following purposes:

**10.310 Single-Family Detached Dwellings.**

Single-family detached dwellings in Options 1 and 2 subdivisions:

- A. On tracts of 6 acres or more, single-family detached dwellings are permitted under the standards found in Sections 10.400 and 10.500 herein, and conventional lots with no greenway land are not permitted.

- B. On tracts of less than 6 acres, existing on the effective date of this ordinance, single-family detached dwellings are permitted under the standards for Options 1 and 2 found in Sections 10.400 and 10.500, and conventional lots with no required greenway land, as formerly permitted throughout the R-1, T-1 and S-1 Districts under the existing zoning ordinance.

#### **10.320 Greenway Land.**

Greenway land comprising a portion of residential development, as specified above and according to requirements of Section 10.600.

#### **10.330 Non-Residential Uses.**

The following non-residential uses are permitted in accordance with the standards of Section 10.900.

- A. Agricultural uses, including horticultural, wholesale nurseries, orchards, the raising of crops or livestock, and buildings related to the same.
- B. Woodlots, arboreta, and other similar silvicultural (forestry) uses.
- C. Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use.
- D. Municipal or public uses; public park or recreation area owned and operated by a public or private nonprofit agency; governmental or public utility building or use; not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, private or municipal sanitary landfills.

### **Section 10.400      Dimensional Standards and Density Determination.**

#### **10.410 Dimensional Standards for Option 1: Neutral Density and Basic Conservation.**

- A. Density Factor: One dwelling unit per 65,340 square feet (1.5 acres) in the R-1 District, and one dwelling unit per 87,120 square feet (2 acres) in the T-1 and S-1 Districts, as determined through the Adjusted Tract Area Method or Yield Plan Method described in Section 10.430, herein. This is "density-neutral" with the underlying zoning provisions for these districts. Please note that it may not be possible to meet the maximum density with on-lot sewer and water systems. If maximum density determined by the Adjusted Tract Area Method (in Section 10.430.A) is not achievable because of the standards for on-lot sewer and water systems, the density shall be determined using the Yield Plan Method (in Section 10.430.B).
- B. Minimum Required Greenway Land: The subdivision must include at least 50 percent of the Adjusted Tract Area plus all of the constrained land calculated in Section 10.431, below, as greenway land. Greenway land shall not be used for residential lots.
- C. Dimensional Standards for Option 1: The dimensional standards are based on the availability of community or public sewer and water, community or public sewer or water (with the other system being on-lot), and on-lot sewer and water. See the table below.

	Community/Public Sewer and Water	Community/Public Sewer or Water	On-Lot Sewer and Water
Minimum Lot Size (s.f.)	20,000	30,000	30,000
Minimum Lot Width (feet) at	80	100	120

building setback line			
Minimum Street Frontage (feet)	20	20	20
Minimum Front Yard (feet) at ultimate right-of-way line	20	20	20
Minimum Rear Yard (feet)	40	40	40
Minimum/Aggregate Side Yard (feet)	5/35	5/35	5/35
Maximum Impervious Surface Coverage (percent)	25	20	20
Maximum Building Height (feet)	35	35	35

**10.420 Dimensional Standards for Option 2: Enhanced Density with Greater Conservation.**

- A. Density Factor: One dwelling unit per 49,000 square feet (1.125 acres) in the R-1 District, and one dwelling unit per 65,340 square feet (1.5 acres) in the T-1 and S-1 Districts as determined through the Adjusted Tract Area Method or yield plan described in Section 10.430 herein.
- B. Minimum Required Greenway Land: The subdivision must include at least 60 percent of the Adjusted Tract Area plus all of the constrained land calculated in Section 10.431 below, as greenway land. Greenway land shall not be used for residential lots.
- C. Dimensional Standards for Option 2: Community or public sewer and water systems are required. See the table below.

	Community/Public Sewer and Water
Minimum Lot Size (s.f.)	18,000
Minimum Lot Width (feet) at building setback line.	80
Minimum Street Frontage (feet) at ultimate right-of-way line.	20
Minimum Front Yard (feet)	20
Minimum Rear Yard (feet)	40
Minimum/Aggregate Side Yard (feet)	5/35
Maximum Impervious Surface Coverage (percent)	30
Maximum Building Height (feet)	35

**10.430 Density Determination for Option 1 And 2 Subdivisions.**

Applicants shall have the choice of two methods of determining the maximum permitted residential building density on their properties. They are as follows:

A. Adjusted Tract Area Method: Determination of the maximum number of permitted dwelling units on any given property shall be based upon the Adjusted Tract Area of the site.

1. The Adjusted Tract Area equals the gross tract area minus the constrained land, defined as the sum of the following:

Feature	Factor Applied to Acreage with Feature
Land within the rights-of-way of existing public and private streets or highways, or within the existing rights-of-way or easements of above-ground or underground utilities that have defined widths.	1.00
Land within existing areas comprising permanent drainage or stormwater management easements.	1.00
Land without development opportunities due to existing restrictions such as restrictive covenants and/or conservation easements.	1.00
Designated Wetlands.	0.75
Floodway.	1.00
100 Year Floodplain.	0.50
Steep slopes exceeding 25 percent.	0.50
Moderately steep slopes between 15 and 25 percent.	0.15
Rock outcroppings and boulder fields with more than 5,000 square feet.	0.75

2. If a portion of the tract is underlain by more than one natural feature subject to a density factor, that acreage shall be subject to the most restrictive density factor.
  3. Since acreage that is contained within the public or private rights-of-way, access easements or access strips is excluded from developable lot area, any portion of these items that also contains a natural feature subject to a deduction from the gross tract area should not be included when calculating the adjusted tract area.
  4. Permitted Dwelling Units: The maximum number of permitted dwelling units equals the Adjusted Tract Area divided by the applicable density factor set forth in Sections 10.410.A and 10.420.A.
- B. Yield Plan Method: Determination of density, or maximum number of permitted dwelling units, shall be based upon a Yield Plan. A Yield Plan shall meet the following requirements:
1. Yield Plans must be prepared as conceptual layout plans in accordance with the standards of the Subdivision Ordinance, containing proposed lots, streets, rights-of-way, and other pertinent features. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands,



floodplains, steep slopes, existing easements or encumbrances and, if on-lot sewer systems are proposed, the suitability of soils for subsurface sewage disposal.

2. Yield Plans should also reflect the dimensional standards for the zoning district(s) in which the proposal is located, and the development option(s) chosen. The Yield Plan must identify the site's primary and secondary resources, as identified in the Existing Resources/Site Analysis Plan, and demonstrate that the primary resources could be successfully absorbed on the lots without disturbance.
3. On sites not served by central sewage disposal, density shall be further determined by evaluating the number of homes that could be supported by individual septic systems on conventional lots. Based on the primary and secondary resources, identified as part of the inventory and analysis, and observations made during an on-site visit of the property, the Planning Commission shall select a 10 percent sample of the lots, considered to be marginal, for on-lot sewage disposal. The applicant is required to provide evidence that each of these lots meets the standards for an individual septic system. Should any of the lots in a sample fail to meet the standard for individual septic system, those lots shall be deducted from the yield plan and a second 10 percent sample shall be selected by the Township Planning Commission and tested for compliance. This process shall be repeated until all lots in a given sample meet the standard for an individual septic system. The applicant shall be granted the full density determined by the resulting Yield Plan.
4. Yield Plan Dimensional Standards: The following dimensional standards shall be used in the development of Yield Plans for Option 1 and 2 subdivisions in the R-1, T-1 and S-1 Districts. These minimum aerial dimensions are exclusive of all wetlands, slopes greater than 25 percent, and land under high-tension electrical transmission lines (69kV or greater). No more than 25 percent of the minimum required lot area may consist of land within the 100-year floodplain, and only then if it is free of wetlands.

Standard	R-1 District Option 1	R-1 District Option 2	T-1/S-1 District Option 1	T-1/S-1 District Option 2
Minimum lot area (s.f.)	65,340	49,000	87,120	65,340
Minimum lot width (feet)	125	110	150	125
Front yard setback (feet)	50	50	50	50
Rear yard setback (feet)	25	25	25	25
Side yard setback (feet)	15/30	15/30	15/30	15/30

#### **Section 10.500 Design Standards For Option 1 and 2 Subdivisions.**

- 10.510 House lots shall not encroach upon Primary Conservation Areas as identified in Section 10.620, below, and their layout shall respect Secondary Conservation Areas as described in both the Zoning Ordinance and in the Subdivision Ordinance.

10.520 All new dwellings shall meet the following setback requirements:

Feature	Required Setback
Ultimate Right-of-Way of External Road	100 feet
All Other Tract Boundaries	50 feet
Cropland or Pasture Land	100 feet
Building or Barnyard Housing Livestock	300 feet
Active Recreation Area Such As Court or Playing Field (Not Including Tot Lots)	150 feet

10.530 House lots shall generally be accessed from interior streets, rather than from roads bordering the tract.

10.540 At least three-quarters of the lots shall directly abut or face greenway land across a street.

10.550 Standards pertaining to the quantity, quality, configuration, ownership, and maintenance of the greenway land created under this Article are contained in Sections 10.600 through 10.900 of this Ordinance.

#### **Section 10.600 Greenway Land Use and Design Standards.**

Protected greenway land in all subdivisions shall meet the following standards:

##### **10.610 Uses Permitted On Greenway Lands.**

The following uses are permitted in greenway land areas:

- A. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).
- B. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, orchards, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.
- C. Pastureland for horses used solely for recreational purposes. Equestrian facilities shall be permitted but, may not consume more than half of the minimum required greenway land.
- D. Forestry, in keeping with established best management practices for selective harvesting and sustained-yield forestry. Diseased or damaged limbs or trees may be removed at any time.
- E. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Board of Supervisors.
- F. Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required greenway land or ten acres, whichever is less. Playing fields, playgrounds, and courts shall

not be located within 100 feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than 20 parking spaces each.

- G. Golf courses, including their parking areas and associated structures, may comprise up to half of the minimum required greenway land, but shall not include miniature golf.
- H. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the greenway. Land used for sewage lagoons may not be counted toward the minimum required greenway land.
- I. Easements for drainage, access, sewer or water lines, or other public purposes.
- J. Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required greenway land.

#### **10.620 Greenway Design Standards.**

- A. Greenway lands shall be laid out in general accordance with the Township's Map of Potential Conservation Lands (in the Comprehensive Plan) to encourage that an interconnected network of open space will be provided. The required greenway land consists of a mixture of Primary Conservation Areas (PCAs), all of which must be included, and Secondary Conservation Areas (SCAs). PCAs comprise floodplains, wetlands, and slopes over 25 percent. SCAs should include special features of the property that would ordinarily be overlooked or ignored during the design process. Examples of such features are listed and described in Section 603 (Greenway Design Review Standards) in the Subdivision Ordinance.
- B. The minimum amount of greenway land shall be provided as set forth in Sections 10.410.B and 10.420.B. This land shall generally remain undivided and may be owned and maintained by a homeowners' association, land trust, another conservation organization recognized by the Township, or by a private individual (typically as part of the original farmhouse or estate). However, in no case shall less than 30% of the land comprising the "Adjusted Tract Area" be available for the common use and passive enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the greenway land may be owned by different entities.
- C. Buffers for Adjacent Public Parkland: Where the proposed development adjoins existing public parkland, a natural greenway buffer at least 150 feet deep shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction).

#### **10.630 Other Requirements.**

- A. No portion of any building lot may be used for meeting the minimum required greenway land. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required greenway land.
- B. Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes in accordance with Section 10.300 herein, shall be provided to greenway land in accordance with the following requirements:



1. Each neighborhood shall provide one centrally located access point per 15 lots, a minimum of 35 feet in width.
2. Access to greenway land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.

**Section 10.700      Permanent Greenway Protection Through Conservation Easements.**

In Option 1 and 2 subdivisions, the required greenway land shall be subject to permanent conservation easements prohibiting future development and defining the range of permitted activities. (For example, the clearing of woodland habitat shall generally be prohibited, except as necessary to create trails, active recreation facilities, and to install subsurface septic disposal systems or spray irrigation facilities.) The determination of necessity shall lie with the Board of Supervisors. A list of permitted and conditional uses of greenway lands is contained in this Article in Sections 10.300 and 10.600.

**Section 10.800      Discretionary Density Bonuses.**

The Board of Supervisors may allow additional density when one of the following public benefits is proposed:

**10.810   Public Usage of Greenway Land.**

The Board of Supervisors may encourage the dedication of land for public use (including active and passive recreation areas, municipal buildings, etc.) according to the following standards. A density bonus for greater public usage of greenway land in new subdivisions shall be computed on the basis of a maximum of one dwelling unit per five acres of greenway land or per 2,500 linear feet of trail that becomes publicly accessible. The decision whether to accept an applicant's offer to dedicate greenway land to public usage within a proposed subdivision shall be at the discretion of the Board of Supervisors, which shall be guided by the recommendations contained in the Open Space Plan, particularly the Greenways and Open Space Conservation Plan that shows proposed greenway links that are publicly accessible.

**10.820   Endowment for Greenway Maintenance.**

- A. When greenway land is to be donated to a land trust or to the Township, the Board of Supervisors may allow up to a ten percent density bonus to generate additional income to the applicant for the sole purpose of endowing a permanent fund to offset continuing costs of maintaining the greenway land (involving activities such as mowing meadows, removing invasive vines, paying insurance premiums and local taxes, etc.), including costs associated with active or passive recreation facilities. Spending from this fund should be restricted to expenditure of interest so that the principal may be preserved. Assuming an annual average interest rate of five percent, the amount designated for the Endowment Fund shall be at least 20 times the estimated annual maintenance costs. Such estimate shall be prepared by an agency, firm, or organization acceptable to the Board of Supervisors, and with experience in managing conservation land and recreational facilities. The developer shall transfer this fund to the designated entity with ownership and maintenance responsibilities, at the time this entity is created.



- B. When estimating the projected maintenance costs of the greenway land, greenway land that is not accessible by the subdivision residents for their common enjoyment need not be included in the calculations. Such lands would typically include areas designated on the Final Plan as land reserved for future agricultural, horticultural, silvicultural (forestry), or equestrian uses, which may be leased or sold to another party for those express purposes, and which are protected from future development by a permanent conservation easement. In such cases, the density bonus shall be adjusted proportionately to reflect only the acreage that is accessible to residents for their passive or active recreation.

## **Section 10.900 Ownership and Maintenance of Greenway Land and Common Facilities.**

### **10.910 Development Restrictions.**

All greenway land shall be permanently restricted from future subdivision and development. Under no circumstances shall any development be permitted in the open space at any time, except for those uses listed in Section 10.600.

### **10.920 Ownership Options.**

The following methods may be used, either individually or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no change in the common facilities or in the open space ratio of the overall development. Ownership methods shall conform to the following:

- A. Fee Simple Dedication to the Township. The Township may, **but shall not be required to**, accept any portion of the common facilities, provided that:
1. There is no cost of acquisition to the Township; and,
  2. The Township agrees to and has access to maintain such facilities.
- B. Condominium Association. Common facilities may be controlled through the use of condominium agreements. Such agreements shall be in accordance with relevant state law. All open land and common facilities shall be held as "common element."
- C. Homeowners' Association. Common facilities may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in state regulations and statutes. In addition, the following regulations shall be met:
1. The applicant shall provide the Township a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.
  2. The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.
  3. Membership in the association shall be automatic and mandatory for all purchasers of dwelling units therein and their successors in title.
  4. The association shall be responsible for maintenance and insurance of common facilities.

5. The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his or her dues. Such dues shall be paid with the accrued interest before the lien may be lifted.
  6. Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to the Township no less than 30 days prior to such event.
  7. The association shall have adequate staff to administer, maintain, and operate such common facilities.
- D. Private Conservation Organization or Monroe County. With permission of the Township, an owner may transfer either fee simple title of the open space or easements on the open space to a private non-profit conservation organization or to Monroe County provided that:
1. The conservation organization is acceptable to the Township and is a bona fide conservation organization intended to exist indefinitely.
  2. The conveyance contains appropriate provisions for proper reverter or retransfer to a homeowners' association in the event that the organization or Monroe County becomes unwilling or unable to continue carrying out its functions.
  3. The greenway land is permanently restricted from future development through a conservation easement and the Township is given the ability to enforce these restrictions.
  4. A maintenance agreement, acceptable to the Township, is established between the owner and the organization or Monroe County.
- E. Dedication of Easements to the Township. The Township may, **but shall not be required to**, accept easements for public use of any portion of the common land or facilities. In such cases, the facility remains in the ownership of the condominium association, homeowners' association, or private conservation organization while the easements are held by the Township. In addition, the following regulations shall apply:
1. There shall be no cost of acquisition to the Township.
  2. Any such easements for public use shall be accessible to the residents of the Township.
  3. A satisfactory maintenance agreement shall be reached between the owner and the Township.
- F. Non-Common Private Ownership. Up to 80 percent of the required greenway land may be included within one or more large "conservancy lots" of at least 10 acres provided the open space is permanently restricted from future development through a conservation easement, except for those uses listed in Section 10.600, and that the Township or any owner in the subdivision is given the ability to enforce these restrictions.

#### **10.930 Maintenance.**

- A. Unless otherwise agreed to by the Board of Supervisors, the cost and responsibility of maintaining common facilities and greenway land shall be borne by the property owner, condominium association, homeowners' association, or conservation organization.

- B. The applicant shall, at the time of preliminary plan submission, provide a Plan for Maintenance of Greenway Lands and Operation of Common Facilities in accordance with the following requirements.
1. The Plan shall define ownership.
  2. The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (i.e., lawns, playing fields, meadow, pasture, cropland, woodlands, etc.).
  3. The Plan shall estimate staffing needs, insurance requirements, associated costs, and define the means for funding the maintenance of the greenway land and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs.
  4. At the Township's discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year.
  5. Any changes to the maintenance plan shall be approved by the Board of Supervisors.
- C. In the event that the organization established to maintain the greenway lands and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Township may assume responsibility for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.
- D. The Township may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner, condominium association, homeowners association, conservation organization, or individual property owners who make up a condominium or homeowners' association and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the Township in the office of the Prothonotary of Monroe County.