

**UPPER YODER TOWNSHIP  
ZONING ORDINANCE**

**No. 287**

**2020**

# **UPPER YODER TOWNSHIP ZONING ORDINANCE**

## **No. 287**

**August 20, 2020**

**Board of Supervisors:**

**Edward Barzeski - Chairman**

**William Huston – Vice-Chairman**

**Roy Shaffer – Treasurer**

**Robert Amistadi**

**Paul Pioli**

**Township Secretary: Mary Kay Maher**

**UPPER YODER TOWNSHIP**  
**CAMBRIA COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 287**

AN ORDINANCE REPEALING THE UPPER YODER TOWNSHIP ZONING ORDINANCE NO. 220, ADOPTED ON SEPTEMBER 6, 1990 AND ORDINANCE NO. 172 A, ADOPTED ON DECEMBER 6, 1979, BY CHANGING CERTAIN SECTIONS UNDER PRELIMINARY PROVISIONS: RULES AND DEFINITIONS; AMENDING SECTIONS TO PROVISIONS GOVERNING DEFINITIONS, PRELIMINARY PROVISIONS, RULES AND DEFINITIONS, GENERAL PROVISIONS, RESIDENTIAL DISTRICTS, COMMERCIAL DISTRICTS, MANUFACTURING DISTRICTS, CONSERVANCY DISTRICT, SUPPLEMENTARY REGULATIONS, SIGNS, ENFORCEMENT, VIOLATIONS AND PENALTIES, AMENDMENTS, AND REPEALER.

**TABLE OF CONTENTS**

**ARTICLE I – PRELIMINARY PROVISIONS**

Section 101 Enacting Clause .....	1
Section 102 Short Title .....	1
Section 103 Validity and conflict .....	1
Section 104 Purpose and Community Objectives .....	1
Section 105 Filing .....	2
Section 106 Effective Date .....	2

**ARTICLE II – RULES AND DEFINITIONS**

Section 201 Rules .....	3
Section 202 Definitions .....	3

**ARTICLE III – ESTABLISHMENT OF DISTRICTS**

Section 301 Establishment of Districts and Zoning Ordinance Map .....	12
Section 302 Interpretation of District Boundaries .....	12

**ARTICLE IV – GENERAL PROVISIONS**

Section 401 Conformance and Permits .....	14
Section 402 General Restrictions .....	14
Section 403 Yards .....	14

Section 404 Substandard Dwellings .....	14
Section 405 Public Utility Lines .....	14
Section 406 Lots Not Meeting Lot Area Requirements .....	14
SECTION 407 – Temporary Structures.....	14
Section 408 Uses Requiring Site Plan Approval .....	15
Section 409 Manufactured Homes .....	15
Section 410 Safety limitations on fences and shrubbery.....	15

#### **ARTICLE V – PROVISIONS GOVERNING RESIDENTIAL DISTRICTS**

Section 501 R-1 One-Family Residential District .....	17
Section 502 R-2 One-Family Residential District .....	20
Section 503 R-3 One-Family Residential District .....	23
Section 504 R-4 One-Family Residential District .....	26
Section 505 R-5 Multiple Family Residential District .....	29
Section 506 R-6 Multiple Family Residential District .....	32

#### **ARTICLE VI – PROVISIONS GOVERNING COMMERCIAL DISTRICTS**

Section 601 C-1 General Business District .....	37
Section 602 C-2 Planned Shopping District .....	39
Section 603 C-3 Research-Office District .....	41

#### **ARTICLE VII – PROVISIONS GOVERNING THE MANUFACTURING DISTRICTS**

Section 701 M-1 Manufacturing District .....	44
--	----

#### **ARTICLE VIII – PROVISIONS GOVERNING FLOOD PLAIN DISTRICTS**

GENERAL PROVISIONS .....	47
--------------------------	----

#### **ARTICLE IX – PROVISIONS GOVERNING CONSERVANCY DISTRICTS**

Section 901 “S” Conservancy District .....	48
--	----

## **ARTICLE X- SUPPLEMENTARY REGULATIONS**

Section 1001 Additional Height, Area, Yard and Fence Regulations .....	51
Section 1002 Slope Area Restrictions .....	52
Section 1003 Manufactured Home / Manufactured Home Park Restrictions .....	53
Section 1004 Private, Community or Club Swimming Pools .....	54
Section 1005 Satellite Television Antennas .....	56
Section 1006 Home Occupation – Home Business .....	56
Section 1007 Gas and Oil Extraction .....	57
Section 1008 Small Scale Wind Generators .....	58
Section 1009 Commercial Power Generating Windmills .....	59
Section 1010 Temporary Metrologic Towers .....	64
Section 1011 Telecommunication Towers .....	64
Section 1012 Outdoor Furnaces .....	67
Section 1013 Small Site Telecommunication Facilities .....	68

## **ARTICLE XI – OFF-STREET PARKING AND LOADING REQUIREMENTS**

Section 1101 General Provisions .....	71
Section 1102 Design and Maintenance .....	71
Section 1103 Schedule of Off-Street Parking Requirements .....	73
Section 1104 Location of Parking Areas .....	75
Section 1105 Additional Regulations – Parking .....	75
Section 1106 Design, Maintenance and Schedule of Off-Street Loading Space .....	77

## **ARTICLE XII – COMMUNITY UNIT PLANS AND MULTIPLE DWELLING PLANS**

Section 1201 Community Unit Plan .....	79
Section 1202 Multiple Dwelling (Two or More Multiple Family Dwelling) Plan .....	81

## **ARTICLE XIII – SIGNS**

Section 1301 R District Signs .....	84
Section 1302 C-1 District Signs .....	84
Section 1303 C-2, C-3 and M District Signs .....	85
Section 1304 Additional and General Regulations .....	86

#### **ARTICLE XIV – NON-CONFORMING USES AND BUILDINGS**

Section 1401 Continuance .....	88
Section 1402 Discontinuance of Use .....	88
Section 1403 Alterations .....	88
Section 1404 Provision for Reconstruction .....	88
Section 1405 Construction in Progress .....	88
Section 1406 Historical Landmarks .....	89
Section 1407 Extensions and Enlargements .....	89

#### **ARTICLE XV – ADMINISTRATION**

Section 1501 Building Permit .....	90
Section 1502 Certificate of Occupancy .....	90
Section 1503 Fees, Permits and Certificates .....	91
Section 1504 Governing Body Functions.....	91

#### **ARTICLE XVI – ZONING OFFICER**

Section 1601 Appointment, Removal and Compensation .....	92
Section 1602 Administration .....	92
Section 1603 Enforcement .....	92

#### **ARTICLE XVII – ZONING HEARING BOARD**

Section 1701 Creation, Appointment and Organization .....	93
Section 1702 Powers and Duties .....	94
Section 1703 Procedure .....	96

Section 1704 Zoning, Hearing Board Jurisdiction ..... 98

Section 1705 Mediation Option ..... 99

**ARTICLE XVIII- ENFORCEMENT, VIOLATIONS AND PENALTIES**

Section 1801 Enforcement ..... 101

Section 1802 Violations and Penalties ..... 101

**ARTICLE XIX – AMENDMENTS**

Section 1901 Procedure ..... 102

**ARTICLE XX – REPEALER**

Section 2001 Repealing Clause ..... 103

**ARTICLE XXI – ADOPTION**

Section 2101 Effective Date ..... 103

## **ARTICLE I – PRELIMINARY PROVISIONS**

**Section 101 – Enacting Clause** – BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Upper Yoder, County of Cambria and State of Pennsylvania, by the authority of the same and in conjunction with the Municipalities Planning Code, Act No. 247 of 1968, as amended, that the Upper Yoder Township Zoning Ordinance Number 172 A, adopted on December 6, 1979, and thereafter amended by Ordinance Number 220, adopted on September 6, 1990, shall be amended and consolidated hereby with specific modifications to; Article I – Preliminary Provisions, Article II - Rules and Definitions, Article IV - General Provisions, Article V - Residential Districts, Article VI - Commercial District, Article VII - Manufacturing District, Article VIII – Flood Plain District , Article IX - Conservancy District with regard to permitted uses, accessory uses, uses permitted by special exception and by adding additional sections to Article X - Supplementary Regulations, regulating home occupations, home businesses, gas and oil extraction, small scale wind generators, commercial power generating windmills, temporary meteorologic towers, telecommunications towers, small site telecommunications facilities, and outdoor furnaces and Article XIII - Signs, regulating electronic changeable message signs, Article XV – Administration , Article XVIII – Enforcement, Violations and Penalties , Article XIX – Amendments , and Article XX – Repealer ; Be it further Enacted and Ordained that Ordinance Number 172 A and Ordinance Number 220 are hereby repealed.

**Section 102 – Short Title** – This ordinance shall be known as the Upper Yoder Township Zoning Ordinance, and the map referred to herein and made a part of this ordinance shall be known as the Zoning Ordinance Map.

**Section 103 – Validity and Conflict** – Should any section or provision of this ordinance be declared invalid, the same shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid. Where a provision of this ordinance is found to be in conflict with a provision of any building or housing code, or with any applicable health regulations, or with any other ordinance of Upper Yoder Township existing on the effective date of this ordinance, or in any regulation issued under the authority of such code or ordinance, the provision which established the higher standard for the protection of health, safety and welfare shall prevail.

**Section 104 – Purpose and Community Objectives** – The intended purpose of this zoning ordinance is to conform with the Comprehensive Plan for Upper Yoder Township, which sets forth the community development objectives for Upper Yoder Township. Said Comprehensive Plan has been revisited and is hereby ratified. This Ordinance is designed to:

1. To promote, protect and facilitate any or all of the following:  
The public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations; airports, and national defense facilities; the provisions of adequate light and air; access to incident solar energy; policy protection; vehicle parking and loading space; transportation; water; sewerage; schools; recreational facilities; public grounds; the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial



- use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.
2. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
  3. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
  4. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multi-family dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that this ordinance shall not be deemed invalid for the failure to provide for any other specific dwelling type and to conserve prime residential areas.
  5. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

**Section 105 – Filing** – This ordinance, including the Zoning Ordinance Map, together with any succeeding amendments thereto, shall be on file and may be viewed by and interested party in the Upper Yoder Township Offices.

**Section 106 – Effective Date** – The effective date of this ordinance shall be five days after its adoption by the Board of Supervisors.

## **ARTICLE II – RULES AND DEFINITIONS**

**SECTION 201 – Rules** – The following rules of construction shall apply to this ordinance:

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

### **Section 202 – Definitions** –

**ACCESSORY BUILDING OR ACCESSORY USE** – A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. An accessory use includes, but is not limited to, the following:

- Children’s playhouse, garden house, or private greenhouse.
- Civil defense shelter serving not more than 2 families.
- Garage, shed, or building for domestic storage.
- Incinerator incidental to residential use.
- Storage of merchandise normally carried to stock on the same lot with any commercial use unless such storage is excluded by the district regulations.
- Non-paying guest house or rooms for non-paying guests with an accessory building provided such facilities are used for the occasional housing of guest of occupants of the principal building and not for permanent occupancy by others as housekeeping units.
- Servants’ quarters or servants’ house.
- Off-street motor vehicle parking area; loading and unloading facility.
- Home occupation
- Fence; sign

**ALLEY** – A service way providing a secondary public means of access to abutting properties.

**ALTERATIONS** – As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or

the moving from one location to another, or any change in use from that of one zoning district classification to another.

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

**ANIMAL, DOMESTIC** – An animal such as a dog, cat, guinea pig, hamster, or other similar domesticated animal normally kept as a pet and not requiring any special licenses or approvals from agencies other than the County Treasurer.

**ANIMAL, FARM** – An animal such as a horse, cow, pig, sheep, goat, fowl, rabbits, mink, emu, ostriches, llama, alpaca, or similar animals, whether or not domesticated.

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

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

**APARMENT HOUSE** – A building used by 3 or more families living independently of each other and containing dwelling units.

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

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

**AUTOMOBILE REPAIR, MINOR** – Incidental repairs; replacements of parts; motor services to automobiles; state inspection, but not including any operation specified under AUTOMOBILE REPAIR, MAJOR above.

**BASEMENT** – a story partly underground, but having at least one-half of its height about the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is 5 feet or more or if the basement is used for business or dwelling purposes.

**BILLBOARD** – Structure, building wall, or other outdoor surface used to display lettered, pictorial, sculptured, or other matter which directs the attention to any product, announcement, commodity, or service offered at a location other than on the premises, and not as a minor and incidental service on the premises.

**BOARD** – The Zoning Hearing Board of Upper Yoder Township.

**BUFFER AREA** – A strip of land which is planted and maintained in shrubs, bushes, trees, grass or other landscaping material and within which no structure is permitted except a wall or fence.

**BUILDING** – A structure having a roof supported by columns or walls, for the shelter of persons, animals, chattels, or property. When separated by walls which are common with the walls of adjoining dwellings, each portion of such structure shall be considered a separate building. It shall include any overhang, projection or roof extending beyond a wall or support. Sun parlors and covered porches whether enclosed or unenclosed, but does not include walks, steps or terraces.

**BUILDING LINE** – The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, and extended roof lines, but does not include walks, steps or terraces.

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

**CELLAR** – A portion of a building having one-half or more of its height below the average grade of the adjoining ground. In a dwelling, a cellar may not contain the principal living quarters.

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

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

**DWELLING** – A building designed or used exclusively as the living quarters for one or more families who function as a family unit.

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

**DWELLING, TWO-FAMILY** – A building designed for or occupied exclusively by 2 families living independently of each other, with separate dwelling unit entrances.

**DWELLING, MULTIPLE FAMILY** – A dwelling or group of dwellings on one plot or lot containing separate living units or dwelling units for 3 or more families, but which may have joint services or facilities or both.

**DWELLING, GROUP** – A group of 2 or more one-family, two-family or multiple-family dwellings occupying a lot under one ownership and having a yard in common.

**DWELLING, MULTI-STORY MULTIPLE FAMILY** – A multiple-family dwelling of more than 3 stories, unless further restricted in district regulations herein.

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

**FAMILY** – One or more persons related by blood, marriage, or adoption, or 3 unrelated persons living and functioning as a family unit in a dwelling unit. May also include domestic servants and gratuitous guests.

**FARM / TRUCK GARDEN** -

- a. Cultivation of crops and/or the raising of livestock (see **ANIMAL**, **FARM**) for a commercial basis
- b. Having a minimum lot area of not less than five (5) contiguous acre, leased or owned.

**FENCE** – An artificially constructed barrier arranged as a line of demarcation between lots, or to enclose a lot, or any portion thereof, or to define areas on a lot, or to protect the access to a swimming pool, body of water, or other feature, and which is made from rails, timbers, chain-link, boards, wire mesh or vinyl, or any other similar materials (See also **WALL**)

**FLOOR AREA** – The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls, or from the centerline of common walls separating buildings. For purposes of determining dwelling standards, the garage and basement areas shall not be included. For purposes of determining parking and loading space requirements for the several zoning districts herein, the “floor area” of a building or buildings shall include: basement space, penthouses, attic space providing structure headroom of 7-1/2 feet or more, interior balconies and mezzanines, enclosed porches, accessory uses other than accessory off-street parking, lobbies, and hallways.

For determination of parking and loading space requirements, the following areas shall not be included: cellar space, elevator shafts and stairwells, floor space for mechanical equipment as necessary to service the needs of the building, uncovered steps, terraces, breezeways, open spaces unroofed unless specifically required in the parking regulations herein, and fitting and dressing rooms.

**FLOOR AREA RATIO (F.A.R.)** – The total floor area of the buildings or buildings on a lot divided by the area of such lot, or in the case of group dwellings or multiple dwelling plan, by the net site area.

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

**GARAGE, PUBLIC** – Any garage other than a private garage, available to the public, and which is used for storage, parking, repair, rental, greasing, washing, servicing, adjusting, or equipping of motor-driven vehicles.

**GOVERNING BODY** – The elected Board of Supervisors for the municipality of Upper Yoder Township.

**HABITABLE LIVING AREA** – The floor area of a building or structure which is furnished to the extent that it is customarily occupied by residents or users of the buildings or structure, exclusive of garages, unconditioned spaces, and unfinished basements.

**HEIGHT** – See **BUILDING HEIGHT** herein.

## HOME OCCUPATIONS:

### A. HOME BUSINESS:

1. An accessory use of a service character within a dwelling by residents which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small sign. The secondary use shall not be carried on in an adjacent separate, attached or integral structure not designed for living space such as a garage or other out building, shall not constitute more than 25% of the habitable living area and shall not employ more than two persons, other than resident family members.
2. A home business shall be permitted by special exception according to the criteria stated in Article X, Section 1006. Instructions in violin, piano or other musical instruments limited to a single person at a time shall be deemed a home business. The business of dressmaker, seamstress or other persons who offer skilled services to clients, tax preparer, consultant, writer and similar professions shall be deemed a home business. The following are not permitted as home businesses: dancing instruction or band instrument instructions in groups, tourist homes, physicians, dentists, convalescent homes, mortuary establishments, crematories, stores, barber shops, beauty salons, tanning parlors trades or auto body workshops.

### B. HOME OFFICE --An accessory use of a service character within a dwelling by the residents of the structure, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any evidence of such secondary use. A limited business or commercial activity which meets all of the following criteria is considered a home office and is permitted by approval by the Zoning Officer in any dwelling unit:

1. No exterior evidence (e.g., noise, light, heat, dust, odor, signs, electromagnetic interference, etc.) of the home office shall be permitted that is uncharacteristic of a residential setting.
2. No retail sales or display of goods, exclusive of telephone, internet or other electronic network solicitation, is permitted.
3. No on-site exterior parking or storage of commercial vehicles or equipment shall be permitted.
4. Only residents of the dwelling may be engaged in the home office activity.
5. The home office activity may be conducted only within the dwelling unit and may not occupy more than 10% of the habitable floor area.
6. The use shall not require the delivery of materials and goods by trucks larger than standard panel trucks.
7. The use shall not involve regular visitations by customers, clients, salespersons or suppliers.

HOSPITAL – The term “hospital” shall include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home, and any place for the diagnosis, treatment or other care of human ailments, and shall be deemed to be limited to such places.

**HOTEL** – A building in which lodging is provided and offered to the public for compensation and in which ingress and egress to and from rooms is made from an inside lobby or office supervised by a person in charge at all hours, and which is open to transient guests, including a boarding house, lodging house, or rooming house.

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

**INSTITUTIONAL HOUSE** – A public or private benevolent establishment devoted to the shelter, maintenance, or education and care of minor children; homeless, aged or infirm persons; or members of a religious community.

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

**LOT** – A parcel, tract or area of land accessible by means of a public street. It may be a single parcel separately described in a deed or plot which is recorded in the office of the County Recorder, or it may include parts of or a combination of such parcels when adjacent to one another and used as one parcel.

**LOT, CORNER** – A lot at the junction of two or more intersecting streets and having a frontage on two or more such streets.

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

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

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

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

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

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

**MANUFACTURED HOME LOT** – A parcel of land in a Mobile Home Park improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home which may be leased or owned by the mobile home occupant.

MANUFACTURED\_HOME PARK – A parcel or contiguous parcels of land which have been designed and improved to contain 2 or more mobile home lots for the placement thereon of mobile homes.

MODULAR HOME – A transportable, single-family dwelling intended for permanent occupancy contained in 2 or more units and designed for use with a permanent foundation.

MOTEL – See HOTEL, MOTOR.

NON-CONFORMING USE – A building or use of land lawfully existing on the effective date of this ordinance that does not completely conform to the use regulations for the district in which it is located.

NURSERY SCHOOL – A school designed to provide daytime care or instruction for 2 or more children of pre-school age.

PARKING LOT – Any lot, parcel or yard used in whole or in part for the storage or parking of 2 or more vehicles where such usage is not incidental to or in conjunction with a one-family or two-family dwelling.

PARKING SPACE – An off-street space available for the parking of 1 motor vehicle and having an area of not less than 180 square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto and having direct access to a street or alley.

PLANNING COMMISSION – The Planning Commission of Upper Yoder Township, which shall have conferred and imposed upon it all the powers of the Zoning Commission.

PORTABLE SIGN – Shall be construed to mean any free-standing sign of temporary nature which would be easily transferable and transportable and removable and which is not permanently affixed to the earth by anchor or other means and which would be less than 7 feet about grade.

PUBLIC HEARING – A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with the requirements of this ordinance and the laws of the Commonwealth of Pennsylvania.

PUBLIC MEETING - A forum held pursuant to notice under the provisions of Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act".

PUBLIC NOTICE – Notice published once each week for 2 successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing. In the alternative, published information stating the time and place of hearing and the nature or the matter to be considered in the form and manner as the laws of the Commonwealth of Pennsylvania may from time to time require.

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



**SATELLITE TELEVISION ANTENNA** – An apparatus capable of receiving communications from a transmitter relay located in geostationary orbit.

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

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

**SIGN** – Any surface, fabric or device bearing letter, pictorial, sculptured or other matter designed to convey information visually and exposed to public view; any structure designed to carry the above visual information; any structure or device designed or installed principally to direct or attract attention, except traffic signs or devices.

**SIGN – ELECTRONIC CHANGEABLE MESSAGE SIGN** - A changeable copy display that allows for the manual or electrical changing of the copy, image or text.

**SIGN – FLASHING** - Any illuminated sign, whether stationary, revolving or rotating, that exhibits changing light or color effects and is used solely to attract attention in a non-informative way.

**SIGN – ILLUMINATED** - A sign equipped with artificial lighting devices for the purpose of improving the sign's visibility.

**SIGN – ANIMATED** - A sign with parts or sections which revolve or move or which has flashing or intermittent lights, but not including time and temperature signs or electronic signs.

**SMALL SITE TELECOMMUNICATIONS FACILITIES / SMALL WIRELESS FACILITIES** – A telecommunications facility that is supported by existing or new power poles, not more than fifty (50) feet in height, located within a street right-of-way or on an existing building that transmits data or communication signals over a small range, which includes small wireless facilities.

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

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

**STREET** – A public or private way other than an alley which affords the principal means of access to abutting properties.

**STRUCTURE** – Anything constructed or erected, the use of which requires location on or in the ground attachment to something having location on or in the ground.

**TELECOMMUNICATIONS TOWER** – A structure supporting equipment that receives and/or transmits signs, signals, messages, words, writings, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems, as further regulated under Section 1011 of this Ordinance.

**USE** – The specific purpose for which land or a building is designed, arranged, intended, or for which it may be occupied or maintained. The term PERMITTED USE or its equivalent shall not be deemed to include any non-conforming use.

**WALL** –

8. As an integral part of a principal or accessory building: An upright structure of masonry, wood, plaster, or other building material serving to enclose, divide, or protect an area, which is vertical construction forming an inner partition or exterior side of a building.
9. As an exterior, free-standing or semi-free standing barrier (if attached to another structure) not an integral part of a principal or accessory building: an upright barrier constructed principally of masonry, brick, stone, or similar material, intended to prevent intrusion, mark a boundary or enclose a parcel of land or structure where 100%, or nearly 100% of the vertical surface is solid or closed, except for approved gates or other access ways.

**WIND TURBINE** – Commercial power generating wind turbine designed to utilize natural wind currents to produce / generate electrical power, either individually or part of a network of wind turbines, that are further regulated by Section 1009 of this Ordinance.

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

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

**YARD, REAR** – A yard extending across the full width of the lot between the rear or the principal building and the rear lot line, unoccupied by other than accessory buildings which do not occupy more than 30% of the space, and steps, walks, terraces, driveways, lampposts and similar structures, the depth of which is the least distance between the rear lot line and the rear of such buildings.

**YARD, SIDE** – A yard between the principal building and the side lot line, extending from the front yard, or from the front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally and at 90° with the side lot line, from the nearest part of the principal building.

## **ARTICLE III – ESTABLISHMENT OF DISTRICTS**

### **SECTION 301 – Establishment of Districts and the Zoning Ordinance Map**

A. The Township of Upper Yoder is hereby classified and divided into 12 Districts designated as follows:

R-1 DISTRICT R-1 One Family Residential District

R-2 DISTRICT R-2 One Family Residential District

R-3 DISTRICT R-3 One Family Residential District

R-4 DISTRICT R-4 One Family Residential District

R-5 DISTRICT R-5 Multi-Family Residential District

R-6 DISTRICT R-6 Multi-Family Residential District

C-1 DISTRICT C-1 General Business District

C-2 DISTRICT C-2 Planned Shopping District

C-3 DISTRICT C-3 Research-Office District

M-1 DISTRICT M-1 Manufacturing District

FP DISTRICT FP Flood Plain District

S DISTRICT S Conservancy District

### **SECTION 302 – Interpretation of District Boundaries**

A. Where district boundaries are indicated as approximately following the centerlines of streets, highways, street lines, highway right-of-way lines, or streams, such centerlines shall be construed to be such boundaries.

B. Where district boundaries are so indicated that they approximately follow lot lines shall be construed to be such boundaries.

C. Where district boundaries are so indicated that they approximately follow or are parallel to the centerlines of streets, highways, or the rights-of-way of same, such district boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the Zoning Ordinance Map.

D. Where the boundary of a district follows a railroad, such boundary shall be deemed to be located in the middle of the main tracks of such railroad.

E. Where the boundary of a district follows a stream or other body of water abutting another municipality, the boundary shall be deemed to be the limits of jurisdiction of the Township, unless otherwise indicated.

## **ARTICLE IV – GENERAL PROVISIONS**

**SECTION 401 – Conformance and Permits** – No building or land shall, after effective date of this ordinance, except for existing non-conforming uses, be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located, and then only after applying for and securing all permits and licenses required by all laws and ordinances.

**SECTION 402 – General Restrictions** – No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have a narrower or smaller rear yard, side yard, or front yard than is herein specified for the district in which the building is located.

**SECTION 403 – Yards** – No part of a yard or other open space about any building required for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or open space, similarly required for another building.

**SECTION 404 – Substandard Dwellings** – No structure shall be used or occupied as a dwelling if such structure is in need of such major structural repairs as to render it unsafe or unsanitary, or if the premises do not have connection with the municipal sewer system or alternative sanitary sewage facilities approved by the local public health authorities having jurisdiction.

**SECTION 405 – Public Utility Lines** – For the transportation, distribution, conveyance and control of water, sewerage, gas, electricity, oil, steam, telegraph and telephone communications, telecommunications facilities, and their supporting members other than buildings, and railroads shall not be required to be located on a zoning lot nor be held to reduce yard dimensions for other buildings on a lot. No structure or fence shall be placed on or across any public utility easement, unless written authorization from that utility or agency is first obtained. Utility easements shall be shown on any plot plan submitted for permit application purposes.

**SECTION 406 – Lots Not Meeting Lot Area Requirements** – Nothing in the district regulations shall be held to prohibit the erection of a one-family dwelling upon a lot whose size is inadequate to meet the lot area regulations set for the district, provided such lot on the effective date of this ordinance was held under separate ownership from the adjoining lots or is a lot in a recorded plan which complies with all district regulations, except lot area requirements or is a lot in a subdivision plan approved under the Upper Yoder Township subdivision regulations.

**SECTION 407 – Temporary Structures** – Temporary structures may be constructed in side and rear yard areas for a period not to exceed 60 days. If the structure is not removed after the sixty-day period expires, the structure shall be in compliance with the yard areas and setbacks for the district in which the property is located and shall be subject to Pennsylvania Uniform Construction Code and/or zoning and permit requirements.

**SECTION 408 – Uses Requiring Site Plan Approval** – Building permits issued for any use other than a single-family residential dwelling, or two-family dwelling in an R-5, R-6, C, M, FP or S District, and modifications to existing nonconforming uses and structures. Any use granted by special exception or variance, shall require site plan approval by the Upper Yoder Township Planning Commission and approval by the Board of Supervisors. The site plan shall be submitted to the Commission at least 14 days prior to the regularly scheduled or special meeting at which it is to be reviewed. In addition to conforming to any specific requirements set forth in this ordinance, the Planning Commission or Board of Supervisors may recommend changes to the site plan which are deemed necessary to promote orderly development of the area. In addition to specific requirements of the district regulations, the site plan, drawn to accurate scale, will indicate the following:

- Location of the lot or lots with respect to adjacent streets and property owners
- Critical dimensions of setback yard area, paving, driveways, parking area, landscape areas and other prominent features
- Traffic circulation within the site
- Location of vehicular access to the site
- The height and bulk of structures
- Location and size of signs, walls and fence to be constructed on the site
- Provisions for storm drainage including the drainage flow, catch basins size and location of any storm sewers and discharge points from the site
- Connections to all public utilities serving the site

In considering any plan hereunder, the Planning Commission or Board of Supervisors will endeavor to assure safety and convenience of traffic movement, harmonious and beneficial relationship of buildings and uses on the site as well as to contiguous properties, and overall development in a manner not detrimental to the public at large. The Planning Commission or Board of Supervisors shall report its findings and report its findings and recommendations to the Zoning Officer within 48 hours following the review meeting.

**SECTION 409 – Manufactured Homes** – Manufactured homes, home trailers, or auto trailers shall be permitted in the R-6 district only. All mobile homes must be permanently affixed to a foundation so as to prevent tipping due to high winds or flash flooding, and comply with all other requirements of Section 506.

**SECTION 410 - Safety limitations on fences and shrubbery**

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

height of thirty (30) inches, measured at the intersection of the pavement or cart-way of the two streets. Said shrubbery shall be maintained at a maximum of thirty (30) inches of height for a distance of thirty (30) feet from the intersection along each street. No fence of any type shall be permitted on that portion of a lot within 30 feet of the intersection of two or more streets.

## **ARTICLE V – PROVISIONS GOVERNING RESIDENTIAL DISTRICTS**

**SECTION 501 – R-1 One Family Residential District** – Within the R-1 One Family Residential District the following regulations apply:

### A. Permitted Uses

One-Family Detached Dwelling occupied by one single-family unit.

Farm or truck garden operating on 5 acres or more.

Public school or private school having a curriculum similar to that ordinarily given in a public school, including religious instruction in parochial schools

Church and similar place of worship

Convent, monastery, rectory, or parish house to be occupied by not more than 10 persons

Community Unit Plan – Development as specified in Section 1201 hereof

Public recreation (Township, County or State) areas including municipal parks

Small site telecommunications facilities, as per Section 1013

Commercial recreation development may be permitted as a special exception when approved by the Zoning Hearing Board.

(a) The principal considerations upon which a special exception may be granted shall include the protection of the zoning district for residential uses and the enjoyment and conservation of natural features.

(b) Development in recreation areas shall be limited to the minimum required for public and private enjoyment, health, maintenance and protection of natural features.

(c) Permitted recreation uses are:

Ski slopes and tows

Toboggan slopes and tows

Swimming

Field and court game areas

Ice-skating

Horseback riding



Golf

Archery

Picnic Areas

Restaurant in conjunction with recreational facilities

Overnight guest and staff facilities for persons using the recreation facilities

Maintenance structures for equipment incidental to the permitted uses

(d) Country club and clubhouses for civic and fraternal organizations may be permitted as a special exception when approved by the Zoning Hearing Board. Considerations and criteria for granting of special exceptions shall be incidental to those for commercial recreation development.

(e) Gas and Oil Extraction, by special exception, as per Section 1007

Accessory Uses: Customarily incidental to any of the above permitted uses and including:

Home Occupation – Home Office

Home Occupation – Home Business, as per special exception from the Zoning Hearing Board in accordance with Section 1006.

Small scale wind generator, as per Section 1008

Temporary Metrologic Towers, as per Section 1010

Outdoor furnace, as per Section 1012

Private Garage

Fence or ornamental wall not over 6 feet in height (rear and side yards only)

Fence, not over 4 feet in height (front yard only), having a ratio of solid to open portions of the fence not to exceed 1:4.

Raising and keeping of domestic animals as pets, but not on a commercial basis or on a scale objectionable to neighboring property owners, and provided specifically that all horses, pigs, cattle, poultry, sheep, goats, and similar farm animals not be permitted unless a minimum lot area of five (5) acre is maintained.

Cultivation of plants (non-commercial only)

Private swimming pool appurtenant to a dwelling.

Parking of accessory vehicles, such as boats, boat trailers and house trailers, or campers, or any other type of recreational vehicle, not used as dwellings on the premises, provided that the

location of the parked vehicles shall be a minimum of ten (10) feet from a rear or side property lines, and a minimum of twenty (20) feet from a front property line. All accessory vehicles shall be owned by the residents of the property on which it is parked and shall maintain current inspection and registration, as applicable for the type of accessory vehicle.

Children's playhouse, garden house, private (non-commercial) greenhouse

A garage, shed or building for domestic storage

Pet enclosure with fencing (non-commercial) or similar domestic pet housing

Incinerators incidental to residential use

Public recreation area or country club, on the same lot, when meeting the yard depth and width requirements of the district for principal buildings

Swimming pools or the property on which they are located must be adequately fenced to prevent free access of small children and meet all applicable health and sanitary requirements.

#### B. Non-Permitted Uses

Surface Mining and Associated Deep Mining Facilities

Commercial and Industrial Establishments

Commercial Power Generating Windmills

Telecommunications Towers

#### C. Height – The maximum height of buildings hereafter erected or altered shall be as follows:

One-family detached dwelling – 35 feet or 2-1/2 stories

Church or similar place of worship – 45 feet for the principal building and 75 feet for steeples or towers.

Accessory building – 20 feet

Any other permitted building – 35 feet or 2-1/2 stories

#### D. Lot Area – The minimum lot area for every building hereafter erected or altered shall be as follows:

One-family detached dwelling, convent, monastery, rectory, or parish house – a minimum of 43,560 square feet and a width at the building line of 150 feet.

Church or similar place of worship - 1-1/2 acres and a width at the building line of not less than 200 feet.

Public or private school –

Elementary School: 10 acres plus 1 acre for every 100 students at design capacity

Junior High / Middle School / High School: 20 acres plus 1 acre for every 100 students at design capacity

No other building or use shall be erected or maintained on a lot having an area less than 25 acres.

E. Yard Areas – No building or structure shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

Front yard - not less than 75 feet

Side yard - on each side, not less than 20 feet. The combined total of the side yards for interior lots shall be not less than 60 feet and the combined total of side yards for corner lots shall be not less than 80 feet, with the side yard from the street being at least 50 feet. The side yard on each of a lot of record which is less than 150 feet wide at the building line shall be 20% of the width of the lot but shall be not less than 20 feet. For a church or similar place of worship, not less than 40 feet on each side of the principal building.

Rear yard - not less than 50 feet or 20% of depth of lot, whichever is greater, but it need not exceed 90 feet.

F. Percentage of Lot Coverage – All buildings, including accessory uses, shall cover not more than 20% of the area of the lot.

G. Dwelling Standards – Every one-story dwelling hereafter erected or altered shall have a habitable living area of not less than 1,400 square feet. Every dwelling of more than one story hereafter erected or altered shall have a total habitable living area of not less than 1,800 square feet.

H. Off-Street Parking Facilities – Shall be provided as required or permitted under Article XI.

**SECTION 502 – R-2 One-Family Residential District** – Within the R-2 One-Family Residential District, the following regulations apply:

A. Permitted Uses

One Family detached dwelling

Farm or truck garden operating not under 5 acres

Church and similar places of worship

Public, non-commercial, recreation areas

Public schools or private schools having a curriculum similar to that of a public school, including parochial schools

Municipal buildings and necessary public facility buildings and structures

Small site telecommunications facilities, as per Section 1013

Accessory uses customarily incidental to any of the above permitted uses and including:

Home Occupation – Home Office

Home Occupation – Home Business, as per special exception from the Zoning Hearing Board in accordance with Section 1006.

Small scale wind generator, as per Section 1008

Outdoor furnace, as per Section 1012

Private garage

Fence or ornamental wall not over 6 feet in height (rear and side yards only)

Fence, not over 4 feet in height (front yard only) having a ratio of solid to open portions of the fence not to exceed 1:4.

Cultivation of plants – non-commercial

Private swimming pools appurtenant to a dwelling. Swimming pools on the property on which they are located must be adequately fenced to prevent free access of small children and meet applicable health and sanitary requirements

Parking of accessory vehicles, such as boats, boat trailers and house trailers, or campers, not used as dwellings on the premises, provided that the location of the parked vehicles shall be a minimum of ten (10) feet from a rear or side property lines, and a minimum of twenty (20) feet from a front property line. All accessory vehicles shall be owned by the residents of the property on which it is parked and shall maintain current inspection and registration, as applicable for the type of accessory vehicle.

Children's playhouse, garden house, private (non-commercial) greenhouse

A garage, shed or building for domestic storage

The keeping of animals, domestic

Pet enclosure with fencing (non-commercial) or similar domestic pet housing

Incinerators incidental to residential use

#### B. Non-Permitted Uses

Surface Mining and Associated Deep Mining Facilities

Commercial Power Generating Windmills

Telecommunications Towers

Commercial and Industrial Establishments.

C. Height – The maximum height of buildings hereafter erected or altered shall be as follows:

One-family detached dwelling – 35 feet or 2-1/2 stories

Church or similar place of worship – 45 feet for the principal building and 75 feet for steeples or towers.

Accessory building – 20 feet

Any other permitted building – 35 feet or 2-1/2 stories

D. Lot Area – The minimum lot are for every building hereafter erected or altered shall be as follows:

One-family detached dwelling, convent, monastery, rectory or parish house – 20,000 square feet and a width at the building line of not less than 100 feet (18,000 square foot area if public water or sewer or both are available).

Church or similar place or worship – 1-1/2 acres and a width at the building line of not less than 200 feet.

Public or private school –

Elementary School: 10 acres plus 1 acre for every 100 students at design capacity

Junior High / Middle School / High School: 20 acres plus 1 acre for every 100 students at design capacity

E. Yard Areas – No building or structure shall be erected or altered unless the following yards are provided and maintained in connection with such building, structure or enlargements:

Front yard - not less than 50 feet

Side yard - on each side, not less than 20 feet. The combined total of side yards for interior lots shall be not less than forty 40 feet and the combined total for side yards for corner lots shall be not less than 70 feet with the side yard from the street being at least 50 feet. The side yard on each side of the lot of record which is less than 100 feet wide at the building line shall be 20% of the width of lot but shall be not less than 12 feet. For a church or similar place of worship, not less than 40 feet on each side of the principal building.

Rear yard - not less than 35 feet or 20% of the depth of the lot, whichever is larger, but it need not exceed 60 feet.

F. Percentage of Lot Coverage – All buildings, including accessory uses, shall cover not more than 25% of the area of the lot.

G. Dwelling Standards – Every one-story dwelling, including modular homes, hereafter erected or altered shall have a habitable living area of not less than 1,200 square feet. Every dwelling of more than one story hereafter erected or altered shall have a total minimum habitable living area of 1,600 square feet.

H. Off-Street Parking Facilities – Shall be provided as required or permitted under Article XI.

**SECTION 503 – R-3 One-Family Residential District** – Within the R-3 One-Family Residential District, the following regulations apply:

A. Permitted Uses

One Family detached dwelling

Two Family dwelling as per special exception when approved by the Zoning Hearing Board.

Multiple family dwellings and apartments as per special exception when approved by the Zoning Hearing Board.

Multiple dwelling plans as per special exception when approved by the Zoning Hearing Board.

Row dwelling with not more than 6 dwelling units in one structure as per special exception when approved by the Zoning Hearing Board.

Church and similar places of worship

Public, non-commercial, recreation areas

Public schools or private schools having a curriculum similar to that of a public school, including parochial schools

Municipal buildings and necessary public facility buildings and structures

Hospital, sanitarium or rest home

Library, museum or related civic use

Small site telecommunications facilities, as per Section 1013

Accessory uses customarily incidental to any of the above permitted uses and including:

Home Occupation – Home Office

Home Occupation – Home Business, as per special exception from the Zoning Hearing Board in accordance with Section 1006.

Small scale wind generator, as per Section 1008

Private garage

Fence or ornamental wall not over 6 feet in height (rear and side yards only)

Fence, not over 4 feet in height (front yard only) having a ratio of solid to open portions of the fence not to exceed 1:4.

Cultivation of plants – non-commercial

Private swimming pools appurtenant to a dwelling. Swimming pools or the property on which they are located must be adequately fenced to prevent free access of small children and meet all applicable health and sanitary requirements

Parking of accessory vehicles, such as boats, boat trailers and house trailers, or campers, not used as dwellings on the premises, provided that the location of the parked vehicles shall be a minimum of ten (10) feet from a rear or side property lines, and a minimum of twenty (20) feet from a front property line. All accessory vehicles shall be owned by the residents of the property on which it is parked, and shall maintain current inspection and registration, as applicable for the type of accessory vehicle.

Children's playhouse, garden house, private (non-commercial) greenhouse

A garage, shed or building for domestic storage

The keeping of animals, domestic

Pet enclosure with fencing (non-commercial) or similar domestic pet housing

Incinerators incidental to residential use

#### B. Non-Permitted Uses

Surface Mining and Associated Deep Mining Facilities

Commercial and Industrial Establishments

Commercial Power Generating Windmills

Telecommunications Towers

Farm or truck garden

#### C. Height – The maximum height of buildings hereafter erected or altered shall be as follows:

One-family detached dwelling or Two-family dwelling – 35 feet or 2-1/2 stories

Multiple-family dwelling or Row dwelling – 35 feet or 2-1/2 stories

Church or similar place of worship – 45 feet for the principal building and 75 feet for steeples or towers.

Accessory building – 20 feet

Any other permitted building – 35 feet or 2-1/2 stories

D. Lot Area – The minimum lot are for every building hereafter erected or altered shall be as follows:

One-family detached dwelling, convent, monastery, rectory or parish house – 20,000 square feet and a width at the building line of not less than 100 feet (18,000 square foot area if public water or sewer or both are available).

Two-family dwelling – 6,000 square feet per dwelling unit and a width at the building line of not less than 80 feet.

Multiple-family dwelling – not less than 1,350 square feet per dwelling unit or apartment and a width at the building line of not less than 150 feet. The minimum size of lot for multiple-family dwelling is 2 acres.

Row dwelling – not less than 2,700 square feet per dwelling unit and a width at the building line of not less than 100 feet for a row dwelling containing 3 or more dwelling units under one ownership. If a row dwelling is arranged, designed intended to be sold or owned in separate ownership between party walls, the minimum width of lot beyond centerlines of party walls shall be 16 feet, and the 100 foot minimum width of total site frontage shall apply for the entire structure. Minimum size of lot for row dwelling structure: one-half acre (21,780 square feet).

Church or similar place of worship –1-1/2 acres and a width at the building line of not less than 200 feet.

Public or private school –

Elementary School: 10 acres plus 1 acre for every 100 students at design capacity

Junior High / Middle School / High School: 20 acres plus 1 acre for every 100 students at design capacity

Hospital, sanitarium or rest home – 2 acres and a width at the building line of not less than 200 feet.

Library, museum or related civic use - 2 acres and a width at the building line of not less than 200 feet.

E. Yard Areas – No building or structure shall be erected or altered unless the following yards are provided and maintained in connection with building, structure or enlargements:

Front yard - not less than 35 feet.

Side yard - on each side, not less than 10 feet. The combined total for side yards for interior lots shall be not less than 20 feet and the combined total for side yards for corner lots shall not be



less than 45 feet with the side yard from the street being at least 35 feet. The side yard on each side of a lot of record which is less than 60 feet in width shall have a width of 15% of the width of the lot but shall be not less than 6 feet. For a church or similar place of worship, hospital, sanitarium, rest home, library, museum or civic use, not less than 40 feet on each side of a principal building.

Rear yard - not less than 35 feet or 20% of the depth of the lot, whichever is larger.

F. Percentage of Lot Coverage – All buildings, including accessory uses, shall cover not more than 30% of the area of the lot. Multiple-family dwelling or Row dwelling, including accessory uses, shall cover not more than 40% of the area of the lot.

G. Dwelling Standards – Every one-story dwelling hereafter erected or altered shall have a habitable living area of not less than 1,200 square feet. Every dwelling of more than one story hereafter erected or altered shall have a total habitable living area of not less than 1,600 square feet. Every multi-family dwelling hereafter erected or altered shall have a habitable living area of not less than 700 square feet for each dwelling unit.

H. Off-Street Parking Facilities – Shall be provided as required or permitted under Article XI.

**SECTION 504 – R-4 One-Family Residential District** – Within the R-4 One-Family Residential District, the following regulations apply:

A. Permitted Uses –

One Family detached dwelling

Church and similar places of worship

Public, non-commercial, recreation areas

Public schools or private schools having a curriculum similar to that of a public school, including parochial schools

Municipal buildings and necessary public facility buildings and structures

Hospital, sanitarium or rest home

Library, museum or related civic use

Small site telecommunications facilities, as per Section 1013

Accessory uses customarily incidental to any of the above permitted uses and including:

Home Occupation – Home Office

Home Occupation – Home Business, as per special exception from the Zoning Hearing Board in accordance with Section 1006.

Private garage

Fence or ornamental wall not over 6 feet in height (rear and side yards only)

Fence, not over 4 feet in height (front yard only) having a ratio of solid to open portions of the fence not to exceed 1:4.

Cultivation of plants – non-commercial

Private swimming pools appurtenant to a dwelling. Swimming pools on the property on which they are located must be adequately fenced to prevent free access of small children and meet all applicable health and sanitary requirements

Parking of accessory vehicles, such as boats, boat trailers and house trailers, or campers, not used as dwellings on the premises, provided that the location of the parked vehicles shall be a minimum of ten (10) feet from a rear or side property lines, and a minimum of twenty (20) feet from a front property line. All accessory vehicles shall be owned by the residents of the property on which it is parked, and shall maintain current inspection and registration, as applicable for the type of accessory vehicle.

Children's playhouse, garden house, private (non-commercial) greenhouse

A garage, shed or building for domestic storage

The keeping of animals, domestic

Pet enclosure with fencing (non-commercial) or similar domestic pet housing

Incinerators incidental to residential use

Community Unit Plan development when permitted by the zoning hearing board as a special exception under Section 1201 hereof, except that the tract of land for such plan shall comprise an area of not less than 10 acres (in lieu of the 20-acre requirement set forth under Section 1201 for R-1 One-Family Residential Districts).

**B. Non-Permitted Uses –**

Surface Mining and Associated Deep Mining Facilities

Commercial Power Generating Windmills

Telecommunications Towers

Farm or truck garden

**C. Height – The maximum height of buildings hereafter erected or altered shall be as follows:**

One-family detached dwelling – 35 feet or 2-1/2 stories

Church or similar place of worship – 45 feet for the principal building and 75 feet for steeples or towers.

Accessory building – 20 feet

Any other permitted building – 35 feet or 2-1/2 stories

D. Lot Area – The minimum lot are for every building hereafter erected or altered shall be as follows:

One-family detached dwelling, convent, monastery, rectory or parish house – 20,000 square feet and a width at the building line of not less than 100 feet (18,000 square foot area if public water or sewer or both are available).

Church or similar place of worship – 1-1/2 acres and a width at the building line of not less than 200 feet.

Public or private school –

Elementary School: 10 acres plus 1 acre for every 100 students at design capacity

Junior High / Middle School / High School: 20 acres plus 1 acre for every 100 students at design capacity

Hospital, sanitarium or rest home – 2 acres and a width at the building line of not less than 200 feet.

Library, museum or related civic use - 2 acres and a width at the building line of not less than 200 feet.

E. Yard Areas – No building or structure shall be erected or altered unless the following yards are provided and maintained in connection with building, structure or enlargements:

Front yard - not less than 35 feet.

Side yard - on each side, not less than 10 feet. The combined total for side yards for interior lots shall be not less than 20 feet and the combined total for side yards for corner lots shall not be less than 45 feet with the side yard from the street being at least 35 feet. The side yard on each side of a lot of record which is less than 60 feet in width shall have a width of 15% of the width of the lot but shall be not less than 6 feet. For a church or similar place of worship, hospital, sanitarium, rest home, library, museum or civic use, not less than 40 feet on each side of a principal building.

Rear yard - not less than 35 feet or 20% of the depth of the lot, whichever is larger.

F. Percentage of Lot Coverage – All buildings, including accessory uses, shall cover not more than 30% of the area of the lot.

G. Dwelling Standards – Every one-story dwelling hereafter erected or altered shall have a habitable living area of not less than 1,200 square feet. Every dwelling of more than one story hereafter erected or altered shall have a total habitable living area of not less than 1,600 square feet.

H. Off-Street Parking Facilities – Shall be provided as required or permitted under Article XI.

**SECTION 505 – R-5 Multiple Family Residential District** – Within the R-5 Multiple Family Residential District, the following regulations shall apply:

A. Permitted Uses –

One Family detached dwelling

Two family dwelling

Multiple family dwellings and apartments as specified in Section 1202 hereof

Multiple dwelling plans as specified in Section 1202 hereof

Row dwelling with not more than 6 dwelling units in one structure

Fraternity or sorority, excepting those the chief activity of which is a service customarily carried on as a business

Conversion apartments for family occupancy

Efficiency apartments

Church and similar places of worship

Public, non-commercial, recreation areas

Public schools or private schools having a curriculum similar to that of a public school, including parochial schools

Municipal buildings and necessary public facility buildings and structures

Hospital, sanitarium or rest home

Library, museum or related civic use

Small site telecommunications facilities, as per Section 1013

Community Unit Plan development when permitted by the zoning hearing board as a special exception under Section 1201 hereof, except that the tract of land for such plan shall comprise an area of not less than 10 acres (in lieu of the 20-acre requirement set forth under Section 1201 for R-1 One-Family Residential Districts).

Accessory uses customarily incidental to any of the above permitted uses and including:

Home Occupation – Home Office

Home Occupation – Home Business, as per special exception from the Zoning Hearing Board in accordance with Section 1006.

Private garage

Fence or ornamental wall not over 6 feet in height (rear and side yards only)

Fence, not over 4 feet in height (front yard only) having a ratio of solid to open portions of the fence not to exceed 1:4.

Cultivation of plants – non-commercial

Private swimming pools appurtenant to a dwelling. Swimming pools or the property on which they are located must be adequately fenced to prevent free access of small children and meet all applicable health and sanitary requirements

Parking of accessory vehicles, such as boats, boat trailers and house trailers, or campers, not used as dwellings on the premises, provided that the location of the parked vehicles shall be a minimum of ten (10) feet from a rear or side property lines, and a minimum of twenty (20) feet from a front property line. All accessory vehicles shall be owned by the residents of the property on which it is parked, and shall maintain current inspection and registration, as applicable for the type of accessory vehicle.

Children's playhouse, garden house, private (non-commercial) greenhouse

A garage, shed or building for domestic storage

The keeping of animals, domestic

Pet enclosure with fencing (non-commercial) or similar domestic pet housing

Incinerators incidental to residential use

#### B. Non-Permitted Uses

Surface Mining and Associated Deep Mining Facilities

Commercial Power Generating Windmills

Telecommunications Towers

Farm or truck garden

#### C. Height – The maximum height of buildings hereafter erected or altered shall be as follows:

One-family detached dwelling – 35 feet or 2-1/2 stories

Church or similar place of worship – 45 feet for the principal building and 75 feet for steeples or towers.

Accessory building – 20 feet

Any other permitted building – 35 feet or 2-1/2 stories

Multiple-family dwellings shall be restricted by lot coverage.

D. Lot Area – The minimum lot area for every building hereafter erected or altered shall be as follows:

One-family detached dwelling, convent, monastery, rectory or parish house – 8,700 square feet and a width at the building line of not less than 60 feet.

Two-family dwelling – 4,350 square feet per dwelling unit and a width at the building line of not less than 60 feet.

Multiple-family dwelling – not less than 1,350 square feet per dwelling unit or apartment and a width at the building line of not less than 150 feet. The minimum size of lot for multiple-family dwelling is 2 acres.

Row dwelling – not less than 2,700 square feet per dwelling unit and a width at the building line of not less than 75 feet for a row dwelling containing 3 or more dwelling units under one ownership. If a row dwelling is arranged, designed intended to be sold or owned in separate ownership between party walls, the minimum width of lot beyond centerlines of party walls shall be 16 feet, and the 75 foot minimum width of total site frontage shall apply for the entire structure. Minimum size of lot for row dwelling structure: one-quarter acre (10,890 square feet).

Church and similar place of worship – 1-1/2 acres and a width at the building line of not less than 200 feet.

Public or private school –

Elementary School: 10 acres plus 1 acre for every 100 students at design capacity

Junior High / Middle School / High School: 20 acres plus 1 acre for every 100 students at design capacity

E. Yard Areas – No building or structure shall be hereafter erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

Front yard - not less than 35 feet, except for multiple-family dwelling, which shall provide and maintain a front yard, side yard and rear yard of horizontal dimension not less than the height of the building or 50 feet, whichever is greater.

Side yard - for one-family detached dwelling, two-family dwelling, and row dwelling, not less than 10 feet on each of 2 sides for an interior lot and not less than 40 feet combined total of side yards for a corner lot, with the side yard from the street being at least 30 feet.

Church and similar place of worship – not less than 40 feet on each side of the principal building.

Rear yard - not less than 30 feet.

F. Percentage of Lot Coverage – All buildings, including accessory uses, shall cover not more than 35 percent of the area of the lot except multi-family dwellings which may cover 40% of the lot.

G. Dwelling Standards – Every one-story dwelling hereafter erected or altered shall have a habitable living area of not less than 700 square feet. Every two-story dwelling hereafter erected or altered shall have a total habitable living area of not less than 1,400 square feet. Every multi-family dwelling hereafter erected or altered shall have a habitable living area of not less than 700 square feet for each dwelling unit.

H. Off-Street Parking Facilities – Shall be provided as required or permitted under Article XI.

I. Special Regulations for conversion and Efficiency Apartments:

a. Each conversion apartment must provide a minimum of not less than 400 square feet of habitable living area.

b. Each living unit contains not less than 1 private bathroom and 3 habitable rooms, at least one of which shall be a bedroom.

c. Separate and private sanitary facilities, cooking and dining accommodations shall be provided for each living unit.

d. Fire and safety provisions must be adequate to meet local standards.

Efficiency apartments may be permitted for single occupancy which contain floor area other than specified in Item (a) above, when authorized as a special exception; provided that the intent of Items (b), (c), and (d) above are achieved. Adequacy of compliance shall be determined by the Zoning Hearing Board prior to granting of a special exception.

**SECTION 506 – R-6 Multiple Family Residential District** – Within the R-6 Multiple Family Residential District, the following regulations shall apply:

A. Permitted Uses –

One Family detached dwelling

Two family dwelling

Manufactured Home Parks, as per Section 1003

Manufactured Homes

Multiple family dwellings and apartments as specified in Section 1202

Multiple dwelling plans as specified in Section 1202 hereof

Row dwelling with not more than 6 dwelling units in one structure

Conversion apartments for family occupancy

Efficiency apartments

Church and similar places of worship

Public, non-commercial, recreation areas

Public schools or private schools having a curriculum similar to that of a public school, including parochial schools

Municipal buildings and necessary public facility buildings and structures

Hospital, sanitarium or rest home

Library, museum or related civic use

Small site telecommunications facilities, as per Section 1013

Community Unit Plan development when permitted by the zoning hearing board as a special exception under Section 1201 hereof, except that the tract of land for such plan shall comprise an area of not less than 10 acres (in lieu of the 20-acre requirement set forth under Section 1201 for R-1 One-Family Residential Districts).

Accessory uses customarily incidental to any of the above permitted uses and including:

Private garage

Home Occupation – Home Office

Home Occupation – Home Business, as per special exception from the Zoning Hearing Board in accordance with Section 1006.

Fence or ornamental wall not over 6 feet in height (rear and side yards only)

Fence, not over 4 feet in height (front yard only) ) having a ratio of solid to open portions of the fence not to exceed 1:4.

Cultivation of plants – non-commercial



Private swimming pools appurtenant to a dwelling. Swimming pools or the property on which they are located must be adequately fenced to prevent free access of small children and meet all applicable health and sanitary requirements

Parking of accessory vehicles, such as boats, boat trailers and house trailers, or campers, not used as dwellings on the premises, provided that the location of the parked vehicles shall be a minimum of ten (10) feet from a rear or side property lines, and a minimum of twenty (20) feet from a front property line. All accessory vehicles shall be owned by the residents of the property on which it is parked, and shall maintain current inspection and registration, as applicable for the type of accessory vehicle.

Children's playhouse, garden house, private (non-commercial) greenhouse

A garage, shed or building for domestic storage

The keeping of animals, domestic

Pet enclosure with fencing (non-commercial) or similar domestic pet housing

Incinerators incidental to residential use

**B. Uses permitted by Special Exception**

Commercial Power Generating Windmills as per Section 1009

Temporary Metrologic Towers as per Section 1010

**C. Non-Permitted Uses**

Surface Mining and Associated Deep Mining Facilities

Telecommunications Towers

Farm or truck garden

**D. Height**

The maximum height of buildings hereafter erected or altered shall be as follows:

One-family detached dwelling – 35 feet or 2-1/2 stories

Church or similar place of worship – 45 feet for the principal building and 75 feet for steeples or towers.

Accessory building – 20 feet

Any other permitted building – 35 feet or 2-1/2 stories

E. Lot Area – The minimum lot area for every building hereafter erected or altered shall be as follows:

One-family detached dwelling, mobile home, convent, monastery, rectory or parish house – 8,700 square feet and a width at the building line of not less than 60 feet.

Two-family dwelling – 4,350 square feet per dwelling unit and a width at the building line of not less than 60 feet.

Multiple-family dwelling – not less than 1,350 square feet per dwelling unit or apartment and a width at the building line of not less than 150 feet. The minimum size of lot for multiple-family dwelling is 2 acres.

Row dwelling – not less than 2,700 square feet per dwelling unit and a width at the building line of not less than 75 feet for a row dwelling containing 3 or more dwelling units under one ownership. If a row dwelling is arranged, designed or intended to be sold or owned in separate ownership between party walls, the minimum width of lot between centerlines of party walls shall be 16 feet, and the 75 foot minimum width of total site frontage shall apply for the entire structure. Minimum size of lot for row dwelling structure: one-quarter acre (10,890 square feet).

Church or similar place of worship - 1-1/2 acres and a width at the building line of not less than 200 feet.

Public or private school –

Elementary School: 10 acres plus 1 acre for every 100 students at design capacity

Junior High / Middle School / High School: 20 acres plus 1 acre for every 100 students at design capacity

No other building or use shall be erected or maintained on a lot having an area less than 25 acres.

F. Yard Areas – No building or structure shall be hereafter erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

Front yard - not less than 35 feet, except for multiple-family dwelling, which shall provide and maintain a front yard, side yard and rear yard of horizontal dimension not less than the height of the building or 50 feet, whichever is greater.

Side yard - for one-family detached dwelling, two-family dwelling, and row dwelling, not less than 10 feet on each of 2 sides for an interior lot and not less than 40 feet combined total of side yards for a corner lot, with the side yard from the street being at least 30 feet.

Church or similar place of worship and school buildings – not less than 40 feet on each side of the principal building.

Rear yard - not less than 30 feet.

G. Percentage of Lot Coverage – All buildings, including accessory uses, shall cover not more than 35 percent of the area of the lot except multi-family dwellings which may cover 40% of the lot.

H. Dwelling Standards – Every one-story dwelling hereafter erected or altered shall have a habitable living area of not less than 700 square feet.

Every two-story dwelling hereafter erected or altered shall have a total habitable living area of not less than 1,000 square feet. Every multi-family dwelling hereafter erected or altered shall have a habitable living area of not less than 800 square feet for each dwelling unit.

I. Off-Street Facilities – Shall be provided as required or permitted under Article XI.

J. Special Regulations for Conversion and Efficiency Apartments

1. Each conversion apartment must provide a minimum of not less than 400 square feet of habitable living area.

2. Each living unit contains not less than 1 private bathroom and 2 habitable rooms, at least one of which shall be a bedroom.

3. Separate and private sanitary facilities, cooking and dining accommodations shall be provided for each living unit.

4. Fire and safety provisions must be adequate to meet local standards.

Efficiency apartments may be permitted for single occupancy which contain floor area other than specified in Item (a) above, when authorized as a special exception; provided that the intent of Items (b), (c), and (d) above are achieved. Adequacy of compliance shall be determined by the Zoning Hearing Board prior to granting of a special exception.

K. Special Regulations for Manufactured Home Parks – As permitted or required in Article X, Section 1003.

## **ARTICLE VI – PROVISIONS GOVERNING COMMERCIAL DISTRICTS**

**SECTION 601 – C-1 General Business District** – Within the C-1 General Business District, the following regulations shall apply:

All activities permitted in the C-1 District shall be conducted wholly within an enclosed building.

**A. Permitted Uses:**

Art, book, school supply, and stationery store

Bakery shop, including the baking and processing of food products when prepared for retail use on the premises only.

Bank or financial institution (non-drive-in)

Barber shop, beauty shop or similar personal service

Camera and photographic store

Candy or ice cream store

Delicatessen

Dry cleaning outlet – no on-site cleaning permitted

Drugstore

Florist shop

Food stores

Gift store

Hardware store

Hobby store

Meat market

Newsstand

Offices, business and professional including medical clinic

Restaurants – non-drive-in

Small site telecommunications facilities, as per Section 1013

## Undertaking and embalming

Similar type commercial uses not specifically listed when authorized as a special exception by the Zoning Hearing Board after receipt and review of recommendations of the Planning Commission. Special exceptions shall be based upon compatibility and similarity to other uses as listed herein and shall not be prejudicial to the health or public safety of the community.

### B. Uses Permitted by Special Exception:

- a. Telecommunication towers as per Section 1011

### C. Accessory Uses:

- a. Detached Garage, shed, or building for storage.
- b. Small scale wind generators, as per Section 1008

### D. Non-Permitted Uses:

Surface Mining and Associated Deep Mining Facilities

Commercial Power Generating Windmills

Farm or truck garden

- E. Height – The maximum height of buildings hereafter erected, altered or enlarged shall be 2 stories or 35 feet.
- F. Lot Area – The minimum lot area for every building hereafter erected or altered shall contain a minimum of 4,800 square feet.
- G. Percentage of Lot Coverage – Buildings, including accessory uses shall cover not more than 40% of the total lot area.
- H. Yard Areas – No building shall be hereafter erected, altered or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement.

Front yard - Not less than 50 feet.

Side yard - Not less than 40 feet. Where abutting an R District there shall be provided in addition to the feet a buffer area of not less than 8 feet.

Rear yard - Not less than 20 feet. Where abutting an R District there shall be provided in addition to the rear yard requirement, a buffer area of not less than 10 feet.

- I. Off-Street Parking and Loading Facilities – Shall be provided as required or permitted under Article XI.

**SECTION 602 – C-2 Planned Shopping District** – Within the C-2 Planned Shopping District, the following regulations shall apply:

A. Permitted Uses – Upon grant of a special exception by the Zoning Hearing Board that all requirements are met:

Any use permitted in the C-1 District

Auto accessory store, automobile and truck sales and incidental service

Bank, financial institution, savings and loan association, drive-in or main office

Department store

Electrical appliances store, sales, service, repair, but excluding appliance assembly or manufacture

Food, fruit or vegetable store

Furniture store, upholstery when conducted as a secondary operation to the sale of furniture and furnishings

Furrier, conducted as a retail operation for trade on the premises only

Garden supplies, seed store, nursery

Hotel, motor hotel, club or restaurant

Household appliance store, sales and service

Interior decorating business, including upholstering and making of draperies, slip covers and similar articles when conducted as part of the retail operations and secondary to the main use

Office equipment sales and service

Paint, wallpaper sales

Photographer studio, art gallery, including the developing of film when conducted as part of the retail business on the premises

Professional and business offices, including medical clinic

Restaurant, tea room, café where consumption of food and beverage is within a building

Service station, public garage, or other vehicle services, provided no repair work is performed outdoors; provided all pumps, underground storage tanks, lubricating and other devices are located not less than 25 feet from any street right-of-way; provided all fuel, oil or similar substances are stored inside or underground and similar articles are stored within a building

Small site telecommunications facilities, as per Section 1013

Sporting goods store

Telecommunication towers as per Section 1011

Theater, indoor

Variety store

Wholesale and retail sales of consumer, business and industrial goods and supplies

**B. Non-Permitted Uses:**

Surface Mining and Associated Deep Mining Facilities

Commercial Power Generating Windmills

Farm or truck garden

**C. Height:** The maximum height of buildings hereafter erected, altered or enlarged shall be 2 stories or 35 feet.

**D. Yard Areas** – No buildings shall be hereafter erected, altered or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

Front yard - Not less than 50 feet

Side yard - Not less than 40 feet. Where abutting an R District, there shall be provided within the side yard requirement a buffer area of not less than 10 feet

Rear yard - Same as side yard requirements.

**E. Percentage of Lot Coverage** – Buildings, including accessory uses shall cover not more than 40% of the total lot area.

**F. Off-Street Parking and Loading Facilities** – Shall be provided as required or permitted under Article XI.

**G. CONDITIONS FOR GRANT OF SPECIAL EXCEPTION:**

1. All activities, except for accessory uses, shall be conducted within a completely enclosed building.

2. No C-2 District shall comprise an area of less than 5 acres.

3. The Zoning Hearing Board shall grant a special exception for occupancy of a tract or for the construction of a building or structure in a Planned Shopping District or lot therein in accordance with the provisions and procedure of this ordinance only upon an affirmative finding that the following requirements have been met by the owner, owners, developer, developers, or petitioner for the tract or lot proposed for commercial development.

a. Traffic Study

(1) To include a comparative analysis of present capacity of street(s) adjacent to the proposed business with potential capacity and volumes generated by the proposed development, together with necessary points of access to off-street parking and loading. Traffic data available in the Upper Yoder Comprehensive Plan may be utilized providing that such data is deemed current by the Planning Commission.

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

b. Landscape Development Plan

(1) To include a plan of landscape development which shall, among other considerations, consist of an area of at least 5 feet in width parallel to both sides of all streets, with the exception of approved entrances, to be planted and maintained with trees, shrubbery or other landscape material or ornamental fence or wall to serve as a visual screen for the parking areas and loading or servicing areas.

(2) A buffer area of suitable landscaping maintained at a height of 8 feet by 10 feet in width wherever the district abuts an R District.

(3) The location, arrangement, size and effect of all outdoor advertising or other signs and lighting proposed to be erected.

H. Other Approvals – Any other authority approval required, when applicable, such as Department of Environmental Resources, PADOT and similar organizations shall be obtained before applying for a building or occupancy permit.

**SECTION 603 – C-3 Research-Office District** – Within the Research-Office District the following regulations apply:

A. Permitted Uses – Upon grant of a special exception by the Zoning Hearing Board that all requirements herein are met:

General offices for business and industry laboratory for research and development, professional offices and related activities.

Similar type research-office use not specifically listed herein when authorized by special



exception of the Zoning Hearing Board after receipt and review of recommendations from the Planning Commission. Such authorized uses may include limited light manufacturing provided all activities are conducted indoors.

Telecommunication towers as per Section 1011

Small site telecommunications facilities, as per Section 1013

**B. Non-Permitted Uses:**

Surface Mining and Associated Deep Mining Facilities

Commercial Power Generating Windmills

Farm or truck garden

C. Height: The maximum height of buildings hereafter erected, altered or enlarged shall be 2 stories or 35 feet, unless otherwise regulated under Article X: SUPPLEMENTARY REGULATIONS

D. Lot Coverage – Not to exceed 40% of the lot area.

E. Building Line – No buildings shall be hereafter erected, altered or enlarged closer than 50 feet to any public right-of-way. When abutting an R District, no building shall be closer than 75 feet of which 10 feet will be maintained as a landscaped buffer.

**F. CONDITIONS FOR GRANT OF SPECIAL EXCEPTION:**

1. All activities except for accessory uses shall be conducted within a completely enclosed building.

2. No C-3 District shall comprise an area of less than 1 acre.

3. The Zoning Hearing Board may grant a special exception for occupancy of a tract or construction of a building in a Research- Office District or lot therein in accordance with the provisions procedure of this ordinance and upon an affirmative finding that following requirements have been met by owner, owners, developer, developers, or petitioners for the tract or lot proposed for commercial development.

**(a) Traffic Study**

(1) To include a comparative analysis of present capacity of street(s) adjacent to the proposed business with potential capacity and volumes generated by the proposed development, together with necessary points of access to off-street parking and loading. Traffic data available in the Upper Yoder Comprehensive Plan may be utilized providing that such data is deemed current.

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

(b) Landscape Development Plan

(1) To include a plan of landscape development which shall consist of, among other considerations, an area of at least 5 feet in width along all streets and vehicular access ways, with the exception of approved entrances, to be planted and maintained with trees, shrubbery, or other landscape material or ornamental fence or wall to serve as a visual screen for the parking areas and loading or servicing areas.

(2) A buffer area consisting of suitable landscaping maintained wherever the proposed business abuts an R District.

(3) The location, arrangement, size and effect of all on-site outdoor advertising, announcements or other signs and lighting proposed to be erected.

G. Limitation of Use – Any light manufacturing use must be one which creates a minimum amount of nuisance outside the plant; is conducted entirely within enclosed buildings, does not use the open area around such buildings for storage of raw materials or manufactured products unless screened from public view or for any other industrial purpose other than transporting goods between buildings; and which is not noxious or offensive by reason of the emission of smoke, dust, fumes, gas, odors, noises or vibrations beyond the confines of the building.

H. Other Approvals – Any other authority approval required, when applicable, such as Department of Environmental Resources, PADOT and similar organizations shall be obtained before applying for a building or occupancy permit.

I. Architectural Controls – Architectural plans of the building or buildings and structures proposed to be constructed shall be subject to the approval of the Zoning Hearing Board. The Zoning Hearing Board approval will be based on the architectural plans creating a unified design which will be in character and proper relationship to the surrounding areas.

J. Off-Street Parking and Loading Facilities – Shall be provided as required or permitted under Article XI.

## **ARTICLE VII – PROVISIONS GOVERNING THE MANUFACTURING DISTRICTS**

**SECTION 701 – M-1 Manufacturing District** – Within the Manufacturing District, the following regulations apply:

A. Permitted Uses – Upon grant of a special exception by the Zoning Hearing Board that all requirements herein are met:

A manufacturing use is one which creates a minimum amount of nuisance outside the plant; is conducted entirely within enclosed buildings, does not use the open area around such buildings for storage of raw materials or manufactured products unless screened from public view or for any other purpose other than transporting goods between buildings; and which is not noxious or offensive by reason of the emission of smoke, dust, fumes, gas, odors, noises or vibrations beyond the confines of the building.

Automobile repair, major

Bakery

Billboards, as regulated by Article XIII

Bottling work / Non-Alcoholic & Non-Controlled Substances

Building materials yard or establishment

Cabinet making establishments and carpenter shops

Clothing factory

Dairy

Dry-cleaning plant

Dyeing plant

Laundry

Machine Shop

Milk distribution station

Optical good factory

Paper box factory

Pencil factory

Printing, publication and engraving plant

Research and development organization

Sheet metal shop

Small site telecommunications facilities, as per Section 1013

Steel fabrication

Storage firm

Trucking terminal

Welding shop

Wholesale business

Any other compatible type manufacturing use

Accessory uses:

Fence or ornamental wall not over 8 feet in height

Garage, Shed or building for storage

Small scale wind generators, as per Section 1008

Outdoor furnace, as per section 1012

Signs, including electronic changeable message signs, as regulated under Article XIII.

B. Non-Permitted Uses:

Surface Mining and Associated Deep Mining Facilities

Telecommunications Towers

Commercial Power Generating Windmills

Farm or truck garden

Production / Bottling Work for Alcoholic / Controlled Substances

B. Height – The maximum height of building hereafter erected or altered shall be a maximum of three stories or 40 feet, unless otherwise regulated under Article X: SUPPLEMENTARY REGULATIONS.

C. Yard Areas – No building or structure shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

Front yard – not less than 50 feet.

Side or rear yard – On each side, not less than 15 feet. When abutting a street, not less than 50 feet. For a lot which abuts upon an R District, there shall be provided a yard equal to one-half the front yard required in the abutting R District, plus a buffer area of not less than 15 feet.

Railroad siding frontage – No yards are required for those portions of lots which abut railroad sidings.

D. Off-Street Parking and Loading Facilities – Off-street parking and loading facilities will be provided as required under Article XI herein.

E. Planting Areas – Landscape development in an area of at least 5 feet in width along all streets shall be planted and maintained with trees and shrubbery to serve as a screen for parking and storage areas. Ornamental fence or wall may be used in lieu of landscaping. A planting screen, consisting of suitable shrubbery maintained at an 8 foot height by 8 foot width, shall be planted within a buffer area which shall be required when the M-1 District abuts an R District.

## **ARTICLE VIII – PROVISIONS GOVERNING FLOOD PLAIN**

### **DISTRICTS**

GENERAL PROVISIONS – The following incorporates Upper Yoder Township Ordinance No. 276 Flood Plain Management, enacted on February 16, 2012, as may be amended, and Ordinance No. 270, enacted on July 15, 2010, as may be amended and complying with any State or Federal regulations.

## **ARTICLE IX – PROVISIONS GOVERNING CONSERVANCY DISTRICTS**

**SECTION 901 – “S” Conservancy District** – The “S” Conservancy District is intended to preserve the scenic and ecological values of the townships’ steep hillside lands, waterways, environmentally sensitive forest lands and soil types through the prohibition or restriction of commercial, industrial and most residential development. The Conservancy District allows for low density “single-family” residential development, and the continuation of existing farming operations.

### **A. Permitted Uses:**

Scenic or natural preservation;

Single Family detached;

Farming;

Forestry;

Lodges or clubs for hunting, fishing, gunning or other similar recreational purposes.

Small site telecommunications facilities, as per Section 1013

### **B. Uses permitted by special exception:**

Resort-type residential establishment when associated with recreation or group-oriented activities on the premises;

Open Recreational Use when operated by a non-profit organization (hiking trails, fishing and boating, picnicking camps).

Surface Mining; and Deep Mining Operations (provided all disturbed land is properly backfilled and/or returned to its original contours).

Gas & Oil Extraction, as per Section 1007

Permanent Compressor Stations / facility Buildings associated with the extraction of Natural Gas, Methane gas or Oil, as per Section 1007

### **C. Accessory Uses:**

Private garage

Home Occupation – Home Office

Home Occupation – Home Business, as per special exception from the Zoning Hearing Board in accordance with Section 1006.

Outdoor furnace, as per Section 1012

Fence or ornamental wall not over 6 feet in height (rear and side yards only)

Fence, not over 4 feet in height (front yard only) having a ratio of solid to open portions of the fence not to exceed 1:4.

Raising and keeping of domestic animals as pets, but not on a commercial basis or on a scale objectionable to neighboring property owners, and provided specifically that all horses, pigs, cattle, poultry, sheep, goats, and similar farm animals not be permitted unless a minimum lot area of five (5) acre is maintained.

Cultivation of plants – non-commercial

Private swimming pools appurtenant to a dwelling. Swimming pools or the property on which they are located must be adequately fenced to prevent free access of small children and meet all applicable health and sanitary requirements

Parking of accessory vehicles, such as boats, boat trailers and house trailers, or campers, not used as dwellings on the premises, provided that the location of the parked vehicles shall be a minimum of ten (10) feet from a rear or side property lines, and a minimum of twenty (20) feet from a front property line. All accessory vehicles shall be owned by the residents of the property on which it is parked, and shall maintain current inspection and registration, as applicable for the type of accessory vehicle.

Children's playhouse, garden house, private (non-commercial) greenhouse

A garage, shed or building for domestic storage

**D. Non-Permitted Uses:**

Telecommunications Towers

Commercial Power Generating Windmills

**E. Set backs:**

Except for farming uses, no building or structure shall be erected or enlarged unless the minimum set backs are provided for: Interior Lot:

Front – 50 feet

Rear - 25 feet

Side - 50 feet

Corner Lot: Street sides – 50 feet



Interior - 25 feet

F. Height – The maximum height of buildings hereafter erected or altered shall be as follows:

One-family detached dwelling – 35 feet or 2-1/2 stories

Church or similar place of worship – 45 feet for the principal building and 75 feet for steeples or towers.

Accessory building – 20 feet

Any other permitted building – 35 feet or 2-1/2 stories

G. Lot Area – The minimum lot area for every building hereafter erected or altered shall be as follows:

Residential Use – 2 acres and 200 feet at building line

Other permitted uses – 10 acres and width at building line of 300 feet

H. Percentage of Lot Coverage – All buildings, including accessory uses, shall not cover more than 5% of the total lot area.

I. Dwelling Standards – Every one-story dwelling hereafter erected or altered shall have a habitable living area of not less than 1,400 square feet. Every dwelling of more than one story hereafter erected or altered shall have a total habitable living area of not less than 1,800 square feet.

J. Off Street Parking – Shall be provided as under Article XI.

K. Signs – Shall be as provided under Article XIII.

## **ARTICLE X – SUPPLEMENTARY REGULATIONS**

**SECTION 1001 – Additional Height, Area, Yard and Fence Regulations** – The district regulations set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this ordinance.

A. Additional Height Regulations – Single-family dwellings and two-family dwellings may be increased in height by not more than 10 feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than 10 feet, but they shall not exceed 3 stories in height. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers and spires, radio towers or necessary mechanical appurtenances may be erected to be height above the limitations of the district but not to exceed 15 feet over such limitations.

B. Additional Area Regulations – No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes unless the main building on the lot is also being used for dwelling purposes.

More than one industrial, commercial, multiple-family dwelling or institutional building may be erected upon a single lot or tract, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by such buildings, nor shall there be any charge in the density of use requirements.

When more than one multiple-family dwelling building is erected upon a single lot or tract, the minimum distances between main buildings shall be the following:

- a. Front to front, 70 feet; front to rear, 60 feet;
- b. Side to side,  $\frac{1}{2}$  the height of the tallest building, but not less than 20 feet;
- c. Front to side or rear to side, the height of the tallest building but not less than 30 feet;
- d. Rear to rear, 50 feet.

C. Additional Yard and Fence Regulations – Accessory buildings which are not a part of the main building may be built in a rear or side yard within 5 feet of the lot line. An accessory building which is not a part of the main building shall not occupy more than 30% of the required yard.

No accessory building or structure, except a fence or wall, may be located within a required buffer area.

Every part of a required yard shall be open to the sky and unobstructed except for accessory building in the rear yard and except for the ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not more than 12 inches from the main building. No solid fences shall be erected, except as hereinafter provided.

A solid free-standing fence may only be used to enclose a swimming pool, and shall not exceed a maximum height of 6 feet.

Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies projecting in a yard not more than 4 feet, 6 inches, and the ordinary projections of chimneys and flues may be permitted by the Zoning Officer. For the purpose of side yard requirements, a two-family dwelling shall be considered as one building occupying a single lot.

Terraces, uncovered porches, platforms and ornamental features which do not extend more than 3 feet above the floor level of the first (ground) story may project into a required side yard, provided these projections are a distance of at least 5 feet from the adjacent side lot lines.

**SECTION 1002 – Slope Area Restrictions** – The regulations set forth in this section apply in all instances and to all Districts where appropriate, and supplement the District regulations which appear elsewhere in this ordinance.

**A. Slope Regulations Shall Apply When**

1. The average cross slope of that portion of the parcel to be developed exceeds 20%. “Development Portion”, for purposes of this article shall be interpreted to mean the building area on which the structure is situated, plus all required yard areas, parking lots or other required land area in conjunction with any site development.

2. The development of the property will unduly increase the danger of storm water, sewerage drainage, or other run-off and result in erosion or other damage to surrounding lands.

**B. Lot Areas** –The lot or parcel shall contain a minimum area of 3 acres for residential uses and a minimum area of 10 acres for all other uses.

**C. Yard Areas and Set Backs** – No buildings or structures shall be constructed or enlarged unless the following set-back lines and yards are established and maintained in connection with said buildings.

1. There shall be established and maintained a set-back building line of not less than 100 feet for every structure from any public right-of-way.

2. Side and rear yards of not less than 75 feet shall be maintained, except that where a non-residential use abuts a residential district, yard widths of at least 100 feet shall be established and maintained.

3. If it is determined by the Health Inspector of the Township or of the State Health Department that the above cited yard area and set-back requirements are not sufficient to properly and safely accommodate onsite sewage disposal systems, the Board of Adjustment shall require greater yard areas and set-back minimums as deemed necessary to meet the intent and purposes of this ordinance, prior to the issuance of a zoning permit by the Zoning Officer.

**D. Planting Area**

1. A planting screen consisting of suitable shrubbery and trees maintained at an average height of at least 8 feet and a width or depth of at least 25 feet, shall be planted and maintained in the area between any building and the property line of a non-residential use which abuts a residence district.
2. Where trees already exist within the screen area specified above, these trees shall remain undisturbed except that diseased or dead material may be removed. Trees may be removed to provide access for utility lines across required planting screen; however, all care must be exercised not to disturb the larger, more desirable tree which are living.
3. When any tree is removed, it shall be replaced by a seedling suitable to the environment. All such replacement planting shall be in accordance with accepted conservation practices.

#### **SECTION 1003 – Manufactured Home Park Restrictions**

- A. Use – Manufactured Home Parks shall be permitted in an R-6 Residential District only.
- B. Lot Area – The minimum area for every manufactured home park hereafter developed shall be 5 acres.
- C. Plot Plan – Each application shall be accompanied by 3 copies of a plot plan drawn at a scale of 1 inch equals 20 feet, prepared by a licensed surveyor or engineer, showing limits and square footage of the proposed manufactured park and location and size of driveways, parking areas, drying areas, playgrounds, service buildings, other buildings, trailer lots, together with required setbacks from rights of way and property lines. All manufactured home lots shall be numbered in sequence on the plot plan.
- D. Minimum Lot Area For Each Manufactured Home – The minimum unit area for each manufactured home lot used or occupied by and under each manufactured home shall be as follows:
  - (a) 75% of the lots in any one manufactured home park shall be not less than 2,100 square feet in area.
  - (b) 25% of the lots in any one manufactured home park shall be not less than 1,800 square feet in area.
  - (c) Density in any manufactured home park shall not exceed 10 units per gross area.
- E. Minimum Width of Manufactured Home Lots – The minimum width for each manufactured home lot shall be 30 feet.
- F. Minimum Distance Between Manufactured Homes – No manufactured home shall be placed within 15 feet of another; provided that with respect to manufactured homes parked end-to-end, the distance between manufactured homes so parked shall be not less than 10 feet.
- G. Setbacks – No manufactured home shall be placed a lesser distance from the manufactured home park boundary than the side yard width required in the zoning district which abuts each boundary line. In no case shall a manufactured home be parked less than 10 feet from the manufactured home park boundary.

All manufactured homes shall be set forth from any public street the same distance as buildings are required to set back in the zoning district in which the manufactured home park is located.

H. Markers – Every manufactured home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the plot plan.

I. Driveways – The minimum lane or driveway on which an individual manufactured home lot fronts shall be 28 feet in width. In cases where driveways dead-end, there shall be constructed at each such dead-end a cul-de-sac with a minimum turning radius of 38 feet. All construction material for such roads shall meet established township requirements. When an entrance to any manufactured home park is from a state highway, approval of said entrance from the State Highway Department must be secured before said development is approved.

J. Water and Sewer Facilities – An adequate supply of water approved by the Health Department shall be furnished from a public water supply system or from a private water system conforming to all applicable laws, regulations, resolutions and ordinances, with supply faucets located on each manufactured home lot. In each manufactured home park, all waste water from a faucet, toilet, tub, shower, sink, drain, washing machine, garbage disposal unit or laundry shall empty into an approved sewer system installed in accordance with State and Township regulations.

M. Storage Tanks – Gasoline, liquefied petroleum, gas or oil storage tanks shall be installed as to comply with all County, State and National Fire Prevention Code Regulations.

N. Playgrounds – The purpose of this section is to provide for areas and facilities for recreational purposes appropriate to the needs of the occupants. At least 50 square feet of playground space shall be provided and maintained for each manufactured home lot. Each manufactured home park must provide not less than 1 playground, and no playground shall be less than 2,500 square feet in area. Such areas shall be used exclusively for playground purposes.

O. Additions to Manufactured Home – No permanent or semi-permanent structure shall be affixed to any manufactured home as an addition to such manufactured home, nor shall any accessory structure be permitted on any manufactured home lot or in any manufactured home park except those accessory structures required by these regulations and an office structure. The prohibition herein against any addition to accessory to a manufactured home shall not apply to a canopy or awning designed for use with a manufactured home. The manufactured home lot coverage of a manufactured home shall not exceed 30% of the total manufactured home lot area.

P. General Conditions – All procedures for development of a manufactured home park shall be the same as required for a Special Exception as specified in the Zoning Regulations.

#### **SECTION 1004 – Private, Community or Club Swimming Pools**

A. Private Swimming Pool – Definition – A private swimming pool in the ground or prefabricated installation above the ground shall be any pool, lake or open tank not located within a completely

enclosed building, containing or normally capable of containing water to a depth at any point greater than 24" feet.

B. Private Swimming Pools – Use and Location – The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located, and their guests, and no fee shall be charged. It shall not be located, including any structures adjacent thereto, closer than 15 feet to any property line of the property on which it is located.

The swimming pool shall be so walled or substantially fenced so as to prevent uncontrolled external access by children or other third parties. Said fence or wall shall be not less than 4 feet in height, maintained in good condition, contain locking devices, and shall be erected concurrently with construction of the pool or prior to any pool being filled with water.

A fence which is an integral part of the construction of the pool must be attached thereto for other than the purpose of containing the contents of the pool. Said fence shall exceed the height of the side wall of the above-ground pool by a minimum of 2 feet, but shall not exceed a maximum height of 8 feet from ground level.

A solid free-standing fence may only be used to enclose a swimming pool, and shall not exceed a maximum height of 6 feet, when not attached to the pool structure.

Building permits shall be required for all swimming pools. For purposes and application of this section, any swimming pool which was constructed prior to the effective date of this ordinance shall be walled or fenced as hereinabove provided.

C. Community or Club Swimming Pools – A community or club swimming pool shall be any pool constructed by an association of property owners, or by a private club solely for use and enjoyment by members of the association or club and their families and guests of members, or any pool constructed for the use of three or more residences, whether such residences are permanent residences (as in the case of an apartment building) or transient residences (as in the case of a motel). Community and club swimming pools shall comply with the following conditions and requirements:

1. The pool and accessory structures thereto, including the areas used by bathers, shall not be closer than 100 feet to any property line of the property on which it is located.

2. The swimming pool and all of the area used by bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties. The said fence or wall shall not be less than 6 feet in height, maintained in good condition and be erected prior to any filling of the pool with water. The area surrounding the enclosure, except the parking spaces, shall be suitably landscaped with grass, hardy shrubs and trees, and maintained in good condition.

D. Department of Environment Resources – All swimming pools shall conform to the Pennsylvania Department of Environmental Resource Standards.

**SECTION 1005 – Satellite Television Antennas** – No satellite television antennas shall be constructed without conforming with the following regulations.

A. Satellite Antenna Location – In any commercial, manufacturing or multi-family residential zone, satellite television antennas may be located within the buildable area on the lot or buildings therein. In a non-commercial or single family zone, subject to the provisions contained herein, such antenna shall be located in the rear yard of any lot. If satellite signals cannot be clearly received from such rear yards, the antennas may be located on the side yard. In either case, the placement of such antennas must conform to the set-back distance required of storage sheds. In the even that satellite signals cannot be received by locating the satellite television antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of the dwelling structures, provided that a special satellite use permit is obtained prior to such installation. Such permit may then be issued upon a showing by the applicant that satellite signals are not receivable from any location on the property other than the location selected by the applicant. A building permit is required for all satellite antennas.

B. Antenna Size – In a non-commercial or single-family a zone, satellite television antennas shall not exceed 12 feet in diameter, and a ground-mounted satellite television antenna shall not exceed 20 feet in height, including any platform or structure upon which said antenna is mounted or affixed. If satellite signals cannot be obtained from a satellite television antenna installed in compliance with the aforementioned height limitation, such antenna may be installed at a greater height, provided that a special satellite use permit is obtained prior to such installation. Such permit shall be issued upon a showing by the applicant that installation at a height greater than 20 feet is necessary for the reception of satellite signals. Except in a commercial, manufacturing or multi-family residential zone, satellite television antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level and from public streets. Satellite television antennas shall meet all manufacturers' specifications, shall be of non-combustible and corrosive-resistant material, and shall be erected in a secure, wind-resistant manner. Every satellite television antenna shall be adequately grounded for protection against a direct strike of lightning.

**Section 1006 – Home Occupation – Home Business**

Section 1006.01. An accessory use of a service character within a dwelling by residents which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small sign.

1006.02. Criteria for Special Exception Review:

The Zoning Hearing Board shall take into consideration the following issues when reviewing any Home Occupation – Home Business petition for a Special Exception:

- a. Adequate provisions for off-street parking for clients, along with adequate access to the driveway or parking area at the property.
- b. The proposed use will be conducted indoors.

- c. The proposed use will not require the storage of materials or equipment in exterior areas of the property.
- d. The proposed use shall not employ more than two (2) persons other than resident family members.
- e. The proposed use will not constitute more than 25% of the habitable living space of the dwelling unit.

#### **Section 1007 – Gas and Oil Extraction**

##### **Section 1007.01. GENERAL**

Oil and Gas drilling and extraction shall be permitted by special exception in the R-1, R-2 and S - Conservancy zoning districts of Upper Yoder Township. Submission and approval of a site plan containing all information required under Section 408 of this Ordinance to the Township Planning Commission and Board of Supervisors shall be required.

##### **1007.02. Criteria for Special Exception Review:**

The Zoning Hearing Board shall take into consideration the following issues when reviewing any petition for a special exception for permanent compressor station buildings or facilities associated with the extraction, collection, or distribution of natural gas, methane gas, or oil:

Oil or Natural gas compressors may be approved and authorized as a special exception in an area of the township as a Special Exception, which shall only be granted following a showing to the Zoning Hearing Board of the following;

- a. Setback at least 1000 feet from a property boundary, unless a waiver has been obtained from the owner of the adjacent property.
- b. Provisions for noise attenuation using best available practices, including mufflers and sound attenuating building materials for a structure around a compressor. Sound shall be no greater than 30 decibels at the nearest property boundary for which a waiver has not been obtained.
- c. Compliance with lot coverage, property line setback and height restrictions as provided for in the underlying zoning district.
- d. Landscape planting, painting or other features of construction to limit visual impact of the compressor building, when located in an S, R-R, R-1 or R-2 district.
- e. Driveway access approved by the governmental agency responsible for maintenance and operation of the public roadway.
- f. Sufficient on site, parking to avoid vehicles being parked upon public roadways.



- g. A maintenance plan including schedule for maintenance and standards to assure safe and noise free operation in the future, which plan shall be made a condition of ongoing use and operation of the compressor station.
- h. All buildings, facilities, equipment, and land areas shall be properly maintained, so as to not create a public nuisance or unsightly condition.
- i. No permit shall be issued without State or Federal approval, by way of permit or license. Minimum compliance with State or Federal regulations and permitting shall be maintained for transport and storage of any and all byproducts, waste products, and primary products or chemicals used.

#### **Section 1008 - Small Scale Wind Generators**

Small scale windmills for the purpose of serving residential or commercial buildings on site shall be permitted as an accessory use in all Zoning Districts. The following criteria shall be met prior to issuance of a permit for any small scale windmill:

(1) The structure employed shall be subject to site plan approval by the Upper Yoder Township Planning Commission. The site plan shall be drawn to an appropriate scale and shall provide construction details and show the location of all existing public roads, existing structures, utility lines and all structures, facilities and power lines to be constructed on the site, as well as identifying adjoining property owners, and the location of any structures on adjoining properties within 100 feet of the common property lines.

(2) Facilities, including but not limited to towers, shall be safe and neat construction to be approved by the Planning Commission and Board of Supervisors, and subject to any requirements of the Uniform Construction Code and manufacturer's recommendations.

(3) Towers shall be located at least 100 feet from all property lines. Other facilities must follow generally applicable setbacks within the particular zoning district.

(1) Towers shall be no more than 35 feet in height from the elevation of the ground at the base of the tower, before the placement of fill, to the top of the blade.

(2) No more than two towers shall be located upon a property or serve a single commercial or residential structure.

(3) The property owner shall construct and maintain the windmill and tower in a safe a neat manner so as not to present a danger to neighbors or to present an unsightly appearance. The property owner receiving site plan approval shall provide a verified report of a qualified engineer as to the structural integrity of the tower and windmill assembly, or shall construct said windmill in accordance with the manufacturer's specifications.

### **Section 1009 - Commercial Power Generating Windmills**

Nothing in this Article is intended to apply to small windmills constructed on a person's property for the purpose of providing power for use on the property or those providing meteorological data and which otherwise meet the requirements of Section 1008 of this Ordinance.

A. Commercial Power Production from Windmills may be permitted by special exception in the R-6 Multiple Family Residential District only, as a special exception from the Zoning Hearing Board provided that the Zoning Hearing Board determines that:

1. The Developer has submitted a Site Plan containing all information required under Section 408 of this Ordinance. The Site Plan shall show each facility proposed as part of the development and shall include:
  - a) A future no build area around the base of each tower equal in radius to the total height of the tower plus 50 feet.
  - b) The traffic route to be utilized in bringing construction materials to (and from) the site. (May be a separate sheet with a different scale)
  - c) Names and addresses of all property owners and location of all structures within the "tower setback distance" plus 2,500 feet of any the facilities. The applicant must provide written notice of application to all property owners and tenants occupying property with structures located within the "tower setback distance" of any of the proposed facilities. Proof of service of such notice by Certified Mail or notarized Affidavit of hand delivery must be provided with the application.
  - d) Major construction details of all facilities including size, and materials and power output specifications for each wind turbine.
  - e) Location and construction details including Erosion and Sedimentation controls, stormwater management, drainage for of all private roads to be constructed on site for the construction, maintenance and operation of the facilities.
2. The Developer submits a transportation plan outlining access to the site during construction which avoids to the greatest extent possible schools, playgrounds and residential areas of the township.
3. The Developer provides a calculation of the costs of removal and salvage value of each facility and provides a bond, cash or irrevocable letter of credit to cover any deficiency. As a condition of approval the calculation must be revised and resubmitted to the Township every two (2) years.
4. The Developer shall provide a list of conditions to be followed during construction to ensure that erosion and sedimentation standards shall be met during construction and operation of the facilities.
5. The Developer shall provide evidence that lighting, except as required by Federal Aviation Administration rules and regulations, shall not interfere with other adjoining properties or uses. Developer shall demonstrate that extraneous lighting has been minimized to the greatest extent possible.

6. The Developer provides evidence that any sound created by operation of the wind turbine at the nearest occupied residential structure is no more than 45 decibels.

B. Setbacks. The wind turbine generators shall comply with the following setbacks:

(1) Structures.

(i) Civil Structures. Each wind turbine generator shall be set back from any existing (at the time of the building permit issuance) residence, school, hospital, church or public library, a distance of not less than 2,000 feet.

(ii) No wind turbine generator shall be located within a distance of 2,000 feet from any occupied residence or occupied commercial structure existing at the time of the erection of the wind turbine generators, unless the owner of such existing residential or commercial structure shall have executed a written waiver or non-disturbance easement, covenant or consent, any of the aforementioned which has been recorded in the Office of the Recorder of Deeds of Cambria County, Pennsylvania. Such easement or covenant shall run with the land and, at a minimum, provide that the said property owner waives and releases any and all claims, damages and/or losses resulting from higher noise levels, visual impacts or flickering reflections and/or shadows which may arise as a result of the location of a wind turbine generator within the established setback distance of an existing residential or commercial structure on the property of the owner executing same. Such easement, covenant or consent shall meet such requirements as to form and content consistent with this Agreement as may be required by the Township.

(2) Property Lines. In addition to set backs from structures set forth above, Each wind turbine generator shall be set back from the nearest property line a distance of no less than 5 times its total height. This distance may be waived among both participating and non-participating property owners with written permission by adjacent property owners.

(3) Public Roads. In addition to set backs from structures set forth above, each wind turbine generator shall be set back from the nearest public road a distance of no less than two times its total height, determined at the nearest boundary of the right-of-way for such public road. Unless conclusive evidence exists to the contrary, the public road right-of-way is presumed to be 66 feet.

(4) Communication and Electric Lines. Each wind turbine generator shall be set back from the nearest above-ground public electric power line or public telephone line a distance of no less than 1½ times its total height, determined from the existing power line or telephone line, unless otherwise agreed to or waived by the easement holder.

C. Noise. Developer/Permittee shall comply with the following noise standards:

(a) Developer/Permittee shall maintain a noise level attributable to the wind turbine generators of not more than 45dbA within a reasonable margin of error as measured at existing

Non-Participating residences;

(b) The Parties acknowledge that the Project's construction will be the source of intermittent noise. Developer/Permittee shall require all contractors to incorporate reasonable noise reduction measures in order to mitigate the amount of noise generated during the construction phase.

D. Safety. Developer/Permittee shall comply with the following safety standards:

- (a) All wiring between the wind turbine generators and the substation shall be underground to the extent practicable;
- (b) The outside of the wind turbine generator towers shall not be climbable;
- (c) All access doors to the towers and electrical equipment shall be locked;
- (d) Appropriate warning signage shall be placed on each tower, all electrical equipment, and all entrances;
- (e) Developer/Permittee shall abide by all applicable local, state and federal fire code and emergency services guidelines;
- (f) All wind turbine generators shall be equipped with portable fire extinguishers, unless the local fire department or municipal engineer provides written documentation establishing that the same is not necessary;

E. Maintenance, Repair & Replacement. Developer/Permittee shall repair, maintain and replace the wind turbine generators and associated equipment during the Term of this Agreement in a manner consistent with Good Utility Practice as needed to keep the Project in good repair and operating condition. Developer/Permittee shall cause its Operations and Maintenance provider ("O&M Personnel") to comply with the following schedule:

1. At least once every thirty-six (36) months the individual wind turbine generators shall be inspected by Operation and Maintenance Personnel, or its agent, who is regularly involved in the maintenance, inspection and/or erection of wind turbine generators, towers and antennas. At a minimum, this inspection shall be conducted in accordance with the provisions of this agreement and in accordance with the wind turbine generator inspection check list provided by the Parties respective Engineers, as applicable. This is considered a major inspection.

2. At least once every twelve (12) months a visual inspection from ground shall be conducted by O&M Personnel. This inspection shall include, but not be limited to, visual inspection of wind turbine generator foundations, structures, guys, and connections for evidence of settlement or lateral movement; soil erosion; condition of paint or galvanizing; rust or corrosion, loose or missing bolts, loose or corroded lightning protection connectors; wind turbine generator tower plumbness; significant variation in guy sags (i.e. guy tensions), and other material areas or matters relating to the structural integrity of the wind turbine generator. This is considered a minor inspection.

3. In addition to the regularly scheduled major and minor inspections set forth in paragraphs 1 and 2 above, a minor inspection, at a minimum will be conducted if a wind turbine generator or its appurtenances are noted at any time to be visibly damaged. Additionally a major inspection should be conducted if the visible damage to a wind turbine generator is significant or when, after conducting a minor inspection, significant questions remain about the structural integrity of a wind turbine generator.

4. Developer/Permittee shall provide an annual letter to the Township certifying compliance with the inspection requirements of this Section.

F. Wind Turbine Generator Removal. Each wind turbine generator and all related improvements shall be removed within 12 months of the date when the use of the particular wind turbine generator has been discontinued or abandoned by Developer/Permittee, or upon expiration of this Agreement, whichever is earlier. At the time of its removal, a wind turbine generator will be decommissioned and removed by the Developer / Permittee. In the absence of compliance by the Developer / Permittee, the property owner shall be solely responsible for compliance, except for any concrete structure four feet below grade. Upon removal, the land used for the removed wind turbine generator and associated equipment will be restored to its original condition. Roads, at the property owner's request, may be left intact.

Developer/Permittee shall assure funding of these removal obligations by providing a security instrument to the Township in a form, amount and containing such terms and provisions under the terms and conditions imposed by the Upper Yoder Township Zoning Hearing Board with the granting of any special exception. The security shall be maintained in effect upon the commencement of construction and for the entire life of the Project and adjusted annually for inflation in an amount equal to the preceding year's annual increase in the Consumer Price Index.

Developer/Permittee shall also furnish satisfactory evidence to the Township that the Developer/Permittee has included in a lease agreement or other agreement with property owner a provision for the decommissioning and removal of the wind turbine generators and restoration of the site at the time when a wind turbine generator no longer has a useful life, has been discontinued, abandoned, and/or upon expiration of this Agreement, whichever occurs first. Developer/Permittee shall demonstrate sufficient security by meeting the following requirement:

Developer/Permittee shall immediately following the first year of operation and every fifth year thereafter, at its own expense, retain an independent engineer acceptable to the Township to estimate the cost of decommissioning and removal of the wind turbine generators and restoration of the site. Developer/Permittee shall submit such report to the Township upon receipt. Developer/Permittee shall maintain the security in an amount using the greater of either fifty percent (50%) of the cost of decommissioning the wind turbine generators without regard to salvage value of the wind turbine generators, or the actual cost of decommissioning the wind turbine generators taking into account the salvage value of the wind turbine generators.

The Parties agree that the Township shall have the right to enter the property to remove the wind turbine generators in the event that the same is not removed in twelve months with the Township keeping any salvage value obtained from such removal.

The estimated cost of decommissioning will be updated every fifth year, to take into account inflation or other factors deemed relevant by the independent engineer, and approved by the Township engineer, including, but not limited to, any increase or decrease of the market value of the structure and its related components being decommissioned and the cost of labor to perform the decommissioning. Any costs of decommissioning, removal and restoration in excess of the decommissioning shall be promptly paid by the Developer/Permittee to the contractor retained for the removal and restoration.

G. Building Codes; Safety Standards. To ensure the integrity of the wind turbine generators, Developer/Permittee shall maintain the wind turbine generators in compliance with Good Utility Practice for wind turbine generators. If, upon inspection by the Township and/or any other regulatory entity with lawful jurisdiction over the Wind Farm, the Township or such entity provides written notice that any of the wind turbine generators fail to comply with Good Utility Practice or constitutes a danger to persons or property, then Developer/Permittee shall immediately commence corrective action for any failure and/or danger, and shall complete corrective action to bring the non-compliant wind turbine generator(s) into compliance with such standards within 60 days of receipt of notice. If Developer/Permittee is unable to bring the non-compliant wind turbine generator(s) into compliance with such standards within 60 days of receipt of notice, Developer/Permittee shall request an extension from the Township, which shall not be unreasonably withheld and which may include reasonable conditions in order for Developer/Permittee to receive and maintain such extension. Failure to bring such non-compliant wind turbine generator(s) into compliance shall constitute grounds for the Township to request removal of said wind turbine generator(s) at Developer/Permittee's expense. The Township is authorized to file an action for injunctive relief in the Court of Common Pleas of Cambria County, Pennsylvania, to require Developer/Permittee to remove the non-compliant wind turbine generator(s).

H. State and Federal Requirements. The wind turbine generators shall meet current standards and regulations, if any, of any other agency of the state or federal government with the authority to regulate wind turbine generators. If such standards and regulations are changed, then Developer/Permittee shall bring the wind turbine generators into compliance with such applicable revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency or approved by the Township. Failure to bring the wind turbine generators into compliance with such applicable revised standards and regulations shall constitute an Event of Default. The wind turbine generators shall be marked as required by the Federal Aviation Administration (FAA). A Determination of No Hazard for each wind turbine generator must be obtained from the FAA as a condition precedent for the installation of each turbine. Developer/Permittee shall comply with any and all future state and/or federal regulations which are applicable to wind turbine generators or the Wind Farm, unless grandfathered.

I. Design. Each wind turbine generator shall consist of a tubular support, generator, nacelle, and three blades. Each wind turbine generators site will have access roads, underground transmission cabling to connect the generators to an electric substation, and underground fiber optic lines. All wind turbine generator sites shall be designed and constructed in such a fashion as to avoid any disruption and or

interference with private wells, springs and/or other water sources. In the event any problems occur with any private water source, which problems are proximately caused by Developer/Permittee, Developer/Permittee shall immediately supply potable water in such quality and quantity as supplied by the original private water source.

J. Signs. No advertising material or signage other than warning, equipment information or indicia of ownership shall be allowed on the wind turbine generators. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners or waiving, fluttering or revolving devices, but not including weather devices.

K. Lighting. The wind turbine generators shall not be artificially illuminated except as required by the FAA or any other applicable authority. If lighting is required, the lighting alternatives and design chosen will seek to minimize the disturbance to the surrounding views.

L. Aesthetics. The towers and generators of the wind turbine generators shall have a non-reflective, painted steel finish in a neutral color, subject to any applicable standards of the FAA or other regulatory requirements. The blades of the wind turbine generators are not covered by this section.

M. Stray Voltage/Electromagnetic Fields (EMF). Developer/Permittee will utilize Good Utility Practice to minimize, to the extent practicable, the impact, if any, of stray voltage and/or EMF on Non-Participating property. Developer/Permittee expects there will be no stray voltage impacts from the Project because such impacts occur only on distribution facilities which are not included in the Project.

#### **Section 1010 - Temporary Metrologic Towers**

The Zoning Hearing Board may approve a special exception for the establishment of temporary metrologic towers within the R-6 Multiple Family Residential District only, upon the following criteria:

- a. The Developer has submitted a Site Plan for approval which complies with the requirements for a Site Plan under Section 408 of this Ordinance;
- b. The grant of the special exception will be for a period of no more than 12 months, upon the conclusion of which the tower will be entirely dismantled and removed and the conditions returned to original; and
- c. The developer installs and maintains visible fencing around all site facilities.

The location of the meteorological tower is at least five times the height of the tower from an occupied residential structure, or the proposer has received a waiver or consent from the owner of any such residential structure.

#### **Section 1011 Telecommunication Towers**

The Zoning Hearing Board may approve a special exception for the establishment of Telecommunication towers within the C-1, C-2 and C-3, Zoning Districts upon the following criteria:

- A. The Developer has submitted a Site Plan for approval which complies with the requirements for a Site Plan under Section 408 of this Ordinance;
- B. The Developer shall post a bond covering the cost of removal of the tower; and
- C. The developer installs and maintains visible fencing around all site facilities.
- D. The location of the Telecommunications tower is equal to the height of the tower from any adjoining property boundary. Nothing herein shall prevent a developer from obtaining a permanent easement from an adjoining land owner. The developer shall comply with all other safety conditions set forth herein.
- E. Property Lines. In addition to set backs from structures set forth above, Each telecommunications tower shall be set back from the nearest property line a distance of no less than 1.1 times its total height. This distance may be waived among both participating and non-participating property owners with written permission by adjacent property owners.
- F. Public Roads. In addition to set backs from structures set forth above, each telecommunication tower shall be set back from the nearest public road a distance of no less than 1.1 times its total height, determined at the nearest boundary of the right-of-way for such public road. Unless conclusive evidence exists to the contrary, the public road right-of-way is presumed to be 66 feet.
- G. The maximum height of any telecommunications tower shall be limited to 250 feet.
- H. All telecommunication towers shall be sited, designed, constructed, operated, inspected maintained, repaired, modified, removed and replaced in strict compliance with all current applicable federal and state technical and safety codes.
- I. All telecommunications towers shall be operated in accordance with all applicable Federal Communications Commission rules regarding interference with public safety communications or the reception of broadband, television, radio or other communications services.
- J. Collocation. All telecommunications towers, where the Tower is more than 40 feet in height, located outside of the Right-of-Way, shall be designed to accommodate both the applicant's Antennas and comparable Antennas for future users. As a condition of approval for all Tower-Based Wireless Communication Facilities where the Tower is more than 40' in height, the applicant shall agree to allow other service providers to collocate antennas on the tower where technically and economically feasible.
- K. Signage. All telecommunications towers shall include a posted sign at the location. Such signage shall include the ownership, contact name and phone number in the event of an emergency and Federal Communications Commission (FCC) registration number (if applicable). Such signage shall not include commercial advertising and is subject to approval by the municipality.
- L. Lighting. Telecommunications towers shall not be artificially lighted beyond what is required by law.



M. Noise. All telecommunications towers shall be operated and maintained so as not to produce noise in excess of applicable noise standards established by the municipality. The use of a backup generator in emergency situations and periodic maintenance and testing by the wireless communications provider's technicians shall be permitted, where such noise standards may be exceeded on a temporary basis.

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

O. Removal. Each telecommunications tower and all related improvements shall be removed within 12 months of the date when the use of the particular telecommunications tower has been discontinued or abandoned by Developer/Permittee, or upon expiration of this Agreement, whichever is earlier. At the time of its removal, a telecommunications tower will be decommissioned and removed by the Developer / Permittee. In the absence of compliance by the Developer / Permittee, the property owner shall be solely responsible for compliance, except for any concrete structure four feet below grade. Upon removal, the land used for the removed telecommunications tower and associated equipment will be restored to its original condition. Roads, at the property owner's request, may be left intact.

1. Developer/Permittee shall assure funding of these removal obligations by providing a security instrument to the Township in a form, amount and containing such terms and provisions under the terms and conditions imposed by the Upper Yoder Township Zoning Hearing Board with the granting of any special exception. The security shall be maintained in effect upon the commencement of construction and for the entire life of the Project and adjusted annually for inflation in an amount equal to the preceding year's annual increase in the Consumer Price Index.
2. Developer/Permittee shall also furnish satisfactory evidence to the Township that the Developer/Permittee has included in a lease agreement or other agreement with property owner a provision for the decommissioning and removal of the telecommunications tower and restoration of the site at the time when a telecommunications tower no longer has a useful life, has been discontinued, abandoned, and/or upon expiration of this Agreement, whichever occurs first. Developer/Permittee shall demonstrate sufficient security by meeting the following requirement:
  - a. Developer/Permittee shall immediately following the first year of operation and every fifth year thereafter, at its own expense, retain an independent engineer acceptable to the Township to estimate the cost of decommissioning and removal of the telecommunications tower and restoration of the site. Developer/Permittee shall submit such report to the Township upon receipt. Developer/Permittee shall maintain the security in an amount using the greater of either fifty percent (50%) of the cost of decommissioning the wind turbine generators without regard to salvage value of the telecommunications tower, or the actual cost of decommissioning the telecommunications tower taking into account the salvage value of the telecommunications tower.

3. The Parties agree that the Township shall have the right to enter the property to remove the telecommunications tower in the event that the same is not removed in twelve months with the Township keeping any salvage value obtained from such removal.
4. The estimated cost of decommissioning will be updated every fifth year, to take into account inflation or other factors deemed relevant by the independent engineer, and approved by the Township engineer, including, but not limited to, any increase or decrease of the market value of the structure and its related components being decommissioned and the cost of labor to perform the decommissioning. Any costs of decommissioning, removal and restoration in excess of the decommissioning shall be promptly paid by the Developer/Permittee to the contractor retained for the removal and restoration.

#### **Section 1012 – Outdoor Furnaces**

1. Outdoor furnaces shall not be placed less than fifty (50') feet from the nearest point of any other adjacent property owner's structure and shall have a chimney stack, smokestack and/or other source of smoke utilized for the purposes of emitting smoke from a building heating system of at least twenty (20') feet in height and/or at least two (2') feet above the roof line of any structure on the serviced property within ten (10') of said outdoor furnace, when installed. Said chimney stack shall also have a spark arrestor installed.
2. Outdoor furnaces shall not be placed less than fifty (50') feet from the nearest point of intersection of the property line of another property owner.
3. An area of twenty (20') feet around the outdoor furnace structure shall be free of combustible material, including vegetation, except grass not exceeding four (4") inches in height.
4. The minimum required lot size for an outdoor furnace is one (1) acre.
5. No fuel other than natural wood without additive, wood pellets without additive, coal, # 2 heating oil and agricultural seeds in their natural state may be burned in an outdoor furnace or building heating system. Processed wood products and other non-wood products, recyclable materials, plastics, rubber, paper products, garbage and painted or treated wood are prohibited.
6. Furnaces are prohibited to burn between June 1st and August 30th.
7. Outdoor furnaces which are designed to heat structures ten percent (10%) greater than the size of the structure(s) to be heated are not permitted.
8. Outdoor furnaces and associated installation shall be subject to inspection by the Township Code Enforcement Officer at any reasonable time to assure compliance with the terms hereof.
9. Outdoor furnace installation is subject to the permit provisions of the other Township ordinances including, but not limited to, building code ordinances including furnishing the following information:

- a. A drawing providing and identifying all of the information necessary to assure compliance herewith, including property lines, location of neighboring properties and structures, height of nearby buildings, etc.
  - b. Manufacturer's specifications for the outdoor furnace.
  - c. Compliance with all applicable State and Federal statutes including the Environmental Protection Agency (EPA) and the Underwriter's Laboratory (UL) listing.
10. Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.
11. This Section of this Ordinance shall not be a defense to any civil claims.

**Section 1013 – Small Site Telecommunications Facilities / Small Wireless Facilities**

1. Small site telecommunications facilities may be located in any area of the Township, in compliance with zoning district height regulations, or on utility poles located in a street right-of-way, not exceeding fifty (50) feet in height.
  - a. Shall be placed in alignment with existing trees, utility poles, and streetlights.
  - b. Shall be located such that it in no way impedes, obstructs, or hinders the usual pedestrian or vehicular travel, affect public safety, obstruct the legal access to or use of the public ROW, violate applicable law, violate or conflict with public right of way design standards, specifications, or design district requirements, violate the Federal Americans with Disabilities Act of 1990, or in any way create a risk to public health, safety, or welfare.
  - c. Shall be located at intersecting property lines as much as possible.
  - d. Whenever possible, shall be located on the secondary street.
  - e. Shall be located a minimum of 15 feet away from trees or outside of the tree drip line, whichever is greater, to prevent disturbance within the critical root zone of any tree.
  - f. Shall be located at least 5 feet away from the widest part of an alley or drive approach, including any flare associated with the approach.
  - g. Shall not be installed between the perpendicular extension of the primary street-facing wall plane of any single or two-family residence and the street.
  - h. When located adjacent to a commercial establishment, such as a shop or restaurant, care should be taken to locate the pole such that it does not negatively impact the business. The pole shall not be located in-front of store front windows, primary walkways, primary entrances or exits, or in such a way that it would impede a delivery to the building.
2. Small site telecommunications facilities shall be approved and regulated in accordance with Federal Communications Commission rules and regulations, and in accordance with any State rules and regulations that may be enacted.
3. Small site telecommunications facilities shall not require a formal Site Plan as identified in Section 408 of this Ordinance, provided there is no extensive utility or right-of-way modifications, or have support buildings associated with the facility.
4. Removal of Small Site Telecommunications Facilities:

- a. **Abandoned System:** In the event that: 1) the use of any portion of a small wireless facility is discontinued for a continuous period of twelve (12) months, and thirty (30) days after no response to written notice from the Township to the last known address of the wireless provider; or any small wireless facility has been installed in the rights of way without complying with the requirements of this Chapter; a wireless provider shall be deemed to have abandoned such small wireless facility.
- b. **Removal Abandoned Facility:** The Township, upon such terms as it may impose, may give a wireless provider written permission to abandon, without removing, any small wireless facility, or portion thereof, directly constructed, operated or maintained under these regulations. Unless such permission is granted or unless otherwise provided in this Chapter, a wireless provider shall remove within a reasonable time the abandoned small wireless facility and shall restore, using prudent construction standards, any affected rights of way to their former state at the time such system was installed and in accordance with the then adopted engineering standards, so as not to impair their usefulness. In removing its facilities and equipment, a wireless provider shall refill, at its own expense, any excavation necessarily made by it and shall leave all rights of way in as good condition as that prevailing prior to such removal without materially interfering with any utility pole or other utility wires, poles or attachments. The Township shall have the right to inspect and approve the condition of the rights of way, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this Ordinance and any security fund provided in a master license agreement shall continue in full force and effect during the period of removal and until full compliance by a wireless provider with the terms and conditions of this section.
- c. **Transfer Of Abandoned Facility To Township:** Upon abandonment of any small wireless facility or wireless support structure in place, a wireless provider, if required by the Township, shall submit to the Township a written instrument, satisfactory in form to the Township, transferring to the Township the ownership of such poles or equipment allowed to remain within the right-of-way.
- d. **Removal of Above-Ground System:** At the expiration of any term for which approval is granted, or upon its revocation or expiration, in any such case without renewal, extension or transfer, the Township shall have the right to require a provider to remove, at its expense, all above-ground portions of small wireless facilities within a reasonable period of time, which shall not be less than one hundred eighty (180) days.
- e. **Leaving Underground System:** Upon written approval by Township, a wireless provider may abandon underground portions of a small wireless facility in place so long as it does not materially interfere with the use of the rights of way or with the use thereof by any public utility, cable operator or other person.
- f. If a wireless provider defaults under any provision of this Ordinance and such default is not cured within 30 days following notice by Township to wireless provider of its default, Township shall maintain all its rights and remedies, at law and in equity, including the ability to charge fines, recover fees and costs. In the alternative, the Township may remove the

small wireless facilities and associated equipment and charge the reasonable, documented, actual cost to the wireless provider.

5. Franchise Fees:

The owner, operator, or tenant utilizing a small site telecommunications facility shall be subject to any franchise fees associated with colocation within the public right-of-way and/or services provided by the facility, as may be adopted by resolution or separate ordinance of the Board of Supervisors of Upper Yoder Township, duly adopted from time to time, which shall be in accordance with any State or Federal statute, rule, or regulation.

## **ARTICLE XI – OFF-STREET PARKING AND LOADING REQUIREMENTS**

### **SECTION 1101 – General Provisions**

A. Procedure – An application for a building permit for a new or enlarged building structure, or use, shall include therewith a plot plan drawn to scale and fully dimensioned, showing any off-street parking or loading facilities to be provided in compliance with the requirements of this ordinance.

B. Extent of Control – The off-street parking and loading requirements of this ordinance apply as follows:

1. All buildings and structures erected and all land uses initiated after the effective date of this ordinance shall provide necessary off-street parking or loading facilities as required hereinafter for the use thereof.

2. When a building and structure erected or enlarged prior to and after the effect of this ordinance shall undergo a decrease in number of dwelling units, gross floor area, seating capacity, number of employees or other unit of measurement specified hereinafter for required off-street parking or loading facilities, and when said decrease would result in a requirement for fewer total off-street parking or loading spaces through application of the provisions of this ordinance thereto, off-street parking and loading facilities may be decreased only when the facilities remaining would at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this ordinance to the entire building or structure as modified.

3. When a building or structure undergoes any increase in number of dwelling units, gross floor area, seating capacity, or other unit of measurement specified hereinafter for required off-street parking or loading facilities, and further, when said increase would result in a requirement for additional total off-street parking or loading spaces through application of the provisions of this ordinance, parking and loading facilities shall be increased so that the facilities will at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this ordinance to the entire building or structure as modified.

C. Existing Off-Street Parking and Loading Spaces – Accessory off- street parking and loading spaces in existence on the effective date of this ordinance may not be reduced in number unless already exceeding the requirements of this Article for equivalent new construction, in which event said spaces shall not be reduced below the number required herein for such equivalent new construction.

### **SECTION 1102 – Design and Maintenance**

A. Parking Space – Description – A required off-street parking space shall be an area of not less than 180 square feet nor less than 9 feet wide by 20 feet long measured perpendicularly to the sides of the parking space exclusive of access drives or aisles, ramps, columns or office or work areas, accessible from streets or alleys, or from private driveways or aisles leading to streets or alleys, and to be used for

the storage or parking of passenger automobiles or commercial vehicles under 1-1/2 ton capacity. Aisles between vehicular parking spaces shall be not less than 12 feet in width when serving automobiles parked at a 45 degree angle in one direction, nor less than 20 feet in width when serving automobiles parked perpendicularly for two-way aisle movement, and not less than 20 feet in width when serving automobiles parked perpendicularly for one-way aisle movement.

B. Measurement of Space – When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction up to and including  $\frac{1}{2}$  may be disregarded, and fractions  $\frac{1}{2}$  shall be interpreted as 1 parking space.

C. Access – Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such manner as will least interfere with the movement of traffic. No driveway or curb cut in any district shall exceed 25 feet in width for one- way movement or 32 feet in width for two-way movement.

D. Signs – No signs shall be displayed in any parking area within any residential district, except such as may be necessary for the orderly use of the parking facilities. All signs in other parking areas shall conform to Article XIII herein.

E. Striping – All parking spaces shall be properly marked by durable paving in stripes a minimum of 4 inches wide and extending the length of the parking space.

F. Required Setbacks – No parking spaces or portion thereof established on a lot shall be located within a required front yard except in C and M districts, where off-street parking areas may be installed and maintained, in the required front yard, provided such parking areas do not occupy the first 5 feet of front yard nearest the street or alley.

G. Surfacing – All open off-street parking areas, except those accessory to single-family dwellings, shall be improved with a compacted base surfaced with all-weather dustless material of adequate thickness to support the weight of fully-loaded vehicles which customarily park or travel on it.

H. Lighting – Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from all adjoining properties.

I. Storm Water – Adequate storm water drainage facilities shall be installed in order to insure that storm water does not flow onto abutting property or abutting sidewalks in such a way or quantity that pedestrians using the sidewalk would be detrimentally affected or inconvenienced. The Township Engineer shall approve all such facilities.

J. Walls or Planting Strip – Wherever a parking lot abuts onto a public street, sidewalk or alley, a structurally sound wall or planting strip, approved by the Township Engineer, shall be installed. Adequate retaining walls and other walls along abutting properties shall also be constructed, subject to the approval of the Township Engineer.

### **SECTION 1103 – Schedule of Off-Street Parking Requirements**

- A. One and two-family dwellings – Two parking spaces for each family dwelling unit.
- B. Three or more family dwellings – One parking space for each family dwelling unit, plus 1 visitor's parking space for every 2 (or fraction thereof) dwelling units.
- C. Bowling alleys, recreation center, swimming pools, skating rinks, outdoor commercial recreation enterprise and other recreation and amusement facilities – One parking space for every 4 customers computed on the basis of maximum servicing capacity at any one time, plus 1 additional space for every 2 persons regularly employed during peak shift on the premises.
- D. Club houses and meeting places of veterans, business, civic, fraternal, labor and similar organizations – One parking space for every 50 square feet of aggregate floor area in the auditorium, assembly hall, and dining room of such building, plus  
1 additional space for every 2 persons regularly employed during peak shift on the premises.
- E. Dormitories, fraternity houses and sorority houses – One parking space for every 2 beds occupied at maximum capacity. This requirement is in addition to the parking space requirements for educational establishments set forth elsewhere herein.
- F. "Drive-In" Facilities – Five per 100 square feet floor space.
- G. Funeral homes and undertaking establishments – Parking or storage space for all vehicles used directly in the conduct of the business, plus 1 parking space for every 2 persons regularly employed on the premises during peak shift and 1 space for every 6 seats in the establishment.
- H. Hospital – One parking space for each 4 beds intended for patients, excluding bassinets, plus 1 per doctor, plus 1 per 2 employees on peak shift, plus 1 per hospital vehicle.
- I. Indoor Retail Businesses – Parking or storage space for all vehicles used directly in the conduct of such business, plus 1 parking space for each 250 square feet of total area.
- J. Industrial plants and facilities – Parking or storage space for all vehicles used directly in the conduct of such industrial use, maximum employment on the peak shift.
- K. Junior High, Middle and Senior High Schools – One parking space for every 6 seats available at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity on the school grounds or campus. If the school has no assembly hall, auditorium, stadium or gymnasium, 1 parking space shall be provided for each person regularly employed at such school, plus 2 additional spaces for each classroom.
- L. Libraries, museums, post offices and similar establishments - Parking or storage space for all vehicles used directly in the operation of such establishment, plus 1 parking space for each 250 square feet of total floor area.



- M. Medical and dental clinics – Three parking spaces for each doctor, plus 1 additional space for every 2 regular employees.
- N. Nursing homes – One parking space for every 2 bed occupied at maximum capacity. This requirement is in addition to the parking space requirements for hospitals set forth herein.
- O. Offices – One parking space for every 500 square feet of office space.
- P. Outdoor retail businesses – Parking or storage space for all vehicles used directly in the conduct of such business, plus 2 parking spaces for each person employed on the premises based on maximum seasonal employment, plus 1 parking space for every 500 feet of lot area used for business purposes.
- Q. Public and private elementary schools – One parking space for each person regularly employed at such school, plus 1 additional space for each classroom.
- R. Public garages – Indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business, plus 3 parking spaces for each person regularly employed on the premises.
- S. Repair shops, plumbing shops, electrical shops, roofing shops and other service establishments – Parking or storage for all vehicles used directly in the conduct of the business, plus 2 parking spaces for each person regularly employed on the premises.
- T. Restaurants, indoor, and other eating and drinking establishments – One parking space for each table or booth, plus 1 parking space for every 2 stools at bar or counter, plus 1 parking space for every 2 employees on peak shift.
- U. Service Stations – Parking or storage space for all vehicles used directly in the conduct of the business, plus 1 parking space for each gas pump, 3 spaces for each grease rack or similar facility, and 1 space for every 2 persons employed on the premises at maximum employment on a single shift.
- V. Theaters, auditoriums, churches, stadiums and other places of public assembly – One parking space for every 6 seats available at maximum capacity.
- W. Motels and hotels – One parking space for each sleeping room offered for tourist accommodation, plus 1 space for each dwelling unit on the premises, plus 1 additional space for every 2 persons regularly employed on the premises during peak shift.
- X. Transportation terminals – One parking space for every one 100 square feet of waiting room space, plus 1 additional space for every 2 persons regularly employed on the premises during peak shift.
- Y. Universities, colleges, academics and similar institutions of higher learning – One parking space for every 6 seats occupied at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity on the campus. If the institution has no assembly hall, auditorium, stadium or gymnasium, 1 parking space shall be provided for each person regularly employed at such institution, plus 5 additional spaces for each classroom.

Z. Warehouses, freight terminals and trucking terminals – Parking or storage space for all vehicles used directly in the conduct of such business, plus 1 parking space for every 2 persons regularly employed on the premises during peak shift.

**SECTION 1104 – Location of Parking Areas** – Off-street automobile parking facilities shall be located as hereinafter specified; where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking area to the nearest entrance of the building that said parking area is required to serve.

A. For one and two-family dwellings – on the same lot with the building they are required to serve.

B. For three and four-family dwellings not over 2 stories in height, and row dwellings not over 1-1/2 stories in height – on the same lot or parcel of land as the building they are required to serve. For the purpose of this requirement, a group of such uses constructed and maintained under a single ownership or management shall be assumed to be on a single lot or parcel of land.

C. For clubs, hospitals, sanitariums, orphanages, homes for the aged, convalescent homes, and for other similar uses – on the same lot or parcel of land as the main building or buildings being served, or upon properties contiguous to the lot upon which is located the building or buildings they are intended to serve.

D. For multiple-family dwellings containing more than 4 dwelling units and all other uses – on the same lot or parcel of land as the building they are required to serve, or on a separate lot or parcel of land not more than 300 feet from the nearest entrance to the main use being served, provided the lot or parcel of land selected for the parking facilities is located in a C or M District.

E. Notwithstanding Paragraphs A-D above, no parking area accessory to a C or M use shall be located in an R District, except as permitted in Section 1105D herein.

**SECTION 1105 – Additional Regulations – Parking**

A. Use of Off-Street Parking Facilities – Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this Article shall be used solely for the parking of passenger automobiles, commercial vehicles of not more than 1 ton GVW owned by occupants of the dwelling structures to which such facilities are accessory, service vehicles, or by guests of said occupants.

B. Joint Parking Facilities – Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate off-street parking facilities for each constituent use are permitted, provided that the total number of spaces so located together are not less than the sum of the separate requirements for each use of which normal hours of operation coincide, and not more than 300 feet from the contiguous to the lot on which the main building is located.

In any case, where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereto, assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form and execution by the Board of Supervisors, and shall be filed with the application for a building permit.

Not more than 50% of the parking spaces required for (a) theaters and places of amusement, and up to 100% of the parking spaces required for a church or school may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (a); provided, however, that written agreement assuring the retention for such purposes is properly drawn and executed by the Township Solicitor, and is filed with the application for a building permit.

C. Control of Off-Site Facilities – When required accessory off- street parking facilities are provided elsewhere than on the lot on which the principal use is located, they shall be in the same possession, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by the covenants of record filed in the office of the Township Secretary requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.

D. Non-Residential Parking in Residential Districts – Accessory off- street parking facilities serving non-residential uses of property may be permitted in any R District when authorized as a Special Exception by the Zoning Hearing Board after review and study by the Planning Commission, subject to the following requirements in addition to all other relevant requirements of this Article.

1. The parking lot shall be accessory to, and for use in connection with one or more non-residential establishments located in adjoining districts or in connection with one or more existing professional or institutional office buildings or institutions, and within 300 feet of the non-residential use which it is to serve.

2. Said parking lot shall be used solely for the parking of passenger automobiles.

3. No commercial repair work or service of any kind shall be conducted on said parking lot.

4. No sign of any kind other than signs designating entrances, exits and conditions of use shall be maintained on said parking lot and shall not exceed 20 square feet in area.

5. The parking lot may be open from 7:00 AM to 9:00 PM and shall be closed at all other times, provided, however, that when supervised by 1 or more full-time attendants, the parking lot may be kept open until 12:00 midnight.

6. Each entrance to and from said parking lot shall be at least 35 feet distant from any adjacent property located in any residential district, except where ingress and egress to the parking lot is provided from a public alley or public way separating the residential areas from the proposed parking lot. A buffer area

of 15 feet minimum width shall be provided and maintained along all lot lines which are not street lines and which abut residential areas.

7. In addition to the foregoing requirements, such parking lots shall conform to any further requirements and conditions as may be described by the Zoning Hearing Board for the protection of properties adjacent to and in the vicinity of the proposed parking lot.

#### **SECTION 1106 – Design, Maintenance and Schedule of Off-Street Loading Space**

##### **A. Design**

1. Loading Space – Description – An off-street loading space shall be a hard-surfaced area of land, open or enclosed, other than a street or public way, used principally for the standing loading or unloading of motor trucks, tractors and trailers so as to avoid undue interference with the public use of streets and alleys.

A required loading space shall be not less than 10 feet in width, 14 feet in height and of adequate length to suit the specific use exclusive of access aisles and maneuvering space, except as otherwise specifically dimensioned herein.

2. Location – No permitted or required loading space shall be closer than 50 feet to any property in a residential district unless completely enclosed by building walls or an ornamental fence or wall, or any combination thereof not less than 6 feet in height. No permitted or required loading space shall be located within 25 feet of the nearest point of intersection of any 2 streets. Loading space open to the sky may be located in any required yards.

3. Measurement of Spaces – When determination of the number of required off-street loading spaces results in a requirement of a fractional space, any fraction up to and including  $\frac{1}{2}$  may be disregarded, and fractions over  $\frac{1}{2}$  shall be interpreted as 1 loading space.

4. Surfacing – All open off-street loading berths shall be improved with a compacted base, surfaced with all-weather dustless material, of adequate thickness to support the weight of a fully loaded vehicles.

B. Additional Requirements – Every building or structure used for business, trade or industry shall provide space as herein indicated for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley or, if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space.

Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley, or adjoining property. The following off-street loading and unloading space requirements for specific requirements for specific uses shall be provided:

1. Multi-story Multiple-family Dwelling – One off-street loading and unloading space of at least 10 feet in width for every 3,000 square feet of total floor area.
2. Industrial Plants – One off-street loading and unloading space at least 12 feet by 50 feet for every 10,000 square feet of total floor area.
3. Warehouse and Wholesale storage facilities – One off- street loading and unloading space at least 12 feet by 50 feet for every 7,500 square feet of total floor area.
4. Freight terminals and trucking terminals – One off- street loading and unloading space at least 12 feet by 50 feet for every 5,000 square feet of total floor area.

## **ARTICLE XII – COMMUNITY UNIT PLANS AND MULTIPLE DWELLING PLANS**

### **SECTION 1201 – Community Unit Plan**

A. The owner or owners of any tract of land in any districts zoned R-1 comprising an area of not less than 20 acres or in a district zoned R-4 comprising an area of not less than 10 acres may request a special exception from the Zoning Hearing Board by submitting a plan for the use and development of all such tract of land for multiple use purposes as specified hereinafter. Such development plan shall be referred to the Planning Commission to study and report. The Planning Commission shall report the results of its study to the Zoning Hearing Board within 30 days following receipt thereof. If no such report has been filed within this time period, the Zoning Hearing Board may assume that the Planning Commission has acted favorably, but in any event the recommendation of the Planning Commission shall be advisory, *and* not obligatory, upon the Zoning Hearing Board.

B. The Zoning Hearing Board may grant a special exception and approve the plan even though the use of land and the use and location of structures do not conform to all of the regulations contained in other sections of this ordinance. Such development plan should not be approved except under the following conditions:

1. That under said development plan, the property adjacent to the area included in said plan is property is safeguarded.

2. The said plan is consistent with the intent and purpose of this report to promote public health, safety, morals and general welfare.

3. Permitted Uses:

One-family detached dwellings

Single-family attached units such as townhouses with a maximum of 8 units per building

Multiple row dwellings and garden apartments with a maximum of 8 units per building

Multi-story apartments not to exceed 6 stories in height

Community buildings which are for the social, cultural or recreational use of the residents of the development

Open space and recreation facilities developed and maintained principally for use of residents of the development

Certain non-residential uses such as buildings for convenience shopping and personal services, provided that such uses along with required parking occupy not more than 5% of the total land area of the development. In the event development of the entire project is proposed to be divided into several

phases, the Township may require the construction of all or part of the open space-recreation facilities, community buildings or non- residential uses in the initial phase of the development.

4. Density – The dwelling unit density shall conform to the following:

Single-family -- 3 units per acre

Two-family -- 6 units per acre

Row dwelling -- 8 units per acre

Multi-story dwellings -- 24 units per acre

For mixed types of structure the overall density may not exceed 12 units per acre

5. Public Open Space Required – At least 250 square feet per family unit shall be set aside and maintained for outdoor recreation area and maintained by the owner of the development, of which a 100 square foot unit be developed with recreational equipment and playground area.

6. Setback Requirements and Minimum Distance Between Buildings

Setback: The setback requirements for all buildings erected in a Community Unit Plan shall be as follows:

A minimum setback of 100 feet shall be observed around the entire perimeter of tract or lot used for the Community Unit Plan. Natural landscaping within the 100 foot setback should be retained if at all possible. No main or accessory building may be erected within the setback area. However, outdoor recreation facilities and parking lots may be constructed in the area provided that they are a minimum of 40 feet from the perimeter lot lines.

A front yard setback of 35 feet shall be observed for all buildings erected adjacent to streets within the Community Unit Plan. Minimum Distance Between Buildings:

When more than one multiple-family dwelling building is erected on a single site, lot or tract the minimum distance between buildings shall be as follows:

Front to front -- 70 feet; front to rear -- 60 feet

Side to Side -- 1/2 the height of the tallest building but not less than 25 feet

Front to side or rear to side -- the height of the tallest building but not less than 35 feet

7. Percentage of Lot Covered – All buildings, including accessory buildings, shall cover not more than 40% of the area of the lot.

8. Site Improvement Standards – The developer or owner of any Community Unit Plan shall be responsible for the engineering, construction, installation and maintenance of site improvements as follows:

(a) Engineering Site Plan Required – An engineering site plan shall be prepared by a registered architect, professional engineer or surveyor and filed with the Township prior to the start of any construction of an approved Community Unit Plan. The site plan shall be drawn at 1"=50' and shall indicate the exact location and dimensions of all buildings, streets, sidewalk, roads, parking areas, water lines, sanitary sewer lines, telephone lines, recreation areas, landscaping, walls, fences, right-of-way lines, property lines and any other features to be constructed or installed on the site.

A topographic map shall be prepared at a minimum scale of 1"=50' with a minimum contour interval of 10 feet and shall indicate all existing and final grades for the site; spot elevations shall be indicated for streets, storm and sanitary sewers, and other elevation features as deemed appropriate and necessary by the Township Engineer.

(b) Perimeter Survey – A perimeter survey of the parcel to be developed as a Community Unit Plan shall be prepared by a registered professional engineer or surveyor. Permanent concrete markers, with a minimum standard of 6" x 6" x 30" copper rod shall be installed on all corners around the perimeter of the site. The survey shall tie directly into adjoining property.

(c) Street Paving – The engineering, construction, installation and maintenance of all streets within the Community Unit Plan shall be the sole responsibility of the developers and shall be in accord with minimum standards as included in the Township Subdivision Regulations.

(d) Street Signs and Street Lights – Street signs and street lights shall be installed and maintained by the developer as required and approved by the Township.

(e) Water Lines and Fire Hydrants – The installation of all water lines, including fire plugs, shall be in accord with requirements and specifications of the Water Authority or company servicing the Township. Detailed engineering plans and specifications shall be filed with both the Township and the Township's Water Authority or company. Applicants shall present evidence that residential water supply is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. An official written commitment from the applicable water supplier shall be acceptable evidence.

(f) Sanitary Sewers – The installation of all sanitary sewers shall be in accord with plans and specifications submitted to and approved by the Township Sewer Authority.

(g) Storm Sewers – The installation of a storm sewer system shall be in accord with plans and specifications filed with and approved by the Township Engineer.

9. Off-Street Parking and Loading Facilities – Shall be provided as required or permitted under Section XI herein. Assurance shall be required from the developer that the project will be used for the specified purposes and the Zoning Hearing Board may require a trust indenture restricting the area to such areas.

**SECTION 1202 – Multiple Dwelling (Two or More Multiple Family Dwelling) Plan** – The owner or owners of any 2 acre or larger tract of land zoned "R-5 Multiple-Family Dwelling District" or "R-6 Multiple Family Dwelling District" may request a special exception and submit to the Zoning Hearing



Board a plan for the use and development of all of the tract of land for multiple dwelling purposes (two or more multiple family dwellings) only, which shall governed by the following regulations and procedures:

A. Permitted Uses – Buildings or premises shall be used only for multi-family dwellings and may include therein such service establishments as a restaurant, bar, barber shop, beauty shop and similar shops principally serving the tenants and provided that entrance to any such facilities be only from within the building or from the outside terrace adequately screened from public view; accessory buildings and uses customarily incidental to the above uses when located on the same lot and not involving the conduct of a business, including private garages constructed as part of the main building.

B. Lot Requirements – There may be two or more main buildings upon a lot, and for the purpose of determining the yard requirements of subparagraph "C" hereof, the yard requirements shall be applied to the lot as a whole, the front thereof being that having the greatest frontage upon a street or upon an officially approved street, and each building upon said lot shall not be required to separately meet the front, side and rear yard requirements. The minimum lot size shall be 2 acres.

C. Yard Requirements

Front Yard – As set forth in the "R-5 Multiple-Family Dwelling District", except that multi-story multiple-family dwellings shall provide yard of a distance not less than the building height.

Side Yard – As set forth in the "R-5 Multiple-Family Dwelling District", except that multi-story multiple-family dwellings shall provide yard of a distance not less than the building height.

Rear Yard – As set forth in the "R-5 Multiple-Family Dwelling District", except that multi-story multiple-family dwellings shall provide yard of a distance not less than the building height.

D. Lot Coverage – Not in excess of 40% of the lot area.

E. Intensity of Use and Floor Area Ratio – Every lot shall have a width at the building line of not less than 150 feet and shall have not less than 1,350 square feet per dwelling unit.

1. One-Story Building – Not less than 6,000 square feet per family, and the "Floor Area Ratio" shall not exceed  $\frac{1}{3}$ .

2. Two-Story or Two and One-half Story Building – Not less than 4,000 square feet per family and the floor area ratio shall not exceed  $\frac{2}{3}$ .

3. Three-Story or Three and One-half Story Building – Not less than 2,700 square feet per family and the floor area ratio shall not exceed one.

4. Four Stories and over – Not less than 1,350 square feet per family, and there shall be a maximum floor area ratio of one; except that where the building is set back from one or more of the required yard lines, the floor area of such building may be increased by one square foot of additional floor area for

each square foot of area left open within the portion of the lot bounded by the required front, side and rear yards specified in Paragraph C.

F. Off-Street Parking and Loading Facilities – Shall be provided as required or permitted under Article XI herein.

G. Procedure – Procedure shall be identical to that specified in Section 1201 for the Community Unit Plan.

H. Recommendation of Planning Commission – The proposed multiple- family dwelling plan, together with the required statements and supplementary information, shall be studied by the Planning Commission and a report recommending approval or disapproval and the reasons therefore shall be made to the Zoning Hearing Board for consideration. Any report from the Planning Commission recommending any proposed multiple-family dwelling plan shall contain findings relating to the following specific conditions:

1. Such multiple-family dwelling is laid out and developed as a unit in accordance with an integrated over-all design.
2. The location and arrangement of building or buildings, parking areas, walks, lighting and appurtenant facilities are adjusted to the surrounding land uses, and any part of the site not used for buildings or other structures, or for parking, loading or accessways, are landscaped with grass, trees and shrubs.
3. No signs or displays or advertising of merchandise for sale or services offered in the service shops are visible from outside of the buildings or in the open area.
4. Reasonable additional requirements as to landscaping, lighting, screening, accessways and building setbacks may be recommended by the Planning Commission for the protection of adjacent residential property.
5. All yard requirements, area requirements and floor area ratio requirements are met by the plan.

## **ARTICLE XIII – SIGNS**

**SECTION 1301 – R District and Conservancy District Signs** – In Residential and Conservancy Districts, the following signs shall be permitted and the following regulations shall apply:

- A. One identification sign for a multi-family dwelling or a home occupation. When for multi-family dwelling, not to exceed 12 square feet; when for a home occupation, not to exceed 1-1/2 square feet.
- B. One bulletin board per street for church of similar place of worship, each not to exceed 30 square feet.
- C. Temporary unlighted real estate for sale or rent sign, not to exceed 12 square feet.
- D. Directional sign, not exceeding 1-1/2 square feet.
- E. In connection with a parking facility, directional signs not to exceed 8 square feet each.
- F. Traffic control signs installed and maintained by the Municipality, County, Commonwealth of Pennsylvania or any governmental authority.
- G. Billboards and Commercial signs, except for home occupations, are Specifically prohibited in any R District.
- H. All signs in any R District shall be non-flashing and non- animated; those not attached to a building shall be set back at least 15 feet from a lot or street line; and no sign shall project above the roof or be mounted on a building above the eave line of a roof.

**SECTION 1302 – C-1 District Signs** – In the C-1 District, the following signs shall be permitted and the following regulations shall apply:

- A. Any sign permitted in a R District.
- B. Business sign or identification sign, not to exceed 1 square foot for every 2 lineal feet of frontage occupied, but not to exceed 60 square feet for any one business.
- C. One business or identification sign for a group of three or more businesses on one parcel or tract, not to exceed 120 square feet.
- D. Billboards are specifically prohibited in any C-1 District.
- E. All signs in any C-1 district shall be non-flashing and non- animated; if illuminated, they shall utilize reflected or refracted light in such manner as to not detrimentally affect any property in an R District.
- F. Signs not attached to a building shall be set back at least 5 feet from a lot or street line, or any required buffer area. A free-standing sign shall not exceed 20 feet in height. No sign mounted on a building shall project above the ridge line of a sloping roof or above the eave line of a flat roof. No

portion of a free-standing sign, or sign which projects from the wall of a building, shall be less than 7 feet above grade, except as hereinafter provided.

G. Portable sign shall be construed to mean any free-standing sign of temporary nature which would be easily transferable and transportable and removable and which is not permanently affixed to the earth by anchor or other means and which would be less than 7 feet above grade. Upon application, a Building and Occupancy Permit may be issued for no more than 30 consecutive days, provided that said portable sign shall be no larger than 4 feet by 8 feet per side. No vertical double stacking shall be permitted.

Furthermore, no more than two Building and Occupancy Permits for the installation and display of said portable sign shall be issued per calendar year, per business, per location.

#### **SECTION 1303 – C-2, C-3 and M District Signs**

In C-2, C-3 and M Districts, the following signs shall be permitted and the following regulations shall apply:

A. Any sign permitted in R and C-1 Districts.

B. Business signs or identification sign, not to exceed 1 square foot for every 1 lineal foot of frontage occupied, but not to exceed 120 square feet for any one business.

C. One business or identification sign per street for a group of three or more businesses on one parcel or land, not to exceed 240 square feet per sign.

D. Signs attached to a building shall be set back at least 5 feet from a lot or street line, or any required buffer area. A free-standing sign shall not exceed 40 feet in height. No sign mounted on a building shall project above the ridge line of a sloping roof nor above the eave line of a flat roof. No portion of a free standing sign, or sign which projects from the wall of a building, shall be less than 7 feet above grade, except as hereinafter provided.

E. All signs in any C-2, or C-3 Districts shall be non-flashing and non-animated; if illuminated, they shall utilize reflected or refracted light in such manner as to not detrimentally affect any property in another zoning district.

F. Signs in M District shall be in accordance with the C-2 and C-3 Districts, and shall permit electronic changeable message signs, as per the following:

1. All signs in the M District shall be stationary – permanently affixed and immobilized, non-revolving - motionless, non-flashing and non-animated; if illuminated, they shall utilize reflected or refracted light in such manner as shall not detrimentally affect any property in another zoning district, except as follows:
  - a. Electronic / changeable message signs shall have a message that does not change more than one time in any eight (8) second time frame.

- b. The display shall contain a default mechanism that will freeze the sign in one position if a malfunction occurs.
- c. The display shall not display light of such intensity or brilliance to cause glare or otherwise impair the vision of any motor vehicle operator, or cause a nuisance to any motor vehicle operator.
- d. The display shall not be configured to resemble a warning or danger signal or to cause a driver to mistake the digital image as a warning or danger sign or symbol, or any official traffic control devices.
- e. A display shall be equipped with a dimmer control and a photocell, which automatically adjusts the display's intensity according to natural ambient light conditions.

G. Billboard – not to exceed 300 square feet may be permitted by the grant of a special exception by the Zoning Hearing Board, provided that it shall be located so as to:

Not be located closer than 50 feet to a public right-of-way,

Not project above the ridge line of a sloping roof or the eave line of a flat roof, if it is attached to a building,

If free standing, not exceed 20 feet in height,

Be on a parcel or lot not abutting or opposite a frontage in an R District, unless the advertising face is not visible from the R District, Be no nearer than 300 feet to any R District if illuminated, unless the advertising face is not visible from the R District, be no nearer than 300 feet to any church, school, park, playground or recreational area owned and operated by a public authority, be no nearer than 400 feet to the centerline of any restricted or limited access highway or the or the access ramps thereto, if the face of the sign is visible therefrom.

#### **SECTION 1304 – Additional and General Regulations**

A. Where a sign is permitted by any provision of this Article, it shall be construed to permit a double-faced sign. Each face of a double-faced sign may equal the maximum size permitted for the particular type of sign under this Article.

B. A building permit and occupancy permit shall be required for any sign or billboard with an area in excess of 3 square feet.

C. The requirements of this Article shall not be held to prohibit the erection of a marquee or canopy provided it bears no sign other than an identification sign which does not project above or below the marquee or canopy nor exceed 12 inches in vertical dimension.

D. All signs shall be properly maintained. In the event a sign becomes dilapidated or otherwise improperly maintained, it shall forthwith be renovated or removed.

E. All signs shall be removed when circumstances leading to its erection no longer apply.

F. Flags and insignia of government shall be permitted in any district except when displayed in connection with commercial promotion.

## **ARTICLE XIV – NON-CONFORMING USES AND BUILDINGS**

**SECTION 1401 – Continuance** – The lawful use of a building existing at the time of the effective date of this ordinance may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or a more restricted classification. Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted one. Whenever the use of a building becomes non-conforming through a change in the zoning ordinance or district boundaries, such use may be continued and if no structural alterations are made, it may be changed to another non-conforming use of the same or of a more restricted classification.

**SECTION 1402 – Discontinuance of Use** – Whenever a non-conforming use of a building or structure, or part thereof, has been discontinued for a period of 12 consecutive months, or for a continuous period of 18 months if the building was originally designed and constructed for a non-residential use, such discontinuance shall constitute an abandonment of such use, and the district. Where no enclosed building is involved, discontinuance of a non-conforming use for a period of 6 months shall constitute abandonment of such use, and any new use must be in conformity with the regulations of the District. However, if the Zoning Hearing Board determines the resumption of the discontinued use to be in harmony with the general intent of the ordinance, it may grant a special exception permitting the resumption of the discontinued use.

**SECTION 1403 – Alterations** – No existing building or premises devoted to a use not permitted in the district in which such building or premises is located, except when required to do so by law, or permitted by special exception, shall be enlarged, extended, reconstructed, or structurally altered, unless such use is changed to a use permitted in the district in which such building or premises is located.

**SECTION 1404 – Provision for Reconstruction** – Any building or structure containing a non-conforming use which is damaged by fire, flood, wind or other act of God or man to the extent of 75% or more of its fair sales value immediately prior to damage, shall not be repaired or reconstructed, except in conformity with provisions of this ordinance. In the event that the Zoning Officer's estimate of the extent of damage of fair sales value is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the applicant may appeal to the Zoning Hearing Board.

**SECTION 1405 – Construction in Progress** – No building or structure designed or intended to be utilized for a non-forming use shall be constructed or allowed unless construction is already underway at the time of the enactment or subsequent amendment of this ordinance and is being diligently prosecuted so that such building or structure will be completed within 18 months from the date of the enactment or subsequent amendment of this ordinance. All outstanding building permits for construction which do not meet these requirements are hereby rendered null or void.

**SECTION 1406 – Historical Landmarks** – The provisions of this article shall not apply to any building or structure which is designated by the Pennsylvania Historical and Museum Commission and/ the PA State Historic Preservation Office, or the National Register of Historic Places as per the United States Department of Interior, to be an “historical landmark”.

**SECTION 1407 – Extensions and Enlargements** – The Zoning Hearing Board may grant special exceptions permitting the reasonable extension of a non-conforming use or the reasonable enlargement or addition to a non-conforming building or structure, provided it would be in conformity with the standards hereinafter set forth for granting special exceptions.



## **ARTICLE XV – ADMINISTRATION**

### **SECTION 1501 – Building Permit**

A. No building or structure shall be erected, added to, or structurally altered until a permit therefore has been issued by the Zoning Officer. No such building permit shall be issued if the activity for which the permit is to be granted does not conform with any of the provisions of this ordinance, except upon grant of a variance or special exception by the Board of Adjustment.

B. There shall be submitted with all applications for building permits 2 copies of a site or plot plan drawn to scale showing actual dimensions of the lot, the exact size and location on the lot of the building and accessory buildings and such other information as may be necessary to determine and provide for the enforcement of this ordinance. Where a special exception is required, the site or plot plan, in addition to any specific regulations set forth in the district regulations, shall show the following:

The location of principal and accessory buildings

Traffic circulation features within the site

The location of vehicular traffic onto the site

The proposed height and size of structures

The provision for off-street parking and loading facilities

The provision for open space

The landscaping, paving, fencing, walls and signs on the site

C. Before a building permit will be issued, the building must be staked on the ground by a registered engineer or registered surveyor, and proof thereof furnished to the Zoning Officer, at the expense of the applicant.

### **SECTION 1502 – Certificate of Occupancy**

A. Certificates of Occupancy shall be required only for the following:

(a) Residential and non-residential uses in any district

(b) Multiple dwelling units in R Districts

(c) Home occupation uses in any R District

(d) Non-conforming in any district

B. After completion of a building or structure for which a building permit has been issued and inspection has determined that all requirements of all codes and ordinances of the Township have been met, a certificate of occupancy whenever required shall be issued by the Zoning Officer, stating that the building and proposed use thereof complies with the provisions of the ordinance.

C. No non-conforming use shall be maintained, renewed or changed without a certificate of occupancy having been secured from the Zoning Officer within 1 year from the effective date of this Ordinance.

D. Whenever a certificate of occupancy is required, it shall be applied for at the same time as the application for a building permit. Said certificate will be issued within 10 days after the erection or alteration and inspection, if the building or use is found to be in accordance with all codes and ordinances. There must be 2 inspections made of any building project; one when the foundation is completed and one when the building is approximately 75% completed. Swimming pools and garages must also be inspected two times during the construction period.

E. The Zoning Officer shall maintain a record of all certificates of occupancy. Copies will be furnished upon request to any person having proprietary or tenancy interest in the building affected.

F. No permit for excavation for, or the erection or alteration of, or repairs to any building shall be issued until an application has been made for a certificate of occupancy, whenever the same is required.

#### **SECTION 1503 – Fees, Permits and Certificates**

A. The application and building permit fees for the erection, addition to or structural alteration of any building or structure or changes to land uses regulated by this Ordinance shall be established by Resolution adopted by the Board of Supervisors.

B. The application fees shall be due and payable when the application is presented and the building permit and occupancy fee shall be due and payable when the building permit is issued. The fees shall be made payable to the Township and delivered to the Township Office. In the event that the building permit application is refused the building permit application fee is forfeited to the Township to cover the cost of review of the application.

C. A building permit shall be valid for two (2) years from the time of issuance and any renewal or extension of the same shall be paid for at the same rate as charged for the original building permit.

#### **SECTION 1504 – Governing Body Functions**

A. The governing body shall have exclusive jurisdiction for curative amendment to this ordinance pursuant to Section 1901.

B. All petitions for amendments to this ordinance pursuant to the procedures set forth in Section 1901.

C. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any provisions of this ordinance with reference to sedimentation and erosion control, and storm water

management insofar as the same relate to applications for land development under Article XII (Community Unit Plans) of this ordinance.

## **ARTICLE XVI – ZONING OFFICER**

**SECTION 1601 – Appointment, Removal and Compensation** – For the administration of this zoning ordinance a Zoning Officer, who shall not hold any elective office in the municipality, shall be appointed by the Upper Yoder Township Board of Supervisors. The Zoning Officer shall meet qualifications established by the municipality and shall be able to demonstrate to the satisfaction of the municipality a working knowledge of municipal zoning. The Zoning Officer shall administer the zoning ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the zoning ordinance. The Zoning Officer may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his/her employment.

The Zoning Officer shall be removed with or without cause at the will of the Supervisors. The Zoning Officer shall be paid such fees as the Supervisors shall from time to time determine by resolution. At their discretion, the Supervisors may also appoint an Assistant Zoning Officer who shall serve under the direction and control of the Zoning Officer.

### **SECTION 1602 – Administration**

A. All applications for building permits and certificates of occupancy shall be made to the Zoning Officer, accompanied by the required fee and lot plans, together with such other data as may be required by district regulations. If property lines are not clearly identifiable, the Zoning Officer is empowered to require a property survey, prior to review and issuance of any permit.

B. Applications which require a special exception or variance from the Zoning Hearing Board may, at the applicant's option, be presented directly to the Zoning Hearing Board by a petition for the grant of a special exception or variance, with said petition to be considered as the equivalent of an appeal from an adverse decision of the Zoning Officer.

**SECTION 1603 – Enforcement** – The Zoning Officer shall have the duty of enforcing this ordinance as set forth in Section 1801 hereafter. Further, he shall make periodic inspections as may be necessary or desirable, and shall offer opinions and advice as to methods of compliance with the requirements of this ordinance whenever feasible.

## **ARTICLE XVII – ZONING HEARING BOARD**

### **SECTION 1701 – Creation, Appointment and Organization**

A. A Zoning Hearing Board is hereby established. The Board shall consist of 3 members **and an alternate**, all of whom shall be appointed by resolution of the Township Supervisors. The term of office of the members of the Board shall be for 3 years, exception that the membership of the first Board shall consist of the present Zoning Hearing Board for the unexpired balance of their terms until the expiration of each term on the first day of January of the next 3 years. Thereafter, members shall be appointed for terms of 3 years each. Vacancies shall be filled for the unexpired term only. Members may be removed for cause by the Township Supervisors upon written charges and after public hearing.

B. The Board shall elect its own chairman and vice-chairman, who shall serve for 1 year. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this ordinance.

C. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the Township Secretary and shall be a public record. At the Board's discretion, it may employ a reporter to take testimony at hearings held before the Board.

D. The members of the Board shall receive such compensation, not to exceed the amount permitted by law, for each meeting as shall be fixed by the Board of Supervisors. No compensation shall be paid for any meeting at which only questions considered in a prior meeting are acted upon. The compensation of Board Members shall be paid from the fees which are assessed under Article XV.

E. The governing body shall appropriate funds for administration, for enforcement and for actions to support or oppose, upon appeal to the courts, decisions of the Zoning Hearing Board. The governing board shall also make provision in its budget and appropriate funds for the operation of the Zoning Hearing Board.

F. The Zoning Hearing Board may employ or contract for and fix the compensation of legal counsel as the need arises. The legal counsel shall be an attorney other than the municipal solicitor.

The Board may also employ or contract for and fix the compensation of experts and other staff and may contract for services as it shall deem necessary. The compensation of legal counsel, experts and staff and the sums expended for services shall not exceed the amount appropriated by the governing body for this use.

G. The governing body may prescribe reasonable fees with respect to the administration of a zoning ordinance and with respect to hearings before the Zoning Hearing Board. Fees for these hearings may

include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs, and necessary administration overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

H. The governing body may appoint by resolution at least but no more than 3 residents of the municipality to serve as alternate members of the Board. The term of office of an alternate member shall be 3 years. When seated pursuant to the provisions of this section, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote a voting member during the proceedings, and shall have all the powers and duties set forth in this ordinance and as otherwise provided by law. Alternates shall hold no other office in the municipality, including membership on the planning commission and zoning officer. Any alternate may participate in any proceedings or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated unless designated as a voting alternate member pursuant to this section.

#### **SECTION 1702 – Powers and Duties**

A. Powers Relative to Errors – To hear and decided appeals where it is alleged there is an error in any order, requirements, decisions or determination made by the Zoning Officer in the enforcement of the zoning ordinance, including any order requiring an alleged violator to stop, cease and desist.

B. Powers Relative to Variations – When it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant, the Board may grant a variance if the following conditions are found relevant in a given case:

1. That there are unique physical circumstances or conditions including irregularity, narrowness or shallowness or 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

authorization of a variance is therefore necessary to enable the reasonable use of the property.

3. That such unnecessary hardship has not been created by the applicant.

4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, not be detrimental to the public welfare.

5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary.

C. Powers Relative to Exceptions – Upon appeal, the Board shall be empowered to permit the following special exceptions, in addition to those otherwise specifically set forth in other parts of this ordinance.

To permit the extension of a district where the boundary line of a district divides a lot of record in single ownership;

To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God or the public enemy to the extent of less than 75% of its fair market sales value when the Board finds some compelling public necessity requiring a continuance of the non-conforming use;

To interpret the provisions of the zoning ordinance where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this ordinance;

To vary parking regulations of the zoning ordinance whenever the character or use of the building is such as to make unnecessary the full provisions of parking facilities or when such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

D. Exercise of Powers – In exercising the above powers, the Board may, in conformity with the provisions of the zoning ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken in considering all appeals to the zoning ordinance, the Board shall, before making any finding in a specific case, first determine that the proposed change will not permit a non-permitted use for the district and will not impair an adequate supply of light and air to adjacent property, or increase the danger of fire, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the Township. Every change granted or denied by the Board shall be accompanied by a written finding of fact based on sworn testimony and evidence, specifying the reason for granting or denying the variance or special exception. The decision of the Board shall be made a part or any building permit or occupancy certificate in which a variance or special exception is allowed.

E. Condition – In arriving at its decision, the Board may impose reasonable conditions, restrictions or safeguards in the furtherance of the general intent of this ordinance, including requiring a bond to assure compliance with such conditions, restrictions or safeguards.

F. Required Action – The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to allow any variance or special exception under this ordinance.

G. Appeal from Action of the Board – Any person aggrieved by any decision of the Zoning Hearing Board or any taxpayer or the Board of Supervisors may appeal to the Court of Common Pleas by petition duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and specifying the grounds relied upon.

#### **SECTION 1703 – Procedure**

A. Appeals to the Board may be taken by any person or Township official aggrieved or affected by any decision of the Zoning Officer. Such appeal shall be taken within 30 days after notice of a decision or order is issued or within such other time as allowed under the Pennsylvania Municipal Planning Code by filing with the Zoning Officer and the Board a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken.

B. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Officer certifies to the Board after the notice of appeal was filed with him that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the Zoning Officer and due cause shown.

C. The Board shall fix a reasonable time for the hearing of the appeal, give not less than 7 days public notice thereof in a newspaper of general circulation, as well as due notice to the parties in interest, and decide the same within 45 days after the hearing, or if such hearing is continued, within 45 days after such continued hearing. Upon the hearing, any party may appear in person or by agent or by attorney.

D. Upon receipt of an appeal or petition involving a variance or special exception and before conducting a hearing thereupon, the Board shall refer the matter to the Planning Commission for its recommendation, unless the Board decides that such reference is inappropriate. The Planning Commission shall report the result of its study to the Board within 30 days following its receipt of the appropriate documents. If no such report is filed with the Zoning Hearing Board, the Board shall assume that the Planning Commission has acted favorably; but in any event the recommendation of the Planning Commission shall be advisory and not obligatory upon the Zoning Hearing Board.

E. The Board may also hear all challenges to the validity of the Zoning ordinance or map under the provisions of Section 910 of the Pennsylvania Municipalities Code. Any landowner who desires to challenge on substantive grounds the validity of an 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 under Section 609.1 of the Pennsylvania Municipalities Planning Code. The Board or the governing body shall, in such cases, comply with all requirements set forth in the Pennsylvania Municipalities Planning Code.

F. The Board shall conduct hearings and make decisions in accordance with the following requirements:

1. Notice shall be given to the public, the applicant, the county planning agency, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Hearing notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the board. The governing body may establish reasonable fees, based on cost, to be paid by applicant and by persons requesting any notice not required by ordinance.
2. The hearings shall be conducted by the board or the board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the board, but the parties may accept the decision or findings of the hearing officer as final.
3. The parties to the hearing shall be the municipality or any person who is entitled to notice under clause 1 without special request, anyone who has made timely appearance of record before the board and any other person permitted to appear by the board.
4. The chairman or acting chairman of the board of the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
5. The parties shall have the right to be represented by counsel and shall be afforded an opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
6. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
7. The board or the hearing officer, as the case may be, shall keep a record of the proceedings, either stenographically or by sound recordings, and a transcript of the proceedings and copies of graphic or written materials received in evidence shall be made available to any party at cost.
8. The board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed shall not inspect the site or its surroundings with any party or his representatives unless all parties are given an opportunity to be present.
9. The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no



stipulation that his decision or findings are final, the board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the board fails to render the decision within the period required by this subsection, or

10. If the board fails to render its decision or findings within 45 days after the last hearing, or fails to hold a requested hearing within 60 days from the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed, in writing, to an extension of time.

11. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following date. To all other persons who have filed their name and address with the board not later than the last day of the hearing, the board shall provide by mail or otherwise brief notice of the decision or findings and a statement of the place where the full decision or findings may be examined.

12. The board shall, in addition, follow all of the requirements of the Pennsylvania Municipalities Planning Code.

G. The fee for filing appeals or petitions to the Board shall be determined from time to time by resolution of the governing body based upon the cost factors as contained in Article XVII. Section 1701- Creation, Appointment, and Organization subparagraph G hereinabove. The fee for filing appeals or petitions to the Board shall be as per resolution adopted, from time to time, by the Board of Supervisors. to cover the notice of public hearing and the other cost pertaining to the hearing.

**SECTION 1704 – Zoning Hearing Board Jurisdiction** – The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

A. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to curative amendments.

B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by and appeal taken within 30 days after the effective date of this ordinance.

C. Appeals from the determination of the zoning officer, including but not limited to the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any non-conforming use, structure or lot.

D. Appeals from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plan or flood hazard ordinance or such provisions within this zoning ordinance.

E. Applications for variances from the terms of the zoning ordinance and flood hazard provisions within this ordinance, pursuant to Section 1702.

F. Applications for special exceptions under this zoning ordinance or flood plain or flood hazard provisions within this ordinance, pursuant to Section 1702.

G. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this zoning ordinance.

H. Appeals from the zoning officer's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code.

I. Appeals from the determination of the zoning officer or municipal engineer in the administration of this ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Article XII applications (Community Unit Plans).

#### **SECTION 1705 – Mediation Option**

A. Parties to proceedings authorized in this article may utilize mediation as an aid in completing such proceedings. In proceedings before the zoning hearing board initiate mediation or participate as a mediating party. Mediation shall supplement not replace those procedures in this article once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

B. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that in each case the mediating parties, assisted by the mediator when appropriate, shall develop terms and conditions for:

1. Funding mediation.
2. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
3. Completing mediation, including time limits for such completion.
4. Suspending time limits otherwise authorized in this ordinance, provided there is written consent by the mediating parties, and by an applicant or municipal decision-making body if either is not a party to the mediation.
5. Identifying all parties and affording them the opportunity to participate.
6. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.

7. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision-making body pursuant to the authorized procedures set forth in the other sections of this ordinance.

C. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administration proceedings.

## **ARTICLE XVIII – ENFORCEMENT, VIOLATIONS AND PENALTIES**

### **SECTION 1801 – Enforcement**

A. The Zoning Officer shall have the duty of enforcing this ordinance by the issuance of appropriate stop orders or cease and desist orders to violators, or by commencing summary proceedings against violators. In addition, the Zoning Officer, with the approval of the Supervisors, may institute appropriate actions or proceedings at law or in equity.

B. The Zoning Hearing Board shall hear appeals from the decision of the Zoning Officer as provided in Article XVII. The Board may reverse or affirm, wholly or partly, or may modify the order of the Zoning Officer and may make its own appropriate stop order or cease and desist order as ought to be made.

C. The Supervisors may, at their option, institute appropriate actions or proceedings at law or in equity or commence summary proceedings against violators in order to enforce this ordinance.

D. The municipality shall initiate enforcement proceedings by sending as enforcement notice to the owner or record of the parcel on which the violation has occurred and to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record. The notice shall state at least the following:

1. The name of the owner of record and any other person against whom the municipality intends to take action.
2. The location of the property in violation.
3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures as hereinabove set forth.
6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

**SECTION 1802 – Violations and Penalties** – Any person or corporation violating any of the provisions of this ordinance shall, upon conviction thereof before any district justice, pay a fine of not less than \$200.00, and not more than \$1,000.00 plus costs of prosecution for each separate violation; and in default of payment of the judgment and costs, the person convicted may be subject to all applicable rules of civil procedure. Each day that a violation is continued shall constitute a separate offense. All fines collected for said zoning violations shall be paid to the Township of Upper Yoder. The imposition of a fine or penalty for any violation of, or non-compliance with this Ordinance shall not excuse the

violation or non-compliance or permit it to continue; and all such persons or corporations shall be required to correct or remedy such violations and non-compliances within a reasonable time. Any structural building constructed, reconstructed, enlarged, altered, or relocated in non-compliance may be declared by the Board of Supervisors to be a public nuisance and abatable as such.

## **ARTICLE XIX – AMENDMENTS**

**SECTION 1901** – All amendments made hereto shall be in accordance with the procedures set forth in the Pennsylvania Municipalities Planning Code, as amended.

## **ARTICLE XX – REPEALER**

**SECTION 2001 – Repealing Clause** –If any sentence, clause or section of this ordinance is for any reasons found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this ordinance. It is hereby declared as the intent of the Board of Supervisors of Upper Yoder Township that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentences, clauses or sections thereof not been included herein.

## **ARTICLE XXI – ADOPTION**

In accordance with the recommendations of the Upper Yoder Township Planning Commission and Zoning Hearing Board, and the Cambria County Planning Commission, this ordinance, together with any amendments or supplements hereto, is intended to supersede the existing Upper Yoder Township Zoning Ordinance.

### **Section 2101 – Effective Date**

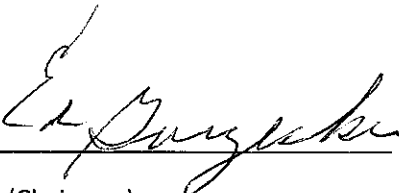
Ordained and ENACTED this 20th day of August, 2020

This Ordinance shall be in effect as of 20th day of August, 2020.

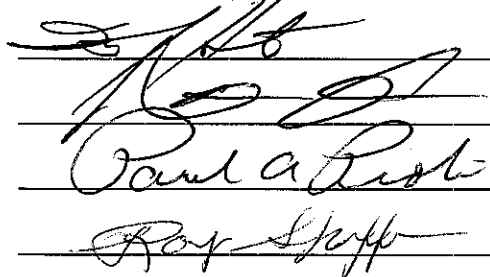
TOWNSHIP OF UPPER YODER

CAMBRIA COUNTY

By:



(Chairman)



ATTEST:



Assistant  
(Township Secretary)