

## CHAPTER 5 – ZONING

### SECTION 5.1 – PURPOSE

The purpose of this Chapter is to regulate the nature and extent of uses of land, and of buildings and structures thereon, in order to promote the purposes of this Ordinance and the Municipal Land Use Law.

### SECTION 5.2 – ZONING DISTRICTS

- A. Zoning Districts. The Township is hereby divided into the following zoning districts, differentiated according to use, area and bulk requirements:

- CONS-Conservation
- R-1 Residential
- R-2 Residential
- R-3 Residential
- CB-Central Business
- C-Commercial
- MU-Mixed Use
- LI-Light Industrial
- HI-Heavy Industrial
- TH-Townhouse Inclusionary Zoning District
- MF-1 Multifamily Inclusionary Zoning District
- MF-2 Multifamily Inclusionary Zoning District
- MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District
- MF-3 100% Affordable Housing District

- B. Zoning Map. The boundaries of these districts are established as shown on the Map attached to and made a part of this Ordinance, which map shall be known as the “Pennsville Township Zoning District Map- 2022” dated June 2, 2022 by the Pennsville GIS Department. The Zoning Map is hereby incorporated by reference into this Ordinance, and shall be the official reference as to the current zoning classification of any land within the Township and is on file in the Pennsville Township Construction Code Office and may be examined by members of the public during regular business hours and pursuant to the Open Public Records Act, *N.J.S.A. 47:1A-1, et seq.*, or according to such other policies and procedures as may be established by the Municipal Clerk.
- C. District Boundaries. The boundaries between districts are, unless otherwise indicated, intended to follow the center lines of streets, railroad rights-of-way, streams, and lot or property lines as they exist on lots of record at the time of enactment of this chapter, or such lines as may extend from or run parallel or perpendicular thereto. Where figures are shown on the Zoning Map between a street and a district boundary, they indicate that the district boundary line runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated. The exact location of any disputed zoning district boundary line shall be determined by the Zoning Officer, subject to the appeal provisions of this ordinance.
- D. Boundary Tolerances. The zoning districts are listed above in order of most restrictive (CONS-Conservation) to least restrictive (HI Heavy Industrial). Where a district boundary line divides a lot, the use regulations applicable to the less restrictive zoning district shall extend over the portion of the

lot in the more restrictive zoning district to a distance of not more than fifty (50) feet beyond the district boundary line.

- E. Effect of Establishment of Districts. Any use or structure not permitted by this Chapter shall be deemed to be prohibited.
- F. Effect of Other Regulations. Except as otherwise provided by law, where the provisions of this Chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Chapter, the provision of such statute, other ordinance or regulation shall be controlling.
- G. Conditional Uses. Uses listed as conditional uses in a particular district or districts may be permitted by the Planning Board only upon a determination that the proposed use or development complies with the conditions and standards set forth in this Chapter for the location and operation of such use. Any such use that does not comply with all applicable conditions is prohibited.

### **SECTION 5.3 – GENERAL REQUIREMENTS**

- A. No structure shall hereafter be used, erected, altered, converted, enlarged, added to, moved or reduced, wholly or in part, nor shall any land be designed, used or physically altered for any purpose or in any manner except in conformity with this Chapter. Where a lot is proposed to be formed from part of a lot already occupied by buildings or structures, any subdivision shall be effected in such a manner as not to impair any of the requirements of this Chapter with respect to the existing buildings and structures, and all yard and other open space in connection therewith, so that all resulting lots will have adequate setbacks and dimensions consistent with the requirements of the zoning district in which they are located, and so that all lots have frontage on a public street improved to applicable standards.
- B. Whenever a development abuts or crosses a municipal boundary, access to those lots within the Township shall be from within Pennsville Township only.
- C. Where a parcel of land straddles a municipal boundary line, all minimum lot size and minimum yard dimension requirements must be met by the portion of the parcel lying within Pennsville Township, including all yard setback requirements as measured from the municipal boundary line(s). No building or structure located on such a lot shall straddle the municipal boundary line. The principal building or structure on such a lot, if located within Pennsville Township, must be located entirely on a portion of such lot that has direct abutting frontage on a public street located in Pennsville Township.
- D. No subdivision or site plan approval may be granted unless each lot contained in the subdivision or site plan complies with all the requirements of the zoning district in which the lot is located, unless otherwise allowed by variance granted as part of or in connection with such subdivision or site plan approval.
- E. Except as otherwise expressly provided in this Chapter, no lot shall have erected on it more than one principal building or structure.
- F. Except as otherwise expressly provided in this Chapter, no lot shall be used simultaneously for residential as well as commercial, business or industrial purposes.

- G. All lots must abut improved or approved streets as required by *N.J.S.A. 40:55D-35* unless otherwise permitted by variance pursuant to *N.J.S.A. 40:55D-36*.
- H. Driveways, parking lots, and parking areas are accessory structures by definition. Unless otherwise expressly required in this Ordinance, all driveways, parking lots, and parking areas must comply with all yard setback requirements except, in the case of driveways only, for the front yard setback from the street to which the driveway provides access. Parking lots and parking areas may not abut streets and must conform to all setback requirements. A driveway that is more than 20 feet wide will be considered a parking lot or parking area.
- I. Surface parking lots and parking areas are structures by definition. All surface parking lots and parking areas, except for driveway front yard setbacks as set forth in the preceding subsection, must comply with all yard setback requirements.

#### **SECTION 5.4 – SIGNS**

- A. Except as otherwise specifically set forth in this ordinance, signs shall be considered permitted accessory uses and structures subject to the conditions governing the zoning districts in which they are to be located. Banner signs shall be considered as a conditional use and structure subject to conditions governing zoning districts in which they are located. As such, signs will be deemed prohibited unless expressly permitted by this ordinance, and will be subject to variance approval pursuant to *N.J.S.A. 40:55D-70(c)* if all applicable conditions are not satisfied. Except as otherwise specifically set forth in this ordinance, site plan review is required prior to installation of any sign on any lot that is used for other than residential or agricultural purposes. Except as otherwise specifically set forth in this ordinance, all new or replacement signs, whether permanent or temporary, must be approved by zoning permit and payment of the requisite fee must be made. Signs approved by the Planning Board as part of a site plan, subdivision, variance or other application for development do not require a separate sign permit application.
- B. No person shall create, install or erect any sign without a zoning permit except as expressly permitted in this Ordinance.
- C. No sign other than official traffic signs shall be created, installed or erected within the lines of any street or sidewalk, nor may any sign project over the line of any street or sidewalk.
- D. Except for official traffic signs and as otherwise expressly permitted by this Ordinance, or by variance pursuant to *N.J.S.A. 40:55D-70(d)*, no sign other than official traffic signs shall be created, installed or erected within the lines of any street or sidewalk.
- E. Except as otherwise expressly permitted by this Ordinance, or by variance pursuant to *N.J.S.A. 40:55D-70(d)*, no sign may be higher, when measured at its highest point, than the tallest principal structure on the lot where it is located. All ingress, egress drive thru and other traffic directional signs, not governed by Manual or Uniform Traffic Control Devices, shall not exceed a height of 30’.
- F. Signs meeting the definition of “billboards” are prohibited in all zones.
- G. In C-Commercial, CB-Central Business District, MU-Mixed Use, LI-Light Industrial, and HI-Heavy Industrial districts only, and only in connection with permitted or conditionally permitted business, commercial or industrial uses and structures, awnings and window displays that include numbers, text

or illustrations shall not be considered signs for purposes of this Ordinance if such awnings and window displays (a) are not three-dimensional, illuminated, backlit or under-lit, and (b) do not feature or contain moving parts, or changing or flashing messages, designs, displays or components.

- H. Temporary political signs, not exceeding 32 square feet in area, may be erected on any privately owned lot or parcel in any zone. No such sign shall have a height greater than five (5) feet above grade at base of sign. No such sign shall be attached to utility poles, street name signs or other traffic or official road signs. No such sign shall be erected on or in any public property or public right-of-way. No more than one (1) such sign for each candidate, slate of candidates, referendum or ballot question shall be erected per road frontage of any one lot or parcel. No such sign shall be erected more than 30 days prior to the nomination, election or referendum which it purports to advertise, and all such signs shall be removed within 10 days after the event. Political signs that are fixed permanently are prohibited (No Zoning Permit required)
- I. Temporary signs not exceeding 32 square feet in area announcing a campaign, drive or event of a civic, philanthropic, educational, youth sports or, religious organization, may be erected on any privately owned lot or parcel in any zone. No such sign shall have a height greater than five (5) feet above grade at base of sign. No such sign shall be attached to utility poles, street names signs or other traffic or official road signs. No such sign shall be erected on or in any public property right-of-way. No more than one (1) such sign shall be erected per road frontage of any one lot or parcel. No such sign shall be erected more than 30 days prior to the event advertised, and all such signs shall be removed within 10 days after the event. (No Zoning Permit required)
- J. Off-site Temporary Real Estate Open House signs – Temporary directional signs for an open house event may be placed, on the day of the open house, within the public right of way of streets provided that they do not block sight triangles. Such signs shall be a single or two-sided, non-illuminated sign advertising the open house with each façade not to exceed 4 square feet, with height above grade at base of sign not to exceed thirty (30) inches. Such signs must clearly identify the real estate broker sponsoring the open house and include the broker’s address and phone number. Such signs shall be removed within one (1) hour of the conclusion of the open house event. (No Zoning Permit required)
- K. Residential Districts Signs
  - 1. On-Site Advertising Signs for Certain Permitted Uses. A single or two-sided advertising or identification sign for a permitted use listed in Section 5.8(B)(2) through (5), or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) be externally or internally illuminated; externally lit signs shall have lights mounted on top of sign and shall not cause light to be directed towards roadways or buildings (c) not feature or contain moving parts, or flashing messages, designs, displays or components (d) be no higher than three (3) feet from street level at its highest point; and (e) have no single façade area, including borders and supporting structures, greater than six (6) square feet. (Zoning permit is required for all except municipal.)
  - 2. Contractor Signs. A single or two-sided, non-illuminated sign of a building tradesperson, contractor or artisan who does not own or reside at, but who is providing services to the owner of the property where the sign is located, provided that such sign may remain in place only for as long as the tradesman, contractor or artisan is in the process of working at the property where the sign is located, and also provided that the highest point of such sign may by no more than five (5) feet above grade at the sign’s base, be located outside all site triangles and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).

3. A single or two-sided, non-illuminated sign advertising the sale or rental of a premises where the sign is located, provided that such sign may remain in place at the subject premises only for as long as the premises is for sale or for rent, and also provided that the highest point of such sign may be no more than five (5) feet above grade at the sign's base, and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).
4. Development Signs. A single or two-sided, non-illuminated sign advertising or identifying a development project at a premises which has received final major subdivision or final major site plan approval, provided that such sign may remain in place at the premises only for as long as the approval remains in effect and the premises is in the process of being developed, and also provided that the highest point of such sign may be no more than eight (8) feet above grade at the sign's base, be located outside of all side triangles and no single façade area of such sign, including borders and supporting structures, may exceed twenty-four (24) square feet (zoning permit is required, and may be obtained separate from site plan or subdivision review.)
5. Official traffic signs, if authorized, requested or required by the Township or other applicable regulatory agency (zoning permit is not required).
6. MF-3 100% Affordable Housing District.
  - a. Site identification sign. Each townhouse and multifamily neighborhood or complex developed as an integrated entity shall be permitted a freestanding sign for each public street frontage, provided that such sign shall conform to the following provisions:
    - (1) The sign shall be located on the tract of the development;
    - (2) The sign may be internally illuminated or externally illuminated with non-glare inducing lighting fixtures;
    - (3) The sign shall not feature or contain moving parts or flashing messages, designs, displays or components;
    - (4) The Sign shall not exceed forty (40) square feet in sign area.
    - (5) The sign shall not exceed six (6) feet in height; and
    - (6) The sign shall contain the street address of the premises with minimum lettering height of four (4) but not to exceed six (inches).
  - b. Building façade sign. Each building in a townhouse and multifamily neighborhood or complex development as an integrated entity shall be permitted a façade sign, conforming to the following provisions:
    - (1) The sign shall be located in close proximity to the main entrance, or in the event there is no main entrance, on the façade closest to the nearest parking or drive aisle;
    - (2) The sign shall be located above the first floor windows and below the second floor windows, or on an entrance canopy (attached to the fascia or directly on the roof of the canopy);
    - (3) The sign may be internally illuminated or with backlighted lettering;
    - (4) The sign shall not exceed eighteen (18) square feet in sign area; and

- (5) Each building shall be numbered, lettered or named to differentiate it from the other buildings of the complex, unless each dwelling has a street address.
- c. Directional signs. Each townhouse and multifamily neighborhood or complex developed as an integrated entity shall be permitted a directional sign for each public street frontage and one or more such signs for internal directions, for indicating the path of pedestrian or vehicular traffic within the complex, provided that such sign shall conform to the following provisions:
  - (1) The sign shall not be located within fifty (50) feet of the tract perimeter;
  - (2) No two directional signs shall be located within one hundred (100) feet of each other;
  - (3) The sign shall be freestanding;
  - (4) The sign shall not exceed sixteen (16) square feet in sign area;
  - (5) The sign shall not exceed six (6) feet in height; and
  - (6) The sign may contain a site map indicating the location of the buildings within the complex.
- d. Flags. Flags on up to three flagpoles not to exceed one hundred (100) square feet in area or mounted higher than forty (40) feet, provided the location is approved as part of an application for development.

#### L. Commercial District

1. On-Site Advertising Signs for Certain Permitted Uses. A single or two-sided advertising or identification pylon sign for a permitted or conditional use or structure listed in Section 5.9.B and C, above, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or flashing messages, designs, displays or components; (c) be externally or internally illuminated; externally lit signs shall have lights mounted on top of sign and shall not cause light to be directed towards roadways or buildings (d) be no higher than twenty (20) feet from street level at its highest point; and (e) have no single façade area, including borders, greater than forty (40) square feet. A pylon sign shall be permitted within the front yard setback provided that no portion of the pylon sign encroaches the right-of-way of any road. (Zoning permit is required for all except municipal.)

A facade sign for a permitted or conditional use or structure listed in Section 5.9.B and C, above, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or flashing messages, designs, displays or components; (c) be externally or internally illuminated; externally lit signs shall have lights mounted on top of the sign and shall not cause light to be directed towards roadways or buildings; (d) have a façade area, including borders, not greater than forty (40) square feet. (Zoning permit is required for all except municipal)

2. Contractor Signs. A single or two-sided, non-illuminated sign of a building tradesperson, contractor or artisan who does not own or reside at, but who is providing services to the owner of the property where the sign is located, provided that such sign may remain in place only for as long as the tradesman, contractor or artisan is in the process of working at the property where the sign is located, and also provided that the highest point of such sign may by no more than five (5) feet above grade at the sign's base, be located outside all site triangles and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).

3. “For Sale” or “For Rent” Signs. A single or two-sided, non-illuminated sign advertising the sale or rental of a premises where the sign is located, provided that such sign may remain in place at the subject premises only for as long as the premises is for sale or for rent, and also provided that the highest point of such sign may by no more than five (5) feet above grade at the sign’s base, and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).
4. Development Signs. A single or two-sided, non-illuminated sign advertising or identifying a development project at a premises which has received final major subdivision or final major site plan approval, provided that such sign may remain in place at the premises only for as long as the approval remains in effect and premises is in the process of being developed be located outside all site triangles, and also provided that the highest point of such sign may by no more than eight (8) feet above grade at the sign’s base, and no single façade area of such sign, including borders and supporting structures, may exceed twenty-four (24) square feet (zoning permit is required, and may be obtained separate from site plan or subdivision review).
5. Shopping Center Monument Signs. Either one two-sided, or two single-sided permanent monument signs identifying by name a shopping center at each entrance of such shopping center provided that such shopping center must have at least 20,000 total square feet of gross floor area, and also provided that each such sign must (a) be externally or internally illuminated; externally lit signs shall have lights mounted on top of sign and shall not cause light to be directed towards roadways or buildings (b) be no higher than five (5) feet from street level at its highest point; (c) be located outside all site triangles (d) have no single façade area, including borders and supporting structures, greater than fifty (50) square feet; (e) be approved as part of the site plan approval for the shopping center; and (f) maintained by the owner of the shopping center. (Zoning permit and site plan approval are required.)
6. Official traffic signs, if authorized by the Township or other applicable regulatory agency (zoning permit is not required).
7. Temporary Signs. One temporary sign per lot as defined in this ordinance (zoning permit required). No single façade area of such sign shall exceed fifteen (15) square feet. Temporary signs may not be converted to permanent signs without a zoning permit.
8. Awnings and window displays at non-residential premises that include numbers, text or illustrations shall not be considered signs for purposes of this Ordinance if such awnings and window displays (a) are not three-dimensional, illuminated, backlit or under-lit, and (b) do not feature or contain moving parts, or changing or flashing messages, designs, displays or components. No more than thirty (30%) percent of window area shall be used for signage. Window displays consists of only products sold by business.
9. Banner signs as defined in this ordinance, provided that such signs meet the following requirements:
  - a. Banner signs may be permitted if approved by Township ordinance, agreement or license as part of a series of like signs that have the combined purpose of establishing a uniform program for promoting the Township and its businesses who subscribe to the banner sign program provided that:

- i. Banner signs may only be attached to public utility poles, only along Route 49 and Main Street, and only as expressly approved by (a) Township ordinance, agreement or license; (b) the New Jersey Department of Transportation, as applicable; and (c) the utility company or companies which own the poles to which the banner signs are to be attached.
- ii. No more than one banner sign may occupy a single utility pole.
- iii. Banner signs must be part of a continuous series of no fewer than 50 banner signs on each side of the street.
- iv. Each banner sign series must be continuous and uniform, with a banner sign installed either on every utility pole on each side of the street or, if not on every utility pole, then at intervals of no less than 100 feet between banner signs on each side of the street.
- v. Each banner sign must be safely secured to the utility pole to which it is attached using banding straps, brackets, rods or other suitable means, and at a uniform series height and placement, all as expressly approved by Township ordinance, agreement or license, the NJDOT, and the utility company or company which owns the pole to which the banner sign is attached.
- vi. Banner signs may not be electrified, illuminated, automated, or constructed of three-dimensional or reflective materials.
- vii. Individual banner signs must be replaced or repaired within 14 days after written notice of disappearance or damage, and all banner signs in each series must be removed within three (3) years after installation, all at the sole cost of the banner sign company, which replacement, repair and removal may be secured by a guarantee or guarantees to be posted with the Township as part of the ordinance, agreement or licensing approval.

Any proposed ordinance or agreement to permit banner signs, and any proposed ordinance to license banner signs, shall be considered to be a “development regulation, revision or amendment thereto” and as such will be subject to referral to the Planning Board pursuant to *N.J.S.A. 40:55D-26* prior to adoption.

10. Digital Sign – A single or two-sided sign, displaying message for minimum of ten (10) seconds, with change between messages taking no longer than one (1) second. Messages shall not scroll or flash. Dimensions shall not exceed those permitted in the above uses.

#### M. Central Business District Signs

1. On-Site Advertising Signs for Certain Permitted Uses. A single or two-sided advertising or identification pylon sign for each permitted or conditional use or structure listed in Section 5.10.B and C, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or flashing messages, designs, displays or components; (c) be externally or internally illuminated; externally lit signs shall have lights mounted on top of sign and shall not cause light to be directed towards roadways or buildings (d) be no higher than ten (10) feet from street level at its highest point; and (e) be located outside all site triangles (f) have no single façade area, including borders, greater than nine (9) square feet. A pylon sign shall be permitted within the front yard setback provided that no portion of the pylon sign encroaches the right-of-way of any road. (Zoning permit is required for all except municipal.)



A facade sign for a permitted or conditional use or structure listed in Section 5.9.B and C, above, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or flashing messages, designs, displays or components; (c) be externally or internally illuminated; externally lit signs shall have lights mounted on top of the sign and shall not cause light to be directed towards roadways or buildings; (d) have a façade area, including borders, not greater than forty (40) square feet. (Zoning permit is required for all except municipal)

2. Contractor Signs. A single or two-sided, non-illuminated sign of a building tradesperson, contractor or artisan who does not own or reside at, but who is providing services to the owner of the property where the sign is located, provided that such sign may remain in place only for as long as the tradesman, contractor or artisan is in the process of working at the property where the sign is located, and also provided that the highest point of such sign may by no more than five (5) feet above grade at the sign's base, be located outside all site triangles and no single façade area of such sign, including borders and supporting structures, may exceed four (4) square feet (no zoning permit required).
3. "For Sale" or "For Rent" Signs. A single or two-sided, non-illuminated sign advertising the sale or rental of a premises where the sign is located, provided that such sign may remain in place at the subject premises only for as long as the premises is for sale or for rent, and also provided that the highest point of such sign may by no more than five (5) feet above grade at the sign's base, be located outside all site triangles and no single façade area of such sign, including borders and supporting structures, may exceed six (6) square feet (no zoning permit required).
4. Official traffic signs, if authorized by the Township or other applicable regulatory agency (zoning permit is not required).
5. Temporary Signs. One temporary sign per lot as defined in this ordinance (zoning permit required). No single façade area of such sign shall exceed fifteen (15) square feet. Temporary signs may not be converted to permanent signs without a zoning permit.
6. Awnings and window displays at non-residential premises that include numbers, text or illustrations shall not be considered signs for purposes of this Ordinance if such awnings and window displays (a) are not three-dimensional, illuminated, backlit or under-lit, and (b) do not feature or contain moving parts, or changing or flashing messages, designs, displays or components. No more than thirty (30%) percent of window area shall be used for signage. Window displays consists of only products sold by business.
7. Digital Sign – A single or two-sided sign, displaying message for minimum of ten (10) seconds, with change between messages taking no longer than one (1) second. Messages shall not scroll or flash. Dimensions shall not exceed those permitted in the above uses.

#### N. Mixed Use District Signs

1. On-Site Advertising Signs for Certain Permitted Uses. A single or two-sided advertising or identification pylon sign for a permitted or conditional use or structure listed in Section 5.11.B and C, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or flashing messages, designs, displays or components; (c) be externally or internally illuminated; externally lit signs shall have lights mounted on top of sign and shall not cause light to be directed towards

roadways or buildings (d) be no higher than twenty (20) feet from street level at its highest point; (e) be located outside all site triangles and (f) have no single façade area, including borders, greater than forty (40) square feet. A pylon sign shall be permitted within the front yard setback provided that no portion of the pylon sign encroaches the right-of-way of any road. (Zoning permit is required for all except municipal.)

A facade sign for a permitted or conditional use or structure listed in Section 5.9.B and C, above, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or flashing messages, designs, displays or components; (c) be externally or internally illuminated; externally lit signs shall have lights mounted on top of the sign and shall not cause light to be directed towards roadways or buildings; (d) have a façade area, including borders, not greater than forty (40) square feet. (Zoning permit is required for all except municipal)

2. Contractor Signs. A single or two-sided, non-illuminated sign of a building tradesperson, contractor or artisan who does not own or reside at, but who is providing services to the owner of the property where the sign is located, provided that such sign may remain in place only for as long as the tradesman, contractor or artisan is in the process of working at the property where the sign is located, and also provided that the highest point of such sign may by no more than five (5) feet above grade at the sign's base, be located outside all site triangles and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).
3. "For Sale" or "For Rent" Signs. A single or two-sided, non-illuminated sign advertising the sale or rental of a premises where the sign is located, provided that such sign may remain in place at the subject premises only for as long as the premises is for sale or for rent, and also provided that the highest point of such sign may by no more than five (5) feet above grade at the sign's base, and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).
4. Development Signs. A single or two-sided, non-illuminated sign advertising or identifying a development project at a premises which has received final major subdivision or final major site plan approval, provided that such sign may remain in place at the premises only for as long as the approval remains in effect and premises is in the process of being developed, and also provided that the highest point of such sign may by no more than eight (8) feet above grade at the sign's base, be located outside all site triangles and no single façade area of such sign, including borders and supporting structures, may exceed twenty-four (24) square feet (zoning permit is required, and may be obtained separate from site plan or subdivision review).
5. Shopping or Office Center Monument Signs. Either one two-sided, or two single-sided permanent monument signs identifying by name a shopping or office center at each entrance of such shopping or office center provided that such shopping center or office center must have at least 20,000 total square feet of gross floor area, and also provided that each such sign must (a) be externally or internally illuminated; externally lit signs shall have lights mounted on top of sign and shall not cause light to be directed towards roadways or buildings (b) be no higher than five (5) feet from street level at its highest point; (c) have no single façade area, including borders and supporting structures, greater than fifty (50) square feet; (d) be located outside all site triangles (e) be approved as part of the site plan approval for the shopping or office center; and (f) maintained by the owner of the shopping or office center. (Zoning permit and site plan approval are required.)

6. Official traffic signs, if authorized by the Township or other applicable regulatory agency (zoning permit is not required).
7. Temporary Signs. One temporary sign per lot as defined in this ordinance (zoning permit required). No single façade area of such sign shall exceed fifteen (15) square feet. Temporary signs may not be converted to permanent signs without a zoning permit.
8. Awnings and window displays at non-residential premises that include numbers, text or illustrations shall not be considered signs for purposes of this Ordinance if such awnings and window displays (a) are not three-dimensional, illuminated, backlit or under-lit, and (b) do not feature or contain moving parts, or changing or flashing messages, designs, displays or components. by business.
9. Digital Sign – A single or two-sided sign, displaying message No more than thirty (30%) percent of window area shall be used for signage. Window displays consists of only products sold for minimum of ten (10) seconds, with change between messages taking no longer than one (1) second. Messages shall not scroll or flash. Dimensions shall not exceed those permitted in the above uses.

#### O. Light Industrial District Signs

1. On-Site Advertising Signs for Certain Permitted Uses. A single or two-sided advertising or identification pylon sign for a permitted or conditional use or structure listed in Section 5.12.B, above, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or changing or flashing messages, designs, displays or components; (c) be externally or internally illuminated; externally lit signs shall have lights mounted on top of sign and shall not cause light to be directed towards roadways or buildings (d) be no higher than twenty (20) feet from street level at its highest point; (e) be outside all site triangles; and (f) have no single façade area, including borders, greater than forty (40) square feet. A pylon sign shall be permitted within the front yard setback provided that no portion of the pylon sign encroaches the right-of-way of any road. (Zoning permit is required for all except municipal.)

A facade sign for a permitted or conditional use or structure listed in Section 5.9.B and C, above, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or flashing messages, designs, displays or components; (c) be externally or internally illuminated; externally lit signs shall have lights mounted on top of the sign and shall not cause light to be directed towards roadways or buildings; (d) have a façade area, including borders, not greater than forty (40) square feet. (Zoning permit is required for all except municipal)

2. Contractor Signs. A single or two-sided, non-illuminated sign of a building tradesperson, contractor or artisan who does not own or reside at, but who is providing services to the owner of the property where the sign is located, provided that such sign may remain in place only for as long as the tradesman, contractor or artisan is in the process of working at the property where the sign is located, and also provided that the highest point of such sign may by no more than five (5) feet above grade at the sign's base, and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).
3. "For Sale" or "For Rent" Signs. A single or two-sided, non-illuminated sign advertising the sale or rental of a premises where the sign is located, provided that such sign may remain in place at the

subject premises only for as long as the premises is for sale or for rent, and also provided that the highest point of such sign may be no more than five (5) feet above grade at the sign's base, and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).

4. Development Signs. A single or two-sided, non-illuminated sign advertising or identifying a development project at a premises which has received final major subdivision or final major site plan approval, provided that such sign may remain in place at the premises only for as long as the approval remains in effect and premises is in the process of being developed, and also provided that the highest point of such sign may be no more than eight (8) feet above grade at the sign's base, and no single façade area of such sign, including borders and supporting structures, may exceed twenty-four (24) square feet (zoning permit is required, be located outside all site triangles and may be obtained separate from site plan or subdivision review).
5. Shopping or Office Center Monument Signs. Either one two-sided, or two single-sided permanent monument signs identifying by name a shopping or office center at each entrance of such shopping or office center provided that such shopping center or office center must have at least 20,000 total square feet of gross floor area, and also provided that each such sign must (a) be externally rather than internally illuminated; (b) be no higher than five (5) feet from street level at its highest point; (c) have no single façade area, including borders and supporting structures, greater than fifty (50) square feet; (d) be approved as part of the site plan approval for the shopping or office center; and (e) maintained by the owner of the shopping or office center. (Zoning permit and site plan approval are required.)
6. Official traffic signs, if authorized by the Township or other applicable regulatory agency (zoning permit is not required).
7. Temporary Signs. One temporary sign per lot as defined in this ordinance (zoning permit required). No single façade area of such sign shall exceed fifteen (15) square feet. Temporary signs may not be converted to permanent signs without a zoning permit.
8. Awnings and window displays at non-residential premises that include numbers, text or illustrations shall not be considered signs for purposes of this Ordinance if such awnings and window displays (a) are not three-dimensional, illuminated, backlit or under-lit, and (b) do not feature or contain moving parts, or changing or flashing messages, designs, displays or components. No more than thirty (30%) percent of window area shall be used for signage. Window displays consists of only products sold by business.
9. Awnings. Awnings are permitted on building facades subject to the following requirements:
  1. Awnings must be at least seven (7) feet from the sidewalk surface when measured from the lowest point;
  2. Awnings must be supported entirely by framework that extends horizontally from the facades of the buildings to which they are attached. Awnings may not be supported by any vertical or diagonal post or other member that falls below the seven (7) foot height requirement set forth above;
  3. Awnings must be constructed of opaque fabric, and not illuminated from beneath (however lights may be suspended from beneath awnings to illuminate the sidewalk and street-level building façade);

4. Except as expressly provided in this subsection, awnings may not be used to support any other structure or ornamentation such as but not limited to signs, plants or loudspeakers;
  5. Awnings which comply with the conditions of this section may contain words, numbers (including street numbers), logos or other artwork or illustrations without being considered “signs” for purposes of this ordinance.
10. Digital Sign – A single or two-sided sign, displaying message for minimum of ten (10) seconds, with change between messages taking no longer than one (1) second. Messages shall not scroll or flash. Dimensions shall not exceed those permitted in the above uses.

P. Heavy Industrial District Signs

1. On-Site Advertising Signs for Certain Permitted Uses. A single or two-sided advertising or identification pylon sign for a permitted or conditional use or structure listed in Section 5.13.B, above, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or changing or flashing messages, designs, displays or components; (c) be externally rather than internally illuminated; (d) be no higher than twenty (20) feet from street level at its highest point; and (e) have no single façade area, including borders, greater than forty (40) square feet. A pylon sign shall be permitted within the front yard setback provided that no portion of the pylon sign encroaches the right-of-way of any road. (Zoning permit is required.)

A facade sign for a permitted or conditional use or structure listed in Section 5.9.B and C, above, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or flashing messages, designs, displays or components; (c) be externally or internally illuminated; externally lit signs shall have lights mounted on top of the sign and shall not cause light to be directed towards roadways or buildings; (d) have a façade area, including borders, not greater than forty (40) square feet. (Zoning permit is required for all except municipal)

2. Contractor Signs. A single or two-sided, non-illuminated sign of a building tradesperson, contractor or artisan who does not own or reside at, but who is providing services to the owner of the property where the sign is located, provided that such sign may remain in place only for as long as the tradesman, contractor or artisan is in the process of working at the property where the sign is located, and also provided that the highest point of such sign may by no more than five (5) feet above grade at the sign’s base, and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).
3. “For Sale” or “For Rent” Signs. A single or two-sided, non-illuminated sign advertising the sale or rental of a premises where the sign is located, provided that such sign may remain in place at the subject premises only for as long as the premises is for sale or for rent, and also provided that the highest point of such sign may by no more than five (5) feet above grade at the sign’s base, and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).
4. Development Signs. A single or two-sided, non-illuminated sign advertising or identifying a development project at a premises which has received final major subdivision or final major site plan approval, provided that such sign may remain in place at the premises only for as long as the approval remains in effect and premises is in the process of being developed, and also provided

that the highest point of such sign may be no more than eight (8) feet above grade at the sign's base, and no single façade area of such sign, including borders and supporting structures, may exceed twenty-four (24) square feet (zoning permit is required, and may be obtained separate from site plan or subdivision review).

5. Shopping or Office Center Monument Signs. Either one two-sided, or two single-sided permanent monument signs identifying by name a shopping or office center at each entrance of such shopping or office center provided that such shopping center or office center must have at least 20,000 total square feet of gross floor area, and also provided that each such sign must (a) be externally rather illuminated; (b) be no higher than five (5) feet from street level at its highest point; (c) have no single façade area, including borders and supporting structures, greater than fifty (50) square feet; (d) be approved as part of the site plan approval for the shopping or office center; and (e) maintained by the owner of the shopping or office center. (Zoning permit and site plan approval are required.)
6. Official traffic signs, if authorized by the Township or other applicable regulatory agency (zoning permit is not required).
7. Temporary Signs. One temporary sign per lot as defined in this ordinance (zoning permit required). No single façade area of such sign shall exceed fifteen (15) square feet. Temporary signs may not be converted to permanent signs without a zoning permit.
8. Awnings and window displays at non-residential premises that include numbers, text or illustrations shall not be considered signs for purposes of this Ordinance if such awnings and window displays (a) are not three-dimensional, illuminated, backlit or under-lit, and (b) do not feature or contain moving parts, or changing or flashing messages, designs, displays or components. No more than thirty (30%) percent of window area shall be used for signage. Window displays consists of only products sold by business.
9. Awnings. Awnings are permitted on building facades subject to the following requirements:
  1. Awnings must be at least seven (7) feet from the sidewalk surface when measured from the lowest point;
  2. Awnings must be supported entirely by framework that extends horizontally from the facades of the buildings to which they are attached. Awnings may not be supported by any vertical or diagonal post or other member that falls below the seven (7) foot height requirement set forth above;
  3. Awnings must be constructed of opaque fabric, and not illuminated from beneath (however lights may be suspended from beneath awnings to illuminate the sidewalk and street-level building façade);
  4. Except as expressly provided in this subsection, awnings may not be used to support any other structure or ornamentation such as but not limited to signs, plants or loudspeakers;
  5. Awnings which comply with the conditions of this section may contain words, numbers (including street numbers), logos or other artwork or illustrations without being considered "signs" for purposes of this ordinance.

Q. Conservation District Signs

1. On-Site Advertising Signs for Certain Permitted Uses. A single or two-sided advertising or identification pylon sign for a permitted or conditional use or structure listed in Section 5.14.B, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, changing messages, designs, displays or components, or illumination of any kind; (c) be no higher than three (3) feet from street level at its highest point, be located outside all site triangles; and (d) have no single façade area, including borders, greater than four (4) square feet. A pylon sign shall be permitted within the front yard setback provided that no portion of the pylon sign encroaches the right-of-way of any road. (Zoning permit is required for all except municipal.)

A facade sign for a permitted or conditional use or structure listed in Section 5.9.B and C, above, or a permitted farm stand as defined in this Ordinance, provided that such sign must (a) be located at the premises where the use is conducted; (b) not feature or contain moving parts, or flashing messages, designs, displays or components; (c) be externally or internally illuminated; externally lit signs shall have lights mounted on top of the sign and shall not cause light to be directed towards roadways or buildings; (d) have a façade area, including borders, not greater than forty (40) square feet. (Zoning permit is required for all except municipal)

2. Contractor Signs. A single or two-sided, non-illuminated sign of a building tradesperson, contractor or artisan who does not own or reside at, but who is providing services to the owner of the property where the sign is located, provided that such sign may remain in place only for as long as the tradesman, contractor or artisan is in the process of working at the property where the sign is located, and also provided that the highest point of such sign may be no more than five (5) feet above grade at the sign's base, and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).
3. "For Sale" or "For Rent" Signs. A single or two-sided, non-illuminated sign advertising the sale or rental of a premises where the sign is located, provided that such sign may remain in place at the subject premises only for as long as the premises is for sale or for rent, and also provided that the highest point of such sign may be no more than five (5) feet above grade at the sign's base, and no single façade area of such sign, including borders and supporting structures, may exceed twelve (12) square feet (no zoning permit required).
4. Official traffic signs, if authorized by the Township or other applicable regulatory agency (zoning permit is not required).

- R. Notwithstanding anything contained in this Ordinance to the contrary, any sign erected pursuant to the provisions of this Ordinance with a commercial message may, at the option of the owner, contain a non-commercial message unrelated to the business located on the premises where the sign is erected. The non-commercial message may occupy the entire the entire sign face or any portion thereof. The sign face may be changed from a commercial to a non-commercial message or from one non-commercial message to another, as frequently as desired by the owner of the sign, provided that the sign is not a prohibited sign or sign type, and provided that the size, height, setback, and other dimensional criteria contained in this Ordinance have been satisfied.

## **SECTION 5.5 – FENCES AND WALLS**

- A. Fences and walls are conditionally permitted accessory uses and structures in all zoning districts.

B. The following requirements apply to fences or walls to be constructed or installed at lots that are used only for single family residential and/or agricultural purposes.

1. A zoning permit is required prior to construction of any fence or wall, except for “invisible” underground electrical fencing of the sort typically used to contain dogs.
2. Walls must be constructed no less than six (6) inches from the nearest lot line, sidewalk, sight triangle easement, or other public or restricted area and, no less than one (1) foot from any roadway right-of-way, sight triangle easement, or other public or restricted area when measured from the outermost edge of the wall. Each zoning permit application for a wall must include a copy of a survey of the lot or the portion of the lot where the wall is to be located, prepared by a New Jersey licensed surveyor, which depicts existing markers or monuments by which the wall installer and the Zoning Officer can confirm compliance with the aforesaid setback requirements. The Zoning Officer may waive the survey requirement if the Zoning Officer is able, using other means, to confirm that the proposed wall will be no less than one (1) foot from any roadway right-of-way, sight triangle easement, or other public or restricted area.

Fences must be constructed outside of any sight triangle easement, easement, right-of-way or other public or restricted area. Each zoning permit application for a fence must include a copy of a survey of the lot or the portion of the lot where the fence is to be located, prepared by a New Jersey licensed surveyor, which depicts existing markers or monuments by which the fence installer and the Zoning Officer can confirm compliance with the aforesaid setback requirements. The Zoning Officer may waive the survey requirement if the Zoning Officer is able, using other means, to confirm that the proposed fence will be no less than one (1) foot from any roadway right-of-way, sight triangle easement, or other public or restricted area.

3. In order to preserve site lines on intersecting streets and in order to insure access to residences within this Township by emergency personnel, no wall shall be constructed beyond the front of the structure (i.e., front yards shall not be walled). On lots situated at the intersection of two streets (corner lots), no wall shall be constructed beyond the front of the structure as set forth earlier in this paragraph, and in addition no wall shall be constructed in the side yard which borders a street.
4. Fences constructed of vinyl, chain link or wood may be no higher than six (6) feet from grade at base. Fences constructed of other materials may be no higher than four (4) feet from grade at base. The finished side of all fences and walls are to face towards the adjoining property.
5. Barbed wire, razor wire, or above-ground electric fencing materials are prohibited except when used for agricultural purposes.
6. Fences constructed in the front yard may be no higher than four (4) feet as measured from the grade at the base of the fence. When a corner lot is involved the owner and/or applicant shall decide which road frontage is to be considered the front yard.

C. Site plan approval is required prior to construction or installation of a fence or wall at any lot that is used for other than residential and/or agricultural purposes. In the absence of specifically applicable design standards, such fences or walls must comply with all requirements of Section 5.5.B, above, provided that only the Planning Board, and not the Zoning Officer, may waive the survey and grading plan requirements of that section.

## **SECTION 5.6 –NONCONFORMING LOTS, STRUCTURES AND USES**



A. Definitions:

1. *Nonconforming lot* means a lot (1) the lot area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment, and (2) whose owners do not have title to, ownership of, or dominion or control over property adjoining the lot since the date of such adoption, revision or amendment.
2. *Nonconforming structure* means a structure the size, dimension or location of which were lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.
3. *Nonconforming use* means a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

B. Nonconforming lots, structures and uses shall be regulated as follows:

1. Nonconforming Lots.

- a. Any nonconforming lot may continue to exist unchanged as it did on the date of the zoning ordinance adoption, revision or amendment that rendered it nonconforming as long as its area and dimensions, and the buildings, structures and uses that exist or occur upon it remain unchanged from the time of such adoption, revision or amendment.
- b. A nonconforming lot may not be reduced in area or changed in dimension by subdivision or other means, nor may any of the buildings or other structures upon it be altered or expanded in a manner that requires site plan review, unless (1) all existing and proposed lot nonconformities, including but not limited to the area, dimension or location nonconformities that are otherwise protected by this Section 5.6.B.1., are approved by variance pursuant to *N.J.S.A. 40:55D-70*, and (2) the proposed reduction, change, alteration or expansion meets all requirements of site plan or subdivision review (except for design requirements that are waived by the Planning Board pursuant to this Ordinance).
- c. Any nonconforming lot sharing one or more boundaries with another lot or lots in common ownership or under common dominion or control is deemed to have been merged with such other lot or lots as of the date of the zoning ordinance adoption, revision or amendment that rendered the lot or lots nonconforming, or as of the date the lots became commonly owned or controlled, whichever occurred later. Any combination of lots so merged will be deemed to be a single lot regardless of what may be indicated on the Township Tax Map. Any nonconforming lot or lots merged in this or any other manner are not protected pursuant to this Section 5.6.B.1 as to any nonconformity or degree thereof that is eliminated by the merger, but the single enlarged or altered lot that results from the merger, if still nonconforming in area or dimension, will enjoy the protections of this 5.6.B.1 with respect to such remaining nonconformities or degrees thereof as if the date of the merger were the date of a zoning ordinance adoption, revision or amendment as set forth in Section 6.B.1.a, above.

2. Nonconforming Structures.

- a. Any nonconforming structure existing at the time of the passage of an ordinance may be continued unchanged upon the lot and any such structure may be restored or repaired in the event of partial destruction thereof.
- b. A nonconforming structure may not be expanded in any way or altered in a manner that requires site plan review, unless (1) all existing and proposed structure nonconformities, including but not limited to the nonconformities that are otherwise protected by this Section 5.6.B.2., are approved by variance pursuant to *N.J.S.A. 40:55D-70*, and (2) the proposed expansion or alteration meets all requirements of site plan review (except for design requirements that are waived by the Planning Board pursuant to this Ordinance).
- c. The lot on which a nonconforming structure is located may not be reduced in area or reconfigured by subdivision or other means unless (1) all existing and proposed structure nonconformities are approved by variance pursuant to *N.J.S.A. 40:55D-70*, and; (2) the division otherwise meets all requirements of subdivision review, as applicable (except for requirements that are waived by the Planning Board pursuant to this Ordinance). The foregoing notwithstanding, front, side and/or rear yard setback nonconformities with respect to lawfully permitted principal and/or accessory structures existing on lots used for only residential purposes in any district within the Township may be continued without the need for variance relief in the event of minor subdivision of such residential lot(s), provided that: (a) the minor subdivision, and all lots resulting therefrom, comply with or are permitted by virtue of variance relief from all other Ordinance requirements effective as of the date of the minor subdivision application; (b) the lot line(s) from which the existing non-conforming yard setbacks are measured are not altered by the minor subdivision; (c) the minor subdivision will not cause any increase in the magnitude or number of existing setback violation(s), and; (d) the lot(s) resulting from the minor subdivision on which the continued setback violation(s) will exist continue to be used only for residential purposes.
- d. When a lot on which a nonconforming structure is located is enlarged or altered by merger with another lot in such a way as to decrease the number or magnitude of the structural nonconformity, the nonconforming structure loses its protections pursuant to this Section 5.6.B.2 for all nonconformities or degrees thereof that are eliminated by such merger, provided that in such event the remaining structural nonconformities will enjoy the protections of this Section 5.6.B.2 as if the date of the merger were the date of a zoning ordinance adoption, revision or amendment as set forth in Section 5.6.B.2.a, above.
- e. Application and Review. A prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming structure exists may apply in writing for the issuance of a certificate certifying that the structure existed before the adoption of the ordinance which rendered the structure nonconforming. The applicant shall have the burden of proof. An application for a certificate of nonconforming structure may be made without public notice to the zoning officer within one year following the adoption of the ordinance which rendered the structure nonconforming. A denial by the zoning officer is appealable to the Planning Board pursuant to *N.J.S.A. 40:55D-68* and *-70(b)*, provided that such an appeal will be subject to completeness review and public notice requirements pursuant to Sections 4.1 and 4.4 of this Ordinance. Applications for appeal must be filed with the Planning Board Secretary, and must include a completed Application Cover Sheet and Checklist Schedule FF (Appeal to Planning Board). An application for certificate of nonconforming structure may be made at any time to the Planning Board, provided that any such application will be subject to completeness review and require public notice pursuant to Sections 4.1 and 4.4 of this Ordinance.

- f. Application Requirements. Applications for certification of nonconforming structures must include a completed Application Cover Sheet, all requirements of Checklist Schedule A (General Requirements), Checklist Schedule B (Approvals Requested), and Checklist Schedule GG (Certification of Nonconformity), and must include applicable fees and escrow deposits.

3. Nonconforming Uses.

- a. Any nonconforming use existing at the time of the passage of an ordinance may be continued unchanged upon the lot or in the structure so occupied.
- b. A nonconforming use may not change, nor may the extent or intensity of a nonconforming use or activity be increased, nor may the lot or lots on which the nonconforming use occurs be reduced in area or reconfigured by subdivision or other means, nor may any of the buildings or other structures in or on which the nonconforming use occurs be altered or expanded in a manner that requires site plan review, unless all existing and proposed nonconformities are (1) approved by variance pursuant to *N.J.S.A. 40:55D-70* and (2) meet all requirements of site plan review (except for design requirements that are waived by the Planning Board pursuant to this Ordinance).
- c. If the area of a lot on which a nonconforming use or activity occurs is increased by merger with another lot, the nonconforming use shall nonetheless remain confined to the area which constituted the original lot at the time of the ordinance adoption, revision or amendment that rendered the use nonconforming.
- d. Abandonment of a nonconforming use will automatically cause the nonconforming use to lose the protections set forth in Section 5.6.B.3.a, above, as of the date of abandonment. In the event of partial abandonment of a nonconforming use, all protections of this Section 5.6.B.3 will be lost with respect to all aspects of the use so abandoned, but the remaining, diminished use will enjoy the protections of this Section 5.6.B.3 as if the date of the partial abandonment were the date of a zoning ordinance adoption, revision or amendment as set forth in Section 5.6.B.3.a, above.
- e. Application and Review. A prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use exists may apply in writing for the issuance of a certificate certifying that the use existed before the adoption of the ordinance which rendered the use nonconforming. The applicant shall have the burden of proof. An application for a certificate of nonconforming use may be made without public notice to the zoning officer within one year following the adoption of the ordinance which rendered the use nonconforming. A denial by the zoning officer is appealable to the Planning Board pursuant to *N.J.S.A. 40:55D-68* and *-70(b)*, provided that such an appeal will be subject to completeness review and public notice requirements pursuant to Sections 4.1 and 4.4 of this Ordinance. An application for certificate of nonconforming use may be made at any time to the Planning Board, provided that any such application will be subject to completeness review and require public notice pursuant to Sections 4.1 and 4.4 of this Ordinance.
- f. Application Requirements. Applications for certification of nonconforming uses must include a completed Application Cover Sheet, all requirements of Checklist Schedule A (General Requirements), Checklist Schedule B (Approvals Requested), and Checklist

Schedule GG (Certification of Nonconformity), and must include applicable fees and escrow deposits.

## **SECTION 5.7 – PROHIBITED USES**

- A. No building may be erected, altered or used, and no lot or premises may be used, in or within 100 feet of any zoning district except for HI-Heavy Industrial for any use which is noxious or offensive by reason of odor, dust, vibration, illumination or noise, or which constitutes a public hazard whether by fire, explosion or otherwise. In order to ensure that adequate safeguards are provided and in order to determine whether a use is injurious to the public health or safety, the Township or Planning Board may consult such official agencies or private experts as it deems necessary.
- B. The following uses are expressly prohibited in all zoning districts within the Township: tourist cabins, auto courts, dog kennels, trailer parks, windmills, sanitary landfills, incinerators, the application of human waste or human excrement, or septage or sludge from human waste or human excrement, by broadcasting, spreading, injection or any other method, Class 5 Recreational Cannabis Retailers as defined in section 3 of P.L. 2021, c. 16, but not the delivery of recreational cannabis items and related supplies by Class 6 delivery services, and Medical Cannabis Dispensaries, as defined by NJSA 24:6i-1 et seq.

## **SECTION 5.8 – RESIDENTIAL DISTRICTS**

- A. General. Residence districts are classified as R-1, R-2, and R-3, all of which are all subject to the same use regulations, but each of which is subject to a different schedule of lot area, dimension, configuration, coverage, setback and height requirements. Any regulation in this Chapter that refers generally to a “residence district” is intended to refer to all of the residential districts with equal effect.
- B. Permitted Principal Uses and Structures. In a residence district, a lot and the principal structure existing or to be erected upon it may be used or occupied for only one of the following purposes, and no other use or purpose shall be permitted:
  - 1. Single family detached dwelling;
  - 2. Agricultural purposes only, or agriculture on same farm lot with single family detached dwelling
  - 3. Municipal use
  - 4. Public or private educational institution accredited by the New Jersey Department of Education
  - 5. Non-profit library
- C. Permitted Accessory Uses and Structures. In a residence district, accessory uses as defined in this Ordinance may be conducted, and accessory structures as defined in this Ordinance may be erected or placed on the same lot as one of the foregoing principal uses or structures.
- D. Conditionally Permitted Accessory Uses and Structures. In a residence district, the following accessory uses may be conducted, and the following accessory structures may be erected or placed on the same lot as one of the principal uses or structures specified in Section 5.6(B), above:
  - 1. A “home occupation” meeting the definitional requirements of this ordinance.

2. A plant nursery meeting the definitional requirements of this ordinance, only as accessory to the principal agricultural use of a farm, and subject to site plan review requirements if the limitations set forth in the definition of “nursery” are exceeded.
  3. A farm stand meeting the definitional requirements of this ordinance, only as accessory to the principal agricultural use of a farm, and subject to site plan review requirements if the limitations set forth in the definition of “farm stand” are exceeded.
  4. Fences and walls, subject to applicable site plan requirements and the conditions set forth in Section 5.5.
  5. Flags. A single flagpole (a) having a height that is no greater than forty (40) feet or no greater than the flagpole’s distance from the nearest lot line (whichever is less), (b) having no more than one yard-arm, and (c) upon which is flown no more than three flags, with each flag having an area of no more than twelve (12) square feet (zoning permit required for flagpole construction but not for flags).
  6. Solar Panels or Cells – See Sec. 5.16, Paragraphs C, D and E.
- E. Residential Lot Area, Dimension, Configuration, Coverage, Setback and Height Requirements. Every lot in a residence district and the structures upon it must meet the following applicable minimum and maximum requirements for lot area, dimension, configuration, coverage, height and setbacks:

1. R-1 District:

- |   |   |
|---|---|
| a. Lot Area (see definition):             | 10,000 square feet minimum  |
| b. Lot Frontage:                          | 100 feet minimum  |
| c. Lot Width:                             | 100 feet minimum  |
| d. Lot Depth:                             | 85 feet minimum   |
| e. Front Yard (Principal Structure):      | 35 feet minimum   |
| f. Front Yard (Accessory Structures):     | 35 feet minimum or no less than the greatest actual front yard setback of the principal structure, whichever is greater. For the purposes of an accessory structure on a corner lot the front yard shall be determined to be along the road that the front of the principal structure faces and along which the street address is assigned. |
| g. Side Yard (Principal Structure)*:      | 15 feet minimum   |
| h. Side Yard (Accessory Structures)*:     | 6 feet minimum  |
| i. Rear Yard (Principal Structure)*:      | 20 feet minimum   |
| j. Rear Yard (Accessory Structure)*:      | 6 feet minimum  |
| k. *Setback from River Bulkhead:          | (see Section 5.8.G, below)  |
| l. Height (Principal Structure):          | 45 feet maximum** (**except agricultural non-residential structure)   |
| m. Height (Accessory Structures):         | 15 feet maximum** (**except agricultural non-residential structure)   |
| n. Number of Principal Structures on Lot: | 1 structure maximum   |
| o. Number of Accessory Structures on Lot: | Shall be limited by the Total Impervious Materials Coverage as set forth in sub-paragraph t below.* (**except Agricultural non-residential structure)   |
| p. Stories (Principal Structures):        | 2½ stories maximum** (**except agricultural non-residential structure)  |

- q. Stories (Accessory Structures): 1½ stories maximum (no basement)\*\* (\*\*except agricultural non-residential structure)
- r. Structure Coverage (Principal Structures): 28% maximum
- s. Structure Coverage (Accessory Structures): lesser of 9% or 900 s.f. (maximum per structure)
- t. Impervious Materials Coverage (inc. Structures): 45% maximum
- u. Off-Street Parking (see Section 5.8.F, below)
- v. Grading requirements: (see Section 5.17, below)
- w. Lot must abut improved street (see Section 5.18, below)
- x. Mounded septic system (see Section 5.8.H, below)
- y. Signs and Flag Poles (see Section 5.8.D, above)
- z. Driveway width and setbacks: (see Section 5.8.J, below)

2. R-2 District:

- a. Lot Area (see definition): 15,000 square feet minimum
- b. Lot Frontage: 100 feet minimum
- c. Lot Width: 100 feet minimum
- d. Lot Depth: 85 feet minimum
- e. Front Yard (Principal Structure): 35 feet minimum
- f. Front Yard (Accessory Structures): 35 feet minimum or no less than the greatest actual front yard setback of the principal structure, whichever is greater. For the purposes of an accessory structure on a corner lot the front yard shall be determined to be along the road that the front of the principal structure faces and along which the street address is assigned.
- g. Side Yard (Principal Structure)\*: 15 feet minimum
- h. Side Yard (Accessory Structures)\*: 6 feet minimum
- i. Rear Yard (Principal Structure)\*: 20 feet minimum
- j. Rear Yard (Accessory Structure)\*: 6 feet minimum
- k. \*Setback from River Bulkhead: (see Section 5.8.G, below)
- l. Height (Principal Structure): 45 feet maximum\*\* (\*\*except agricultural non-residential structure)
- m. Height (Accessory Structures): 15 feet maximum\*\* (\*\*except agricultural non-residential structure)
- n. Number of Principal Structures on Lot: 1 structure maximum
- o. Number of Accessory Structures on Lot: Shall be limited by the Total Impervious Materials Coverage as is set forth in sub-paragraph t below\*\* (\*\*except agricultural non-residential structure)
- p. Stories (Principal Structures): 2½ stories maximum)\*\* (\*\*except agricultural non-residential structure)
- q. Stories (Accessory Structures): 1½ stories maximum (no basement)\*\* (\*\*except agricultural non-residential structure)
- r. Structure Coverage (Principal Structure): 28% maximum
- s. Structure Coverage (Accessory Structures): lesser of 9% or 900 s.f. (maximum per structure)
- t. Impervious Materials Coverage (inc. structures): 45% maximum
- u. Off-Street Parking (see Section 5.8.F, below)
- v. Grading requirements: (see Section 5.17, below)
- w. Lot must abut improved street (see Section 5.18, below)
- x. Mounded septic system (see Section 5.8.H, below)
- y. Signs and Flag Poles (see Section 5.8.D, above)
- z. Driveway width and setbacks: (see Section 5.8.J, below)

3. R-3 District:

- a. Lot Area (see definition): 40,000 square feet minimum
- b. Lot Frontage: 200 feet minimum
- c. Lot Width: 200 feet minimum
- d. Lot Depth: 150 feet minimum
- e. Front Yard (Principal Structure): 50 feet minimum
- f. Front Yard (Accessory Structures): 50 feet minimum or no less than the greatest actual front yard setback of the principal structure, whichever is greater. For the purpose of an accessory structure on a corner lot the front yard shall be determined to be along the road that the front of the principal structure faces and along which the street address is assigned.
- g. Side Yard (Principal Structure)\*: 30 feet minimum
- h. Side Yard (Accessory Structures)\*: 6 feet minimum
- i. Rear Yard (Principal Structure)\*: 50 feet minimum
- j. Rear Yard (Accessory Structure)\*: 6 feet minimum
- k. \*Setback from River Bulkhead: (see Section 5.8.G, below)
- l. Height (Principal Structure): 45 feet maximum\*\* (\*\*except agricultural non-residential structure)
- m. Height (Accessory Structures): 15 feet maximum\*\* (\*\*except agricultural non-residential structure)
- n. Number of Principal Structures on Lot: 1 structure maximum
- o. Number of Accessory Structures on Lot: Shall be limited by the Total Impervious Materials Coverage as is set forth in sub-paragraph t below\*\* (\*\*except agricultural non-residential structure)
- p. Stories (Principal Structures): 2½ stories maximum)\*\* (\*\*except agricultural non-residential structure)
- q. Stories (Accessory Structures): 1½ stories maximum (no basement)\*\* (\*\*except agricultural non-residential structure)
- r. Structure Coverage (Principal Structure): 28% maximum
- s. Structure Coverage (Accessory Structures): lesser of 9% or 1,200 s.f. (maximum per building)
- t. Impervious Materials Coverage (inc. structures): 45% maximum
- u. Off-Street Parking (see Section 5.8.F, below)
- v. Grading requirements: (see Section 5.17, below)
- w. Lot must abut improved street (see Section 5.18, below)
- x. Mounded septic system (see Section 5.8.H, below)
- y. Signs and Flag Poles (see Section 5.8.D, above)
- z. Driveway width and setbacks: (see Section 5.8.J, below)

4. Inclusionary District

- a. Lot Area (See Definition): 8,000 Square Feet Minimum
- b. Lot Frontage: 80 Feet Minimum
- c. Lot Width: 80 Feet Minimum
- d. Lot Depth: 100 Feet Minimum
- e. Front Yard (Principal Structure): 30 Feet Minimum
- f. Front Yard (Accessory Structure): 30 Feet Minimum or no less than the greatest actual front yard setback of the principal structure from each street. For the purpose of an

accessory structure on a corner lot the front yard shall be determined to be along the road that the front of the principal structure faces and along which the street address is assigned.

- g. Side Yard (Principal Structure): 15 Feet Minimum
- h. Side Yard (Accessory Structures): 6 Feet Minimum
- i. Rear Yard (Principal Structure): 20 Feet Minimum
- j. Rear Yard (Accessory Structures): 6 Feet Minimum
- k. \*Setback from River Bulkhead: (See Section 5.8G Below)
- l. Height (Principal Structure): 45 Feet Maximum \*\* (\*\* Except Agricultural Non-Residential Structure)
- m. Height (Accessory Structures): 15 feet maximum\*\* (\*\*except agricultural non-residential structure)
- n. Number of Principal Structures on Lot: 1 structure maximum
- o. Number of Accessory Structures on Lot: Shall be limited by the Total Impervious Materials Coverage as is set forth in sub-paragraph t below\*\* (\*\*except agricultural non-residential structure)
- p. Stories (Principal Structures): 2½ stories maximum)\*\* (\*\*except agricultural non-residential structure)
- q. Stories (Accessory Structures): 1½ stories maximum (no basement)\*\* (\*\*except agricultural non-residential structure)
- r. Structure Coverage (Principal Structure): 31% maximum
- s. Structure Coverage (Accessory Structures): lesser of 9% or 720 s.f. (maximum per building)
- t. Impervious Materials Coverage (inc. structures): 47% maximum
- u. Off-Street Parking (see Section 5.8.F, below)
- v. Grading requirements: (see Section 5.17, below)
- w. Lot must abut improved street (see Section 5.18, below)
- x. Mounded septic system (see Section 5.8.H, below)
- y. Signs and Flag Poles (see Section 5.8.D, above)
- z. Driveway width and setbacks: (see Section 5.8.J, below)

F. Parking Space Requirements. All residential lots in residence districts must have at least three hundred fifty (350) square feet of off-street parking area with direct connecting driveway access to a street.

G. Setback from Bulkheads\*. Notwithstanding any other applicable side or rear yard setback requirement, no principal or accessory building or structure shall be erected or located within twenty (20) feet from any point of the existing or proposed bulkheads along the Delaware River.

H. Mounded Septic Systems. Wherever located, mounded septic tanks, mounded disposal field installations and mounded soil replacement disposal field installations shall be in accordance with *N.J.A.C. 7:9A-10.5* and *-10.6*, but are not subject to zoning requirements for yard setbacks.

I. Agricultural Structures\*\*. Non-residential agricultural structures such as barns and silos on lots used for agricultural purposes are not subject to height or story limitations if it is determined that the height, nature and location of such agricultural structures comports with generally accepted agricultural practices. The number of agricultural structures per is not limited as long as all other zoning requirements (except height and story limitations as noted in this paragraph) are satisfied.

J. Driveway Width and Setbacks. Each driveway must abut a front lot line, such abutment being only at the point where the driveway provides access to one (1) street. All driveways must be set back no



less than six (6) feet from all lot lines other than the front lot line along which such access is provided, and no less than twelve (12) feet from all other driveways (whether or not such other driveways are on the same lot). Driveways must be no less than twelve (12) feet wide and no more than twenty feet wide.

## **SECTION 5.9 – Commercial Districts.**

- A. General. Commercial districts are classified as C-Commercial.
- B. Permitted Principal Uses and Structures. In a C-Commercial district, a lot and the principal structure existing or to be erected upon it may be used or occupied for only one of the following purposes, and no other use or purpose shall be permitted:
1. Any use permitted in the R-1, R-2 and R-3 Residence Districts, subject to all Chapter 5, Section 5.8.E.2 (R-2) district lot area, dimension, configuration, coverage, setback and height requirements.
  2. Retail stores.
  3. Personal service shop; tailor, barber, beauty salon, dressmaker, shoe repair, or similar services.
  4. Professional business office, agency or studio.
  5. Lodge, office or headquarters for a fraternal or social club, or religious, political, charitable or non-profit organization, church or other house of worship.
  6. Tavern, restaurant, or catering establishment.
  7. Theater.
  8. Bank or other financial institution.
  9. Mortuary.
  10. Copy or business service center.
  11. Service, repair or supply shop, such as an electrician, plumber, carpenter, upholsterer, or similar trade.
  12. Marina.
  13. Nursery.
  14. Floral shop.
- C. Conditional Uses. The following uses shall be permitted in the C-Commercial zoning districts only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as set forth below, and upon the issuance of an authorization thereof by the Planning Board:

1. Public repair garage, service, or filling station for automobiles and light vehicles (having fewer than eight (8) wheels), provided that:
  - a. No motor vehicles may be offered for sale at any time; and
  - b. No motor vehicle or motor vehicle parts may be stored outdoors on-site for more than thirty (30) days.
2. Dry cleaning or laundry pick-up agency, subject to the following conditions:
  - a. Consumer drop off and pick-up only; no dry cleaning or dry cleaning facilities are permitted at the premises.
3. Hotel or Motel, subject to the following conditions:
  - a. Off-street parking: A minimum of one (1) off-street parking space is required for each room to be rented; one (1) space for each employee; and ten (10) spaces for short-term parking and deliveries.
5. Residential apartments occupying portions of a commercial building if such building is the site of an otherwise permitted principal use, subject to the following requirements:
  - a. A separate building entrance is required for each residential apartment.
  - b. Off-street parking: A minimum of one and one-half (1½) off-street parking spaces must be provided for each residential apartment unit.
6. Confectionery or bakery.
  - a. Must produce goods for on-site retail sale only.
7. Shopping center including any combination of permitted uses:
  - a. Must occupy a single building with separate building entrance for each use.
8. Personal wireless telecommunications facilities and personal wireless telecommunications equipment facilities as defined in this Ordinance shall be permitted as a conditional use, subject to the provisions of Section 5.15, below.

Permitted Accessory Uses and Structures. In a C-Commercial district, accessory uses as defined in this Ordinance may be conducted, and accessory structures as defined in this Ordinance may be erected or placed on the same lot as one of the foregoing permitted or conditional principal uses or structures.

D. Conditional Accessory Uses and Structures. In a C-Commercial district, the following accessory uses may be conducted, and the following accessory structures may be erected or placed on the same lot as one of the permitted or conditional principal uses or structures specified in Section 5.9.B and C, above:

1. With respect to any use permitted in an R-1, R-2 or R-3 residence district, accessory uses shall also be permitted as in such residence district, subject to all Chapter 5, Section 5.8.E.2 (R-2) district lot area, dimension, configuration, coverage, setback and height requirements for such accessories.
2. A plant nursery subject to the definitional requirements of this ordinance as accessory to the principal agricultural use of a farm, and subject to site plan review requirements if the limitations set forth in the definition of “nursery” are exceeded
3. A farm stand subject to the definitional requirements of this ordinance, only as accessory to the principal agricultural use of a farm, and subject to site plan review requirements if the limitations set forth in the definition of “farm stand” are exceeded.
4. Fences and walls, subject to applicable site plan requirements and the conditions of Section 5.5.
5. Parking and parking facilities, subject to applicable zoning and site plan requirements.
6. Flags. A single flagpole (a) having a height that is no greater than forty (40) feet or no greater than the flagpole’s distance from the nearest lot line (whichever is less), (b) having no more than one yard-arm, and (c) upon which is flown no more than three flags, with each flag having an area of no more than twelve (12) square feet (zoning permit required for flagpole construction but not for flags).

7. Solar Panels or Cells, See Sec. 5.16, Paragraphs C, D and E.

E. C-Commercial Lot Area, Dimension, Configuration, Height and Setback Requirements. Every lot in a C-Commercial district and the structures upon it must meet the following applicable minimum and maximum requirements for lot area, dimension, configuration, height and setbacks (except for uses and structures that are permitted in residence districts, which must comply with R-2 zoning district requirements per Sections 5.9(B)(1) and 5.9(E)(1), above):

1. C-Commercial District:

- |   |  |
|---|--|
| a. Lot Area (see definition):             | 25,000 square feet minimum   |
| b. Lot Frontage:                          | 100 feet minimum   |
| c. Lot Width:                             | 100 feet minimum   |
| d. Lot Depth:                             | 250 feet minimum   |
| e. Front Yard (Principal Structure):      | 25 feet minimum  |
| f. Front Yard (Accessory Structures):     | 25 feet minimum or no less than the greatest actual front yard setback of the principal structure from each street, whichever is greater. For the purposes of an accessory structure on a corner lot the front yard shall be determined to be along the road that the front of the principal structure faces and along which the street address is assigned. |
| g. Side Yard (Principal Structure)*:      | 6 feet minimum   |
| h. Side Yard (Accessory Structures)*:     | 6 feet minimum   |
| i. Rear Yard (Principal Structure)*:      | 20 feet minimum  |
| j. Rear Yard (Accessory Structure)*:      | 6 feet minimum   |
| k. *Setback from River Bulkhead:          | (see Section 5.9.F, below)   |
| l. Height (Principal Structure):          | 45 feet maximum  |
| m. Height (Accessory Structures):         | 15 feet maximum  |
| n. Number of Principal Structures on Lot: | 1 structure maximum  |
| o. Number of Accessory Structures on Lot: | 1 structure maximum  |
| p. Stories (Principal Structures):        | 2.5 stories maximum  |

- q. Stories (Accessory structures): 1.5 stories maximum (no basement)
- r. Grading requirements: (see Section 5.17, below)
- s. Lot must abut improved street: (see Section 5.18, below)
- t. Awnings: (see Section 5.9.G, below)
- u. Signs and Flagpoles: (see Section 5.9.E, above)

F. Setback from Bulkheads\*. Notwithstanding any other applicable side or rear yard setback requirement, no principal or accessory building or structure shall be erected or located within fifty (50) feet from any point of the existing or proposed bulkheads along the Delaware River.

G. Awnings. Awnings are permitted on building facades subject to the following requirements:

1. Awnings must be at least seven (7) feet from the sidewalk surface when measured from the lowest point;
2. Awnings must be supported entirely by framework that extends horizontally from the facades of the buildings to which they are attached. Awnings may not be supported by any vertical or diagonal post or other member that falls below the seven (7) foot height requirement set forth above;
3. Awnings must be constructed of opaque fabric, and not illuminated from beneath (however lights may be suspended from beneath awnings to illuminate the sidewalk and street-level building façade);
4. Except as expressly provided in this subsection, awnings may not be used to support any other structure or ornamentation such as but not limited to signs, plants or loudspeakers;
5. Awnings which comply with the conditions of this section may contain words, numbers (including street numbers), logos or other artwork or illustrations without being considered “signs” for purposes of this ordinance.

## **SECTION 5.10 -Central Business Districts**

A. General. Central Business districts are classified as CB-Central Business. The CB-Central Business district is intended to encourage retail sales and personal services oriented to pedestrian shopping on the ground floor, and other commercial, professional, or residential uses on the upper floors.

B. Permitted Principal Uses and Structures. In a CB-Central Business district, a lot and the principal structure existing or to be erected upon it may be used or occupied for one or more of the following purposes, and no other use or purpose shall be permitted:

1. Business establishments devoted primarily to the retail sales of goods and personal services on the premises, including restaurants and food establishments intended for food consumption on the premises or for take-out of food.
2. Banks and other financial institutions engaged in the business of accepting deposits from the public and/or extending credit to the public in the form of loans. Such business must be conducted on the premises, and must be the principal activity on the premises.
3. Only on the second or third floors of a building:

- a. Finance, insurance, or real estate sales offices;
  - b. Business, professional or administrative offices;
  - c. Health services;
  - d. Social services;
  - e. Consulting services;
  - f. Residential apartment units.
4. Residence requirements in Central Business districts. Any lot in a Central Business district used as the site of a single-family detached dwelling must comply with all R-1 Residential district lot area, dimension, configuration, coverage, and height, and setback requirements.
- C. Conditional Uses. The following uses and structures shall be permitted in the CB-Central Business Districts only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as set forth below, and upon the issuance of an authorization thereof by the Planning Board:
- 1. Outdoor dining areas as accessory to permitted restaurant and food establishments that also provide for indoor consumption on the premises, subject to the following conditions:
    - a. Front outdoor dining areas may occupy the areas in front of restaurants or food establishments, provided that the entire public sidewalk area is left clear for pedestrian use between the outer edge of the front outdoor dining area and the street curb;
    - b. Side and rear outdoor dining areas must be buffered from view of adjacent properties unless the adjacent property is a street, navigable waterway, or otherwise open to the general public;
    - c. Side and rear outdoor dining areas may be covered by temporary or permanent tent or canopy roofs, provided that such roofs are constructed of opaque fabric;
    - d. If used after dark, side and rear outdoor dining areas may only be lighted by candles or other low-intensity lighting that is not visible from non-public adjacent properties; and
    - e. Music or other live or pre-recorded audio or visual entertainment that is broadcast, played, displayed within outdoor dining areas must comply with the Pennsville Township noise ordinance;
- D. Permitted Accessory Uses and Structures. In a CB-Central Business District, accessory uses as defined in this Ordinance may be conducted, and accessory structures as defined in this Ordinance may be erected or placed on the same lot as one of the foregoing permitted or conditional principal uses or structures
- E. Conditional Accessory Uses and Structures. In a CB-Commercial Business district, the following accessory uses may be conducted, and the following accessory structures may be erected or placed on the same lot as one of the permitted or conditional principal uses or structures specified in Section 5.10.B and C, above:
- 1. Parking and parking facilities subject to applicable zoning and site plan requirements.
  - 2. Fences and walls, subject to applicable site plan requirements and the conditions of Section 5.5.

3. With respect to any single family detached dwelling, accessory uses shall also be permitted as in an R-1, R-2 or R-3 Residence district, subject to all R-1 Residence district lot area, dimension, configuration, coverage, height, and setback requirements.

4. Flags. A single flagpole (a) having a height that is no greater than forty (40) feet or no greater than the flagpole's distance from the nearest lot line (whichever is less), (b) having no more than one yard-arm, and (c) upon which is flown no more than three flags, with each flag having an area of no more than twelve (12) square feet (zoning permit required for flagpole construction but not for flags).

4. Solar Panels or Cells, See Sec. 5.16, Paragraphs C, D and E.

F. Prohibited uses and structures. Any use or structure other than those uses or structures permitted in this Section 5.10 are prohibited in the CB-Central Business district. The following uses and structures are also expressly prohibited:

1. Any business conducted outside the confines of a building, except as expressly provided in this Section, or as are given special temporary license from the Township Committee pursuant to a municipal ordinance;
2. Gasoline filling stations, gasoline service stations, public garages, automobile body repair or painting shops;
3. Lumber or building material yards;
4. Sale, rental, or repair of motorized vehicles such as, but not limited to, automobiles, motorcycles, boats trailers, mobile homes, lawn mowers, and tractors;
5. Sale, rental, or repair of power tools and equipment;
6. Dry cleaning establishments where the dry cleaning is done on the premises;
7. Warehouses and self-storage facilities;
8. Wholesalers, distributors, and other sellers of goods which do not sell directly to the general public;
9. Public or private schools, day care centers, pre-schools or nurseries;
10. Any building, structure, or use involving the sale of food or beverages through drive-up service windows;
11. Funeral services, undertakers, crematories and morticians.
12. All aboveground and underground bulk storage of liquefied petroleum gases, gasoline, diesel fuel, kerosene, No. 2 fuel, fuel oil, chemicals or similar hazardous, flammable or combustible liquids in any amount. Aboveground or basement storage of heating fuel in approved storage tanks and used exclusively for heating purposes on the premises is exempted from the above prohibition.

F. CB-Central Business Lot Area, Dimension, Configuration, Coverage, Height and Setback Requirements. Every lot and the structures upon it in a CB-Central Business district must meet the following applicable minimum and maximum requirements for lot area, dimension, configuration, coverage, height and setbacks:

1. CB-Central Business District:

- a. Lot Area (see definition): 4,000 square feet minimum
- b. Lot Frontage: 30 feet minimum
- c. Lot Width: 30 feet minimum
- d. Lot Depth: 120 feet minimum
- e. Front Yard (Principal Structure): 25 feet minimum
- f. Front Yard (Accessory Structures): 25 feet minimum or no less than the greatest actual front yard setback of the principal structure, whichever is greater. For the purposes of an accessory structure on a corner lot the front yard shall be determined to be along the road that the front of the principal structure faces and along which the street address is assigned.
- g. Side Yard (Principal Structure)\*: 6 feet minimum
- h. Side Yard (Accessory Structures)\*: 6 feet minimum
- i. Rear Yard (Principal Structure)\*: 20 feet minimum
- j. Rear Yard (Accessory Structure)\*: 6 feet minimum
- k. \*Setback from River Bulkhead: (see Section 5.10.H, below)
- l. Height (Principal Structure): 45 feet maximum
- m. Height (Accessory Structures): 15 feet maximum
- n. Number of Principal Structures on Lot: 1 structure maximum
- o. Number of Accessory Structures of Lot: Shall be limited by the Total Impervious Materials Coverage as is set forth in sub-paragraph t below
- p. Stories (Principal structures): 2.5 stories maximum
- q. Stories (Accessory structures): 1 story maximum (no basement)
- r. Structure Coverage (Principal structures): 43% maximum
- s. Structure Coverage (Accessory structures): lesser of 3% or 100 s.f., (maximum per building)
- t. Impervious Materials Coverage (inc. structures): 70% maximum
- u. Grading requirements: (see Section 5.17, below)
- v. Lot must abut improved street (see Section 5.18, below)
- w. Awnings: (see Section 5.10.K, below)
- x. Signs and Flagpoles: (see Section 5.10.E, above)

H. Setback from Bulkheads\*. Notwithstanding any other applicable side or rear yard setback requirement, no principal or accessory building or structure shall be erected or located within twenty (20) feet from any point of the existing or proposed bulkheads along the Delaware River.

I. Storefront Façade Regulations. The following regulations shall apply to the design of storefront facades in the CB-Central Business district:

- 1. Window Area. Building facades that face the street shall contain a transparent window area on the ground floor, which comprises not less than forty percent (40%) of the area of the ground floor façade, when the following conditions exist or are proposed:
- 2. The façade in question is set back less than ten (10) feet from the right-of-way, and

3. A new building, substantial renovation, or reconstruction of the street facade of an existing building is proposed.
  4. When an existing building contains more than one (1) unit occupied by different tenants, the above requirement shall apply only for the façade of the unit(s) being renovated or reconstructed. For purposes of administering the above requirements, the ground floor façade area shall be construed to be the product of the width of the façade times ten (10) feet.
- J. Orientation of Doors. All principal buildings within the CB district must be primarily accessible by sidewalk-level doorways in the building façade that faces the street. Rear entrances will be permitted only as services entrances for use by business staff, delivery services and the like, and may not be used by the general public.
- K. Awnings. Awnings are permitted on building facades subject to the following requirements:
1. Awnings must be at least seven (7) feet from the sidewalk surface when measured from the lowest point;
  2. Awnings must be supported entirely by framework that extends horizontally from the facades of the buildings to which they are attached. Awnings may not be supported by any vertical or diagonal post or other member that falls below the seven (7) foot height requirement set forth above;
  3. Awnings must be constructed of opaque fabric, and not illuminated from beneath (however lights may be suspended from beneath awnings to illuminate the sidewalk and street-level building façade);
  4. Except as expressly provided in this subsection, awnings may not be used to support any other structure or ornamentation such as but not limited to signs, plants or loudspeakers;
  5. Awnings which comply with the conditions of this section may contain words, numbers (including street numbers), logos or other artwork or illustrations without being considered “signs” for purposes of this ordinance.
- L. Combined Residential and Non-Residential Use. The following regulations shall apply to dwelling units on the second or third floor of a principal building within the CB-Central Business district:
1. The habitable floor area devoted to residential uses(s) shall not exceed two-thirds (2/3) of the total habitable interior floor area of the building or structure containing said residential uses(s).
  2. Any single dwelling unit must have a minimum of six hundred (600) square feet of habitable interior floor area.

**SECTION 5.11 – Mixed Use Districts.**

- A. General. Mixed use districts are classified as MU-Mixed Use. The purpose of the MU-Mixed Use District is to provide diverse mixed-use areas for retail, service, business office and commercial



uses serving occupants of nearby employment centers, through-travelers and residents of Pennsville Township.

B. Permitted Principal Uses and Structures. In an MU-Mixed Use district, a lot and the principal structure existing or to be erected upon it may be used or occupied for only one of the following purposes, and no other use or purpose shall be permitted:

1. Offices for administrative, executive, professional, business sales and similar uses, the normal attributes of which do not involve the storage, exchange or delivery of merchandise on the premises.
2. Retail sales and services, including newspapers, gifts, novelties, tobacco products, drugs, food, clothing, spirits, confections, florist items, books and specialty merchandise, including convenience stores, general service, supply or repair shop, such as electrician or plumber.
3. Personal service businesses, such as insurance, travel, tailor, barber, beauty salon, dressmaking, shoe repair and laundry or dry cleaning.
4. Banks and other financial institutions.
5. Restaurants with or without liquor license; fast-food restaurants.
6. Convenience stores and gasoline marts.
7. Theatres for motion pictures.
8. Shopping centers.
9. Hotels and motels.
10. Municipal uses.

C. Conditional Uses. The following uses and structures shall be permitted in the an MU-Mixed Use district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as set forth below, and upon the issuance of an authorization thereof by the Planning Board:

1. Physically integrated office or retail centers with multiple buildings, provided that no individual building may exceed 150,000 square feet in gross floor area.
2. Utility facilities, including telephone, water, sewer, electric and gas (other than electric generating facilities under Section 5.11.C.3.) and gas, provided that such facilities must be 400 square feet or greater in size. The development, construction, maintenance, and operation of privately or publicly owned or managed recreational lands, athletic fields and historic properties that are open and available to the public during reasonable times for recreational, athletic, and education activities sponsored or coordinated by non-profit organizations, including buildings, structures, improvements and installations appropriate to same, shall be permitted as dual or multiple principal uses and structures in addition to telephone, water, sewer and gas facilities on a lot.

3. Electric generating facilities, including electric generation and related transmission and distribution facilities and operations, subject to the following conditions and standards in lieu of the requirements of Section 5.11.F and Section 5.11.G (which sections shall not apply to electric generating facilities):
  - a. Electric generating facilities shall include facilities for the generation of electricity (together with related electrical transmission and electric distribution systems, and transportation systems for natural gas and other fuels used to generate electricity) owned or operated by electric public utilities, independent power producers and/or any entity permitted under applicable law to engage in such business and provide related services.
  - b. Except as provided in subparts c., d., e. and f. below, all electric generating facility principal and accessory buildings, structures and improvements must be set back no less than 200 feet from the rights-of-way of public streets and no less than 200 feet from the boundaries of adjoining lots.
  - c. Wires, cables, lines, pipes and other conduits at an electric generating facility for transmission and distribution of telephone or other communications, water, sewer, electric, gas or electricity that extend across lot lines, and the poles and other structures that support such wires, cables, lines, pipes and conduits, are not subject to any setback requirement from the rights-of-way of public streets.
  - d. Wires, cables, lines, pipes and other conduits at an electric generating facility for transmission and distribution of telephone or other communications, water, sewer, electric, gas or electricity that extend across lot lines, and the poles and other structures that support such wires, cables, lines, pipe and conduits, and fences that surround them, are not subject to the 200-foot setback requirement from boundaries of adjoining lots as set forth in subpart b. above, and may continue to be maintained and used for such purposes, if such structures and improvements are confirmed to the satisfaction of the Planning Board as having been in existence as of January 1, 2013.
  - e. Wires, cables, lines, pipes, and other conduits for transmission and distribution of telephone or other communications, water, sewer, electric, gas or electricity that extend across lot lines, and the poles and other structures that support such wires, cables, lines, pipes and conduits, may be constructed, maintained and used within easements or other rights-of-way for such purposes at an electric generating facility, and are not subject to the 200-foot setback requirement from boundaries of adjoining lots as set forth in subpart b. above if such easements or other rights-of-way are confirmed to the satisfaction of the Planning Board as having been granted or otherwise established prior to January 1, 2013.
  - f. A 20-foot setback is required for electric generating facility principal and accessory buildings from a Delaware River bank, bulkhead or boundary established between the States of New Jersey and Delaware, but no such Delaware River bank, bulkhead or boundary setback is required for other types of electric generating facility principal or accessory structures and improvements.
  - g. Stacks and similar structures at an electric generating facility may not exceed the height of 220 feet from finished grade; other types of electric generating facility buildings, structures and improvements may not exceed the height of 150 feet from finished grade. Notwithstanding the foregoing, any structure whose height is dictated by other laws or regulations shall comply with such laws or regulations.

h. Electric generating facilities must comply with the following lot area, frontage, width, depth and overage requirements:

- (i) Lot Area 50 acres minimum
- (ii) Lot Frontage: 200 feet minimum
- (iii) Lot Width: 750 feet minimum
- (iv) Lot Depth: 750 feet minimum
- (v) Total Building Coverage 30% maximum
- (vi) Impervious Material coverage (including buildings) 65% maximum
- (vii) Lot must abut improved street (see Section 5.18 below)

i. The development, construction, maintenance and operation of privately or publicly owned or managed recreational lands, athletic fields and historic properties that are open and available to the public during reasonable times for recreational, athletic and educational activities sponsored or coordinated by non-profit organizations, including buildings, structures, improvements and installations appropriate to the same, shall be permitted as dual or multiple principal uses and structures in addition to electric generating facilities on a lot.

j. Compliance with the above conditions, site plan review requirements, and compliance with all state and federal laws and regulations that are applicable to electric generating facilities shall be deemed to satisfy all concerns as to possible noxiousness, offensiveness, and public hazards of electric generating facilities for purposes of Section 5.7.A. of this Chapter.

k. As provided in Section 6.2 of this Chapter, and unless waived by the Planning Board, site plan review and approval is required in addition to conditional use approval prior to the issuance of a permit for any development of an electric generating facility, including any construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure. No excavating, grading or clearing of land shall be allowed, nor shall any construction permit, zoning permit or certificate of occupancy be issued for any new or changed electric generating facility structure or use, unless the Planning Board has granted site plan approval or waived site plan review for such excavating, grading or clearing, or such new or changed structure use.

4. Churches or other place of worship.

5. Self-storage or mini-warehouse facilities, subject to the following conditions:

a. Must be limited to indoor dead storage use only.

b. No activities other than rental of storage units and pickup and deposit of indoor dead storage shall be allowed on the premises. Examples of prohibited uses are as follows:

(i) Auctions, commercial, wholesale or retail sales or miscellaneous or garage sales.

(ii) The servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment.

(iii) The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment.

- (iv) The establishment of any transfer or storage business by self-storage or mini-warehouse business customers.
  - (v) The storage of flammable liquids, highly combustible or explosive materials or hazardous chemicals.
  - (vi) Any outdoor storage of vehicles or other items, or any use that is noxious or offensive because of odors, dust, noise, fumes or vibrations.
- c. All self-storage and mini-warehouse rental contracts must include clauses prohibiting the above uses.
  - d. Self-storage or mini-warehouse facilities may include a single manager's office and a single-bedroom manager's living quarters.
5. Public repair garage, service, or filling station for automobiles and light vehicles (having fewer than eight (8) wheels), provided that:
- a. No motor vehicles may be offered for sale at any time; and
  - b. No motor vehicle or motor vehicle parts may be stored outdoors on-site for more than thirty (30) days.
6. Personal wireless telecommunications facilities and personal wireless telecommunications equipment facilities as defined in this Ordinance shall be permitted as a conditional use, subject to the provisions of Section 5.15, below.
- D. Permitted Accessory Uses and Structures. In an MU-Mixed Use district, accessory uses as defined in this Ordinance may be conducted, and accessory structures as defined in this Ordinance may be erected or placed on the same lot as one of the foregoing permitted or conditional principal uses or structures.
- E. Conditional Accessory Uses and Structures. In an MU-Mixed Use district, the following accessory uses may be conducted, and the following accessory structures may be erected or placed on the same lot as one of the permitted or conditional principal uses or structures specified in Section 5.11.B and C, above:
- 1. Within an individual office building, up to 10% of the gross floor area may be devoted to supporting commercial enterprises that are intended primarily for the convenience of those working in the building, provided that such uses are accessed only from within the office building. Such uses may include convenience stores, eating establishments, food specialty stores, branch banks and newsstands.
  - 2. Fences and walls, subject to applicable site plan requirements and the conditions of Section 5.5.
  - 3. Parking and parking facilities subject to applicable zoning and site plan requirements.

4. Flags. A single flagpole (a) having a height that is no greater than forty (40) feet or no greater than the flagpole's distance from the nearest lot line (whichever is less), (b) having no more than one yard-arm, and (c) upon which is flown no more than three flags, with each flag having an area of no more than twelve (12) square feet (zoning permit required for flagpole construction but not for flags).

5. Solar Panels or Cells, See Sec. 5.16, Paragraphs C, D and E.

F. MU-Mixed Use District Lot Area, Dimension, Configuration, Coverage and Setback Requirements. Every lot and the structures upon it in an MU-Mixed Use district must meet the following applicable minimum and maximum requirements for lot area, dimension, configuration, coverage and setbacks:

1. MU-Mixed Use District:

- a. Lot Area (see definition): 2 acres minimum
- b. Lot Frontage: 200 feet minimum
- c. Lot Width: 200 feet minimum
- d. Lot Depth: 200 feet minimum
- e. Front Yard (Principal Structure): 50 feet minimum
- f. Front Yard (Accessory Structures): 50 feet minimum or no less than the greatest actual front yard setback of the principal structure, whichever is greater. For the purposes of an accessory structure on a corner lot the front yard shall be determined to be along the road that the front of the principal structure faces and along which the street address is assigned.
- g. Side Yard (Principal Structure)\*: 10 feet minimum
- h. Side Yard (Accessory Structures)\*: 10 feet minimum
- i. Rear Yard (Principal Structure)\*: 10 feet minimum
- j. Rear Yard (Accessory Structure)\*: 10 feet minimum
- k. \*Setback from River Bulkhead: (see Section 5.11.G, below)
- l. Height (Principal Structure): 50 feet maximum
- m. Height (Accessory Structures): 30 feet maximum
- n. Height (Non-Building Accessory Structure) 15 feet maximum
- o. Number of Principal Structures on Lot: 1 structure maximum (except as specified)
- p. Number of Accessory Structures on Lot: Shall be limited by Total Impervious Materials Coverage as is set forth in sub-paragraph s below
- q. Stories (Principal Structures): 2 stories maximum
- r. Stories (Accessory structures): 1 story maximum (no basement)
- s. Impervious Materials Coverage (inc. structures): 65% maximum
- t. Grading requirements: (see Section 5.17, below)
- u. Lot must abut improved street (see Section 5.18, below)
- v. Awnings: (see Section 5.11.H, below)
- w. Signs and Flagpoles: (see Section 5.11.E, above)

G. Setback from Bulkheads\*. Notwithstanding any other applicable side or rear yard setback requirement, no principal or accessory building or structure shall be erected or located within twenty (20) feet from any point of the existing or proposed bulkheads along the Delaware River.

H. Awnings. Awnings are permitted on building facades subject to the following requirements:

- 1. Awnings must be at least seven (7) feet from the sidewalk surface when measured from the lowest point;

2. Awnings must be supported entirely by framework that extends horizontally from the facades of the buildings to which they are attached. Awnings may not be supported by any vertical or diagonal post or other member that falls below the seven (7) foot height requirement set forth above;
3. Awnings must be constructed of opaque fabric, and not illuminated from beneath (however lights may be suspended from beneath awnings to illuminate the sidewalk and street-level building façade);
4. Except as expressly provided in this subsection, awnings may not be used to support any other structure or ornamentation such as but not limited to signs, plants or loudspeakers;
5. Awnings which comply with the conditions of this section may contain words, numbers (including street numbers), logos or other artwork or illustrations without being considered “signs” for purposes of this ordinance.

#### **SECTION 5.12 - Light Industrial Districts.**

- A. General. Light Industrial districts are classified as LI-Light Industrial. The LI-Light Industrial districts permit office uses and uses that involve the assembly, processing, storage and distribution of materials or products which have already been converted into goods from raw materials. Uses permitted in the LI-Light Industrial districts are those which are typically considered to generate low levels of light, noise or odor.
- B. Permitted Principal Uses and Structures. In an LI-Light Industrial district, a lot and the principal structure existing or to be erected upon it may be used or occupied for only one of the following purposes, and no other use or purpose shall be permitted:
  1. Retail stores.
  2. Personal service shop; tailor, barber, beauty salon, dressmaker, shoe repair, or similar services.
  3. Professional business office, agency or studio.
  4. Tavern, restaurant, or catering establishment.
  5. Theater.
  6. Bank or other financial institution.
  7. Mortuary.
  8. Copy or business service center.
  9. Service, repair or supply shop, such as an electrician, plumber, carpenter, upholsterer, or similar trade.
  10. Marinas.
  11. Schools.

12. Nursery.
  13. Floral shop.
  14. Agriculture.
  15. Warehouse or yard for storage of finished materials or products.
  16. Office complexes.
  17. Assembly or processing plants for: beverages; clothing and other textile products not including manufacture of textiles; containers for products; electrical equipment, appliances, computers and supplies; leather products not including tanning; professional and scientific instruments such as medical, dental, optical, drafting, and similar; pharmaceutical products not including manufacture; small products from previously prepared materials; tool and dye and similar small machine shops.
  18. Recreational Cannabis: Indoor Class 1 Recreational Cannabis Cultivators, Class 2 Recreational Cannabis Manufacturers, Class 3 Recreational Cannabis Wholesalers, Class 4 Recreational Cannabis Distributors, and Class 6 Recreational Cannabis Delivery Services as defined in section 3 of P.L. 2021, c. 16.
  19. Medical Cannabis: Indoor Medical Cannabis Cultivators and Medical Cannabis Manufacturers, as defined by NJSA 24:6i-1 et seq.
- C. Permitted Accessory Uses and Structures. In an LI-Light Industrial district, accessory uses as defined in this Ordinance may be conducted, and accessory structures as defined in this Ordinance may be erected or placed on the same lot as one of the foregoing permitted or conditional principal uses or structures.
- D. Conditional Accessory Uses and Structures. In an LI-Light Industrial district, the following accessory uses may be conducted, and the following accessory structures may be erected or placed on the same lot as one of the permitted or conditional principal uses or structures specified in Section 5.12.B, above:
1. Fences and walls, subject to applicable site plan requirements and the conditions of Section 5.5.
  2. A plant nursery subject to the definitional requirements of this ordinance as accessory to the principal agricultural use of a farm, and subject to site plan review requirements if the limitations set forth in the definition of “nursery” are exceeded.
  3. A farm stand subject to the definitional requirements of this ordinance, only as accessory to the principal agricultural use of a farm, and subject to site plan review requirements if the limitations set forth in the definition of “farm stand” are exceeded.
  4. Parking and parking facilities subject to all applicable zoning and site plan requirements.
  5. Flags. A single flagpole (a) having a height that is no greater than forty (40) feet or no greater than the flagpole’s distance from the nearest lot line (whichever is less), (b) having no more than one yard-arm, and (c) upon which is flown no more than three flags, with each flag having an

area of no more than twelve (12) square feet (zoning permit required for flagpole construction but not for flags).

6. Solar Panels or Cells, See Sec. 5.16, Paragraphs C, D and E..
7. Personal wireless telecommunications facilities and personal wireless telecommunications equipment facilities as defined in this Ordinance shall be permitted as a conditional use, subject to the provisions of Section 5.15.

E. LI-Light Industrial Lot Area, Dimension, Configuration, Coverage Height and Setback Requirements. Every lot and the structures upon it in a LI-Light Industrial district must meet the following applicable minimum and maximum requirements for lot area, dimension, configuration, coverage, height and setbacks:

1. LI-Light Industrial District:

- a. Lot Area (see definition): 2 acres minimum
- b. Lot Frontage: 200 feet minimum
- c. Lot Width: 200 feet minimum
- d. Lot Depth: 200 feet minimum
- e. Front Yard (Principal Structure): 50 feet minimum
- f. Front Yard (Accessory Structures): 50 feet minimum or no less than the actual front yard setback of the principal structure, whichever is greater. For the purposes of an accessory structure on a corner lot the front yard shall be determined to be along the road that the front of the principal structure faces and along which the street address is assigned.
- g. Side Yard (Principal Structure)\*: 10 feet minimum
- h. Side Yard (Accessory Structures)\*: 10 feet minimum
- i. Rear Yard (Principal Structure)\*: 10 feet minimum
- j. Rear Yard (Accessory Structure)\*: 10 feet minimum
- k. \*Setback from River Bulkhead: (see Section 5.12.F, below)
- l. Height (Principal Structure): 50 feet maximum\*\*(except agricultural non-residential structures)
- m. Height (Accessory Structures): 30 feet maximum\*\*(except agricultural non-residential structures)
- n. Height (Non-Building Accessory Structure) 15 feet maximum\*\*(except agricultural non-residential structures)
- o. Number of Principal Structures on Lot: 1 structure maximum
- p. Number of Accessory Structures on Lot: Shall be limited by the Total Impervious Materials Coverage as is set forth in sub-paragraph s below\*\*(except agricultural non-residential structures)
- q. Stories (Principal Structure): 2 stories maximum\*\*(except agricultural non-residential structures)
- r. Stories (Accessory Structures): 1 stories maximum (no basement) \*\*(except agricultural non-residential structures)
- s. Impervious Materials Coverage (inc. structures): 65% maximum
- t. Grading requirements: (see Section 5.17, below)
- u. Lot must abut improved street (see Section 5.18, below)
- v. Awnings: (see Section 5.12.G, below)
- w. Signs and Flagpoles: (see Section 5.12.D, above)



- F. Setback from Bulkheads\*. Notwithstanding any other applicable side or rear yard setback requirement, no principal or accessory building or structure shall be erected or located within twenty (20) feet from any point of the existing or proposed bulkheads along the Delaware River.
- G. Agricultural Structures\*\*. Non-residential agricultural structures such as barns and silos on lots used for agricultural purposes are not subject to height or story limitations if it is determined that the height, nature and location of such agricultural structures comports with generally accepted agricultural practices. The number of agricultural structures per is not limited as long as all other zoning requirements (except height and story limitations as noted in this paragraph) are satisfied.

### **SECTION 5.13 - Heavy Industrial Districts.**

- A. General. Heavy Industrial districts are classified as HI-Heavy Industrial. HI-Heavy Industrial districts allow uses which included the manufacture of materials or products by the conversion of raw materials into such finished durable, non-toxic materials or products.
- B. Permitted Principal Uses and Structures. In an HI-Light Heavy district, a lot and the principal structure existing or to be erected upon it may be used or occupied for only one of the following purposes, and no other use or purpose shall be permitted:
  - 1. Any use permitted in a LI-Light Industrial district, subject to LI-Light Industrial district lot area, dimension, configuration, coverage, height and setback requirements per Section 5.12.E.
  - 2. Manufacture of non-toxic durable products and materials.
  - 3. Recreational Cannabis: Indoor Class 1 Recreational Cannabis Cultivators, Class 2 Recreational Cannabis Manufacturers, Class 3 Recreational Cannabis Wholesalers, Class 4 Recreational Cannabis Distributors, and Class 6 Recreational Cannabis Deliver Services as defined in section 3 of P.L. 2021, c. 16.
  - 4. Medical Cannabis: Indoor Medical Cannabis Cultivators and Medical Cannabis Manufacturers, as defined by NJSA 24:6i01 e seq.
- C. Permitted Accessory Uses and Structures. In an HI-Heavy Industrial district, accessory uses as defined in this Ordinance may be conducted, and accessory structures as defined in this Ordinance may be erected or placed on the same lot as one of the foregoing permitted or conditional principal uses or structures.
- D. Conditional Accessory Uses and Structures. In an HI-Heavy Industrial district, the following accessory uses may be conducted, and the following accessory structures may be erected or placed on the same lot as one of the permitted or conditional principal uses or structures specified in Section 5.13.B, above:
  - 1. Fences and walls, subject to applicable site plan requirements and the conditions of Section 5.5.
  - 2. Parking and parking facilities subject to all applicable zoning and site plan requirements.
  - 3. Flags. A single flagpole (a) having a height that is no greater than forty (40) feet or no greater than the flagpole's distance from the nearest lot line (whichever is less), (b) having no more than one

yard-arm, and (c) upon which is flown no more than three flags, with each flag having an area of no more than twelve (12) square feet (zoning permit required for flagpole construction but not for flags).

4. Personal wireless telecommunications facilities and personal wireless telecommunications equipment facilities as defined in this Ordinance shall be permitted as a conditional use, subject to the provisions of Section 5.15.

E. HI-Heavy Industrial Lot Area, Dimension, Configuration, Coverage, Height and Setback Requirements. Every lot and the structures upon it in an HI-Heavy Industrial district used for a purpose that is permitted in an LI-Light Industrial district must meet all applicable minimum and maximum requirements for lot area, dimension, configuration, coverage, height and setbacks for the LI-Light Industrial districts. All principal and accessory structures and other site improvements on lots used for the manufacture of non-toxic durable goods (including all storage, driveway, parking and drainage areas, and all perimeter fencing) must be set back as follows:

1. no less than 200 feet from any HI-Heavy Industrial district boundary with an adjoining R-1, R-2, R-3 or CONS zoning district;
2. no less than 200 feet from any HI-Heavy Industrial district boundary with an adjoining C-Commercial, CB-Central Business District, or MU-Mixed Use zoning district; and
3. no less than 100 feet from any HI-Heavy Industrial district boundary with an adjoining LI-Light Industrial district.

#### **SECTION 5.14 – Conservation Districts.**

A. General. Conservation districts are classified as CONS-Conservation. CONS-Conservation districts contain wetlands, floodplains, streams, stream corridors, woodlands, and other water systems and natural resources which should be protected and conserved to minimize their disturbance, to prevent damage from erosion, floods, siltation and water turbidity, to prevent the loss of vegetation, fish, wildlife and natural habitat, to permit adequate recharge of groundwater aquifers and to protect the quality of ground- and surface-waters. Conservation or preservation of these resources in an undisturbed and natural condition constitutes important physical, aesthetic, recreational, safety, health and economic assets to existing and future residents of Pennsville Township. It is the specific intent that use and development within CONS-Conservation districts be limited only to types of use and development which are compatible with natural conditions at the lot being proposed for such use or development, and which do not increase existing flood elevations and do not have any significant adverse impacts.

B. Permitted Principal Uses and Structures. In a CONS-Conservation district, a lot and the principal structure existing or to be erected upon it may be used or occupied for one or more of the following purposes, and no other use or purpose shall be permitted:

1. Outdoor recreation, including hiking, swimming, horseback riding, nature study, swimming, camping, boating, trapping, hunting, fishing and ice-skating.
2. Maintenance of waterways, lawns and vegetation existing prior to the effective date of this chapter.
3. Emergency activities carried out to protect the public health and safety.

4. Maintenance of historic sites and structures.
5. Conservation of soil, vegetation, water, fish, shellfish and wildlife in accordance with recognized conservation practices as established by the New Jersey State Soil Conservation Committee, the United States Department of the Interior, Fish and Wildlife Service and the New Jersey Department of Environmental Protection
6. The creation of foot trails.
7. Agriculture.
8. The maintenance and repair of roads, ditches, driveways, public utilities and irrigation ditches existing prior to the effective date of this chapter.
9. Maintenance or repair of dams or other water control devices whose maintenance or repair requires or causes an alteration in water level or course of a lake, stream or wetland.
10. One single family residence.

C. Permitted Accessory Uses and Structures. In a CONS-Conservation district, accessory uses as defined in this Ordinance may be conducted, and accessory structures as defined in this Ordinance may be erected or placed on the same lot as one of the foregoing permitted or conditional principal uses or structures.

D. In a CONS-Conservation district, the following accessory uses may be conducted, and the following accessory structures may be erected or placed on the same lot as one of the permitted principal uses or structures specified in Section 5.14.B, above

1. A farm stand subject to the definitional requirements of this ordinance, only as accessory to the principal agricultural use of a farm as permitted in the CONS-Conservation district, and only in a manner that does not trigger the site plan review requirements specified in the definition.
2. Fences and walls on lots which qualify for farmland tax assessment.
3. Parking and parking facilities subject to site plan review.

4. Flags. A single flagpole (a) having a height that is no greater than forty (40) feet or no greater than the flagpole's distance from the nearest lot line (whichever is less), (b) having no more than one yard-arm, and (c) upon which is flown no more than three flags, with each flag having an area of no more than twelve (12) square feet (zoning permit required for flagpole construction but not for flags).

5. Solar Panels or Cells, See section 5.16, Paragraphs C, D and E

E. Prohibited uses and structures. Any use or structure other than those uses or structures permitted in this Section 5.14.B are prohibited in the CONS-Conservation district. The following uses and structures are also expressly prohibited:

1. To place, deposit, store temporarily or permit to be placed or deposited soil, gravel, sand, de-icing salts, cinders, leaf and brush compost, debris, solid or liquid waste, fill or any material, including structures, pilings and containers, into, within or upon any land in a conservation district.

2. To dig, dredge, suck, bulldoze, dragline, blast or in any other way alter, move or remove any material from a conservation district.
3. To remove, uproot, cut or destroy vegetation in any manner, directly or indirectly, through alteration in watercourse or water level.
4. To create and use trails lot motorized vehicles and to operate such motorized vehicles.

F. CONS-Conservation Lot Area, Dimension, Configuration, Coverage and Setback Requirements. Every lot and the structures upon it in a CONS-Conservation district must meet the following applicable minimum and maximum requirements for lot area, dimension, configuration, coverage and setbacks:

1. CONS-Conservation District:

- |   |   |
|---|---|
| a. Lot Area (see definition):                       | 10 acres minimum  |
| b. Lot Frontage:                                    | 200 feet minimum  |
| c. Lot Width:                                       | 200 feet minimum  |
| d. Lot Depth:                                       | 150 feet minimum  |
| e. Front Yard (Principal Structure):                | 50 feet minimum   |
| f. Front Yard (Accessory Structures):               | 50 feet minimum or no less than the greatest actual front yard setback of the principal, whichever is greater. For the purposes of an accessory structure on a corner lot the front yard shall be determined to be along the road that the front of the principal structure faces and along which the street address is assigned. |
| g. Side Yard (Principal Structure)*:                | 30 feet minimum   |
| h. Side Yard (Accessory Structures)*:               | 6 feet minimum  |
| i. Rear Yard (Principal Structure)*:                | 50 feet minimum   |
| j. Rear Yard (Accessory Structure)*:                | 6 feet minimum  |
| k. *Setback from River Bulkhead:                    | (see Section 5.14.G, below)   |
| l. Height (Principal Structure):                    | 45 feet maximum   |
| m. Height (Accessory Structures):                   | 15 feet maximum** (**except Agricultural)   |
| n. Number of Principal Structures on Lot:           | 1 building maximum  |
| o. Number of Accessory Structures on Lot:           | Shall be limited by the Total Impervious Materials Coverage as set forth in sub-paragraph s below** (**except Agricultural)   |
| p. Stories (Principal Structure):                   | 2½ stories maximum  |
| q. Stories (Accessory Structures):                  | 1½ stories maximum (no basement)** (**except Agricultural)  |
| r. Building Coverage (Principal Structure):         | lesser of 2% or 1,800 s.f. maximum ** (except agricultural)   |
| s. Impervious Materials Coverage (inc. structures): | 10% maximum   |
| t. Grading requirements:                            | (see Section 5.17, below)   |
| u. Lot must abut improved street                    | (see Section 5.18, below)   |
| v. Flag Poles and Signs                             | (see Section 5.14.D, above)   |

G. Setback from Bulkheads\*. Notwithstanding any other applicable side or rear yard setback requirement, no principal or accessory building or structure in a residence district shall be erected or located within one hundred (100) feet from any point of the existing or proposed bulkheads along the Delaware River.

## SECTION 5.15 – PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES

A. **Background.** The federal government, through the Federal Communications Commission (FCC), has issued personal wireless telecommunication licenses for personal telecommunication services and other wireless technologies. The FCC requires license holders to provide coverage to areas where personal wireless telecommunications licenses have been acquired and this may require that such facilities be constructed in specified locations and manners determined by engineering standards to achieve such coverage. The Federal Telecommunications Act of 1996 (FTA) preserves local zoning authority to reasonably regulate personal wireless telecommunications facilities (PWTFs); but the FTA mandates that localities may not unreasonably discriminate among FCC license holders and that localities cannot prohibit or adopt regulations which have the effect of prohibiting the provision of wireless services, and the FTA gives the FCC sole jurisdiction over radio frequency emissions of PWTFs so long as PWTFs meet FCC standards. Pennsville Township has determined that it is necessary to reasonably regulate PWTFs and associated personal wireless telecommunications equipment facilities (PWTEFs) to minimize potential aesthetic impacts. There is a need for requirements in the Land Development Ordinance to address the siting of PWTFs and PWTEFs. The purpose of the following ordinance is to provide sound land use policies, procedures and regulations for personal wireless telecommunications facilities to protect Pennsville Township from the visual or other adverse impacts of these facilities, while encouraging their unobtrusive development to provide wireless telecommunications services with its benefits to residents and businesses in Pennsville Township and the surrounding region. The ordinance expresses a preference that antennas be located on existing buildings and towers, preferably on municipal or other public property, and not on newly constructed telecommunications towers; and encourages collocation and site sharing of new and existing PWTFs.

### B. Definitions:

1. *Antenna* means a system of electrical conductors that transmit or receive radio frequency signals for wireless communications.
2. *Antenna Support Structure* means a structure other than a telecommunications tower which is attached to a building or other structure, and on which one or more antennas are located.
3. *Collocation* means use of a common PWTF or a common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology, and/or placement of a PWTF on a structure owned or operated by a public utility as defined at N.J.S.A. 40:55D-6, or a federal, state or municipal entity.
4. *Personal Wireless Telecommunications Equipment Facilities (“PWTEFs”)* means accessory facilities serving and subordinate in area, extent and purpose to, and on the same lot as, a telecommunication tower or antenna location. Such facilities include, but are not limited to, transmission equipment, equipment cabinets, storage sheds, storage buildings, driveways and parking areas, and security fencing.
5. *Personal Wireless Telecommunications Facilities (“PWTFs”)* means facilities for the provision of Wireless Communications services, including, but not limited to, antennas, antenna support structure, telecommunications towers, and related facilities other than PWTEFs.

6. *Personal Wireless Telecommunications Facilities Site Registration Fee (“PWTF Fee”)* means a fee paid to Pennsville Township upon the initial and each subsequent annual PWTF registration to cover Pennsville Township’s administrative costs relating to PWTF registration.
7. *Telecommunications Tower* means a freestanding structure, such as a lattice tower, guyed tower, monopole or similar structure, whose primary purpose is to support one or more antennas.
8. *Wireless Communications* means any personal wireless service as defined in the Federal Telecommunications Act of 1996 (FTA) which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed. It does not include any amateur radio facility that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas, nor does it include non-cellular telephone service.

**C. PWTFs and PWTEFs as Conditional Uses.** Personal Wireless Telecommunications Facilities and Equipment shall be permitted as conditional uses in specified zoning districts subject to the following conditions:

1. Each PWTF/PWTEF must be confirmed by the Planning Board as necessary to provide wireless telecommunications consistent with the standards of the FTA.
2. Each PWTF/PWTEF must also comply with the following:
  - a. **Height and Other Zoning Requirements.** PWTFs may exceed the maximum building height limitations, provided that:
    - i. The PWTF’s height is no greater than necessary to meet service requirements of Subparagraph C.1, above, and to provide collocation opportunities as may be necessary;
    - ii. The PWTF/PWTEF is designed to minimize visual impact;
    - iii. The PWTF/PWTEF does not require aircraft safety lights or other lighting; and
    - iv. PWTEFs are limited to twelve (12) feet in height.
    - v. Except as otherwise provided in this Section 5.15, each PWTF (as principal structure/use) and PWTEF (as accessory structure/use) shall be subject to all applicable minimum and maximum requirements for lot area, dimension, configuration, coverage, height and setbacks of the zoning district in which it is located.
    - vi. If located on the roof of a building, the total area of the PWTFs/PWTEFs and other unrelated equipment and facilities shall not occupy more than twenty-five (25) percent of the roof area.

- b. Location Priority. Each PWTF/PWTEF must be located at the lot having the highest order of priority among all available lots within the area where the PWTF/PWTEF can be constructed to meet the service requirements of Subparagraph C.1, above:
- i. The highest priority locations are developed lands owned by Pennsville Township, and lands occupied by structures that are owned by Pennsville Township, with the exception of Riverview Beach Park;
  - ii. The second highest priority locations are vacant lands owned by Pennsville Township;
  - iii. The third highest priority locations are lands or structures owned by the Pennsville Township School District;
  - iv. The fourth highest priority locations are lands occupied by existing PWTFs where collocation can occur, or other existing structures of appropriate height to site PWTEFs, provided that a new PWTF/PWTEF does not increase the existing PWTF's or other structure's height by more than 10%;
  - v. The fifth highest priority locations are other lots at which the requirements of Subparagraphs C.1 and C.2.a, above, and C.2.c, below, can be satisfied.
- c. Visual Impact. All PWTFs and PWTEFs shall be located to minimize visual impacts on the surrounding area in accordance with the following standards. In applying these standards, locations in a higher priority category under Section 5.15.C.2.b, above, shall be deemed more acceptable than lower priority sites.
- i. Sites for PWTFs and PWTEFs must be demonstrated as having minimal visual impact on residential, central business, commercial and conservation zoning districts, parks, and other public areas. All potential visual impacts must be analyzed by the Planning Board to confirm that the proposed site provides the best opportunity to minimize the visual impact of the proposed facility.
  - ii. PWTEFs should be located to avoid being visually solitary or prominent when viewed from residential areas, public ways, and public recreation areas, such as, but not limited to Riverview Beach Park. The facility should be obscured by vegetation, tree cover, topographic features, camouflage techniques, and/or other structures to the maximum extent feasible.
  - iii. PWTFs and PWTEFs shall be placed to ensure that historically significant views, streetscapes, and landscapes are protected. The views of and vistas from architecturally and/or significant structures should not be impaired or diminished by the placement of telecommunication facilities.
  - iv. PWTF applications must include a visual impact study, graphically simulating through models, computer-enhanced graphics, or similar techniques, the appearance of any proposed PWTF and indicating its view from at least the five (5) locations around and within one (1) mile of the proposed PWTF where the PWTF will be most visible. Applications must also include an aerial photograph of the impact area designating the proposed PWTF site and the locations from which the views were simulated.

- d. **Site Design Standards.** The following design standards shall apply to PWTFs and PWTEFs installed or constructed pursuant to the terms of this ordinance:
- i. *Location.* Applicants proposing PWTFs and PWTEFs must prove to the Planning Board's satisfaction that the proposed PWTF/PWTEF in the proposed location is necessary to provide wireless telecommunications consistent with the standards of the FTA, and that the applicant has selected the location with the highest priority among available locations pursuant to Subparagraph C.2.b, above. Ordinance limitations on the number of principal or accessory structures and uses on a lot shall not apply to PWTF and PWTEF when they are proposed to be located on any agriculture, business, commercial, mixed use, or industrial lot in the CB-Central Business, C-Commercial, MU-Mixed Use, LI-Light Industrial, or HI-Heavy Industrial zoning district which is the site of other lawfully existing non-PWTF or -PWTEF structures or uses, provided that only one telecommunications tower may be constructed on a lot, and also provided that, except for location at a farm as defined in this ordinance, no PWTF or PWTEF may be erected on a lot in any zoning district that is occupied by a single family residential structure and used for single family residential purposes.
  - ii. *Fencing and other Safety Devices.* PWTFs and PWTEFs must be surrounded by a security feature such as a fence made of anti-climbing material. All towers shall be designed with anti-climbing devices in order to prevent unauthorized access. Additional safety devices shall be permitted or required, as needed, and as approved by the Planning Board as may be necessary in the opinion of the Planning Board when applying generally accepted standards.
  - iii. *Landscaping.* Landscaping shall be provided along the perimeter of the security fence to provide a visual screen or buffer for adjoining properties and public rights-of-way. Required front yard setback areas shall be landscaped according to site plan requirements of this Ordinance or other generally accepted standards. All PWTEFs shall be screened by an evergreen hedge eight to ten feet in height at planning time and/or a solid fence eight feet in height.
  - iv. *Signs.* Signs shall not be permitted except to display owner contact information, warnings, equipment information, and safety instructions, all according to generally accepted standards. Such signs shall not exceed two (2) square feet in area. No advertising or other display shall be permitted on any PWTF or PWTEF.
  - v. *Color.* PWTFs and PWTEFs shall be of a color appropriate to their location context for the purpose of minimizing their visual impacts.
  - vi. *Activity and Access.* All equipment shall be designed and automated to ensure that no staffing is required to operate any proposed PWTF or PWTEF, and to reduce to the greatest extent possible any need for onsite maintenance (thereby minimizing the need for vehicular trips to and from the site). Access shall be from established site access points whenever possible. Minimal off-street parking shall be permitted as needed and as approved by the Planning Board according to site plan requirements and other generally accepted standards.
  - vii. *Dish Antennas.* Dish antennas shall be colored, camouflaged or screened to minimize their visual impacts to the greatest extent possible, and in no case shall the diameter of a dish antenna exceed six (6) feet.



- viii. *Lighting*. No lighting is permitted at PWTF/PWTEF sites except that PWTEFs enclosing electronic equipment may have security and safety lighting at the entrance, provided that any light attached to the facility is no higher than 12 feet, focused downward, and activated by timing devices and/or sensors so that the light is automatically turned off during daylight hours. Any such lighting shall be focused and shielded to the greatest extent possible so as not to project towards or onto other lots.
- ix. *Monopole*. Any proposed new telecommunications tower shall be of a “monopole” design unless the applicant demonstrates, to the Planning Board’s satisfaction, when applying generally accepted standards, that a different type of tower is necessary to promote collocation opportunities at the site.
- x. *Camouflage*. Applicants may be required to employ camouflage technologies to minimize visual the impacts of PWTFs/PWTEFs that are within or near areas where historic or scenic vistas should be preserved.
- xi. *Noise*. No equipment shall be operated so as to produce noise in excess of the limits set by any noise ordinance or other regulation, except in emergency situations requiring the use of a backup generator.
- xii. *Radio Frequency Emissions*. The FTA gives the Federal Communications Commission (FCC) sole jurisdiction of the field of regulation of Radio Frequency (RF) emission. PWTFs which meet the FCC standards cannot be conditioned or denied on the basis of RF impacts. Applicants shall provide current FCC information concerning PWTFs and RF emission standards. PWTFs shall be required to provide information on the projected power density of the proposed facility and how this meets all applicable FCC standards.
- xiii. *Structural Integrity*. Applicants must provide documentation by a qualified expert to confirm that any proposed PWTFs will be constructed to the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) Revision F Standard entitled “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures” (or equivalent), as it may be updated or amended, and that it will have sufficient structural integrity to support the proposed antennas and the anticipated future collocated antennas.
- xiv. *Maintenance*. PWTFs shall be routinely maintained to assure their continued structural integrity. Applicants must provide the maintenance schedule that meets generally accepted standards to confirm that the site will not pose a safety threat, fall into a state of disrepair, or become a visual nuisance. The maintenance schedule must provide the name and address of the person or entity responsible for ongoing maintenance, and confirm how and by whom such maintenance requirements will be enforced.
- e. Collocation Requirements. The following collocation requirements shall apply to PWTFs and PWTEFs installed or constructed pursuant to the terms of this ordinance:
- i. The municipal engineer shall maintain an inventory of existing PWTF site locations within Pennsville Township which will include the registration information required pursuant to Section 5.15.F, below. Copies of the PWTF site location inventory will be kept at the Construction Code Office and provided to PWTF applicants upon written request within ten (10) business days for a charge of \$10.

- ii. An applicant proposing a PWTF at a new location must demonstrate that it has made a reasonable attempt, but was unable to find an acceptable collocation site on reasonably acceptable terms.
  - iii. An applicant proposing a collocated PWTF must demonstrate that it has selected the most appropriate collocation site from among those available.
  - iv. All PWTF applicants must provide a letter of intent by the applicant, to be reviewed for approval as to form by the Township Solicitor, confirming that the applicant will share the use of any PWTF site with other approved providers of wireless communication services upon such rates and terms as are reasonable given market conditions in existence at the time such shared use is proposed, and stating that the applicant consents to same as a condition of any Planning Board approval.
- f. Site Selection Review. The following site selection review requirements shall apply to PWTFs and PWTEFs installed or constructed pursuant to the terms of this ordinance:
- i. Each application for a PWTF shall be accompanied by a plan which showing all existing PWTF site locations in Pennsville Township, all PWTF site locations in nearby municipalities that provide service to areas within Pennsville Township, and all changes, if any, proposed by the applicant for providing service within and near Pennsville Township for the two (2) year period next following the date the application is filed, including plans for new locations and the discontinuance or relocation of existing facilities.
  - ii. Each application shall include a site location alternative analysis and plan prepared by a qualified expert describing and depicting the location of other sites considered (including all tall structures suitable for installation of PWTFs/PWTEFs in and near the Township), the availability of such other sites, the extent to which other sites do or do not meet the provider's service or engineering needs, and the reason why the subject site was chosen. The analysis shall address the following issues:
    - (1) How the proposed location of the PWTF site relates to the objective of providing wireless communication services as required by the FTA (1) at the time the application is presented, and (2) at the time such services are to be provided by the applicant.
    - (2) How the proposed location of the proposed PWTF relates to the location of any existing antennas, antenna support structures, telecommunications towers, PWTFs and PWTEFs within and near Pennsville Township.
    - (3) How the proposed location of the proposed PWTF site relates to the anticipated need for additional antennas in and near Pennsville Township by the applicant and by other providers of wireless communication services in order to comply with the FTA.
    - (4) How the proposed location of the proposed PWTF site relates to the objective of collocating the antennae of many different providers of wireless communication services on the same PWTF; and

- (5) How its plan specifically relates to and is coordinated with the needs of all other providers of wireless communication services within and surrounding Pennsville Township in order to comply with the FTA.

**D. Site Plan Review and Conditional Use Approval Required.** Site Plan and conditional use approval are required for all PWTF/PWTEF applications.

**E. Removal/Restoration Guarantee; Easement.** All PWTF applicants must, prior to any building permit to develop a PWTF/PWTEF site, execute a contract which will provide that if the application is approved, and if the site is developed, the applicant will be responsible for the removal and restoration of the site to its prior condition at such time as the site is no longer in use by service providers. Also, prior to issuance of any building permit for a PWTF/PWTEF site, the applicant and/or the owner of the real estate on which any PWTF is to be installed/erected must grant an easement or other access agreement to Pennsville Township in a form satisfactory to the Township Solicitor for the duration of the facility's existence for the purpose of allowing Township representatives to go upon the property to accomplish the aforesaid removal and restoration. The ongoing validity of any such easement or agreement must also be confirmed by the Township Solicitor every three years when the removal/restoration guarantee is reviewed.

**F. Registration of PWTFs.** All PWTF site owners/operators must annually register each PWTF site owned or operated in Pennsville Township by filing a registration report with the Pennsville Township Clerk and Engineer prior to issuance of any building permit for the PWTF site and on or before December 1 of each year thereafter. With the initial registration and each subsequent annual registration, the PWTF site owner/operator must pay a PWTF site registration fee in the amount of \$100. The registration report must include the following information:

1. The name, address, telephone number, and other contact information of the owner/operator of the PWTF site who is filing the registration report and who is responsible for ongoing compliance with this Ordinance;
2. the duration of all PWTF leases or agreements with the owner of the property at which the PWTF is located (or confirm that property is owned by PWTF owner/operator);
3. the names, addresses, telephone numbers, and other contact information for all collocated service providers whose antennae are installed at the PWTF site, the weight and height location of each, and the duration of their leases or agreements with the PWTF site owner/operator;
4. the remaining capacity of tower or other support structure(s) at the PWTF site to support additional antennae (additional weight capacity; number of additional antennae that can be installed and at what height locations), and the remaining area at the site for additional PWTEFs that would be necessary for additional service providers to occupy the site; and
5. as set forth in Section 5.15.E, above, the registered site owner/operator must also post with the initial registration, and on every third year thereafter replace as necessary (in the opinion of the Township engineer based on changed removal and restoration cost estimates), a performance guarantee, and confirm, to the Township solicitor's satisfaction, that the Township will have the ongoing legal right to enter upon the PWTF site and accomplish removal and restoration of

abandoned PWTFs/PWTEFs as contemplated herein if the registered site owner/operator fails to do so.

**G. Failure to Register; Abandonment; Removal.** Failure to register will result in a fine against the last registered site owner/operator of \$100 per day for each day of non-registration from December 2 until the date of registration (or until all PWTFs/PWTEFs are removed and the site restored). Any PWTF site that ceases to be used for the provision of wireless telecommunications service, or whose last registered owner/operator fails to register, falsifies or fails to adequately disclose registration information, or otherwise fails to comply requirements of this Ordinance or any conditions of Planning Board approval for a continuous period of twelve (12) months or more shall automatically be deemed abandoned, in which event all approvals by which the PWTF/PWTEF site it was allowed will automatically expire. If there are two or more service providers lawfully collocated at a single PWTF site, then one or more of them can, in the event of such abandonment and expiration, voluntarily register the site, pay the fines, cure any violations, assume the responsibility of owner/operator, and provide any ongoing restoration/removal guarantee and access confirmation that may be required pursuant to this Ordinance, in which case the Township may determine that the abandonment has been reversed and all approvals reinstated. The last registered owner/operator of an abandoned PWTF site, or any other person designated as responsible for removal and restoration pursuant to a PWTF site lease or other agreement with the property owner, shall remove the PWTF/PWTEF within ninety (90) days following notice from the Zoning Officer that the PWTF is deemed abandoned, and restore the property to its pre-PWTF condition. If such PWTF is not removed and abandoned within said ninety (90) days, the Township may remove and restore such PWTF using the removal/restoration guarantee, or at the expense of the owner, the last registered owner/operator, or any other designated responsible person.

## **SECTION 5.16 – RENEWABLE ENERGY FACILITIES, COMMERCIAL SOLAR ENERGY FACILITIES AND WIND ENERGY FACILITIES**

### **A. Definitions:**

*Commercial solar energy facility* means a solar energy system which exists as a principal use to generate electricity, heat water, and/or produce hot air for use on site, by sites contiguous to the site; and/or off site with electrically delivered by distribution and/or transmission lines.

*Net Metering* means a system of metering electricity in which the electric distribution company: (1) credits a customer/generator for each kilowatt-hour produced by a class 1 renewable energy system (i.e., solar, wind energy and biomass) installed on the customer/generator's side of the electric revenue meter, up to the total amount of electricity used by that customer during an annualized period; and (2) compensates the customer/generator at the end of the annualized period for any remaining credits, at a rate equal to the supplier/provider's avoided cost of wholesale power. Net metering is regulated pursuant to subsection e. of NJSA 48:3-87

*Renewable energy facility* means a facility and all associated equipment that engages in the production of electric energy from solar technologies, photovoltaic technologies or wind energy.

*Rotor diameter* means the cross sectional dimension of the circle swept by the rotating blades for a wind powered energy generator.

*Small wind energy system* shall mean a wind energy system that is used to generate electricity, has a nameplate capacity of 100 kilowatts or less, and is as high as necessary to capture the wind energy resource, but at a maximum of 150 feet in height.

*Solar energy* means the radiant energy received from the sun which through photovoltaic technologies or other solar technologies is used to produce electricity.

*Solar or photovoltaic energy system* means a solar energy system and all associated equipment which converts solar energy into electricity, heats water, and/or produces hot or compressed air.

*Solar panels, solar cells and photovoltaic cells* means equipment containing one or more receptive cells or other devices mounted on arrays, rooftops or other structures and utilizing solar technologies for the conversion of solar energy into electricity, to heat water, and/or to produce hot or compressed air.

*Wind energy facility* means a facility and all associated equipment that engages with the production of electric energy from wind power.

*Wind energy system* means a wind turbine and all associated equipment, including any base, blade, foundation, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component necessary to fully utilize the wind generator.

*Wind turbine* means equipment that converts energy from the wind into electricity. This term includes the rotor, blades and associated mechanical and electrical conversion components necessary to generate, store and/or transfer energy.

## **B. Renewable Energy Facilities**

1. Purpose. The purpose of this section is to encourage the use of renewable energy facilities to produce electricity within the Township and to reduce dependence on non-renewable fuels. The primary purpose of an accessory small wind or solar energy system is to provide power to the principal use of the property whereon said system is to be located, as an accessory use. The primary purpose of an accessory small wind or small solar energy system shall not be for the generation of power for sale, although this provision shall not be interpreted to prohibit the sale of up to 10% of the average annual power used by the principal use for the proceeding two years. The primary purpose of a commercial solar energy facility, which is a permitted principal use or permitted conditional use in specified zoning districts, is to produce energy from renewable sources for sale directly to a particular customer or by distribution through the energy distribution infrastructure (the grid).

## **C. General Requirements**

1. Solar energy facilities may be ground mounted and/or mounted to principal and accessory structures and buildings.
2. All roof mounted solar energy systems are considered an accessory use, subject to the conditions herein.
3. Solar panels do not count in the calculation of maximum lot coverage or maximum impervious cover, unless the area under the system (excluding the footings) consists of an impervious material such as pavement. Nevertheless the design of the systems and the

accessory structures and other improvements (driveways, etc.) shall comply with all Township stormwater, grading and soil disturbance regulations.

4. Ground mounted solar facilities shall provide soil stabilization in accordance with the regulations promulgated by the Soil Conservation District.
5. To the extent practical, solar panels and wind turbines must be sited to minimize the need to remove trees or other natural features from setback areas unless acceptable replacement buffering is provided. Trees within 50 feet of property lines must be maintained as a buffer. For principal uses, trees proposed for removal in order to maximize the productivity and efficiency of the solar energy system or for grading must be identified on the site plan. Trees may not be removed from wetlands or required wetland buffer areas unless a tree replacement plan or buffer averaging plan is approved by the NJDEP.
6. Site disturbance including but not limited to grading, soil removal, excavation, and soil compaction shall be minimized to the extent practical. Roadways within the site should likewise be constructed to minimize the extent of soil compaction.
7. All electrical and control equipment shall be labeled and secured to prevent unauthorized access.
8. The renewable energy system shall not be used for displaying advertisements for any product or service, except for the reasonable identification of the manufacturer or operator of the system.
9. Abandonment
  - a. A wind or solar energy system that is out of service for a continuous twelve-month period will be deemed to have been abandoned.
  - b. The zoning officer may issue a notice of abandonment to the owner. The notice shall be sent via regular mail and certified mail, return receipt requested, to the owner of record.
  - c. The land owner shall have 30 days to respond. If information is provided demonstrating that the system has not been abandoned, then the zoning officer shall withdraw the notice.
  - d. Any abandoned system shall be removed at the owner's sole expense within six months after the owner receives the notice of abandonment from the municipality. If the system is not removed within six months of receipt of notice from the Township notifying the owner of such abandonment, the Township may remove the system as set forth below.
  - e. When an owner of a wind or solar energy system has been notified to remove same and has not done so six months after receiving said notice, then the Township may remove such system and place a lien upon the property for the cost of removal. If removed by the owner, a demolition permit shall be obtained and the facility shall be removed. Upon removal the site shall be cleaned,

restored and re-vegetated to blend with the existing surrounding vegetation at the time of abandonment.

The notice shall in addition to requiring the removal advise the owner that failure to accomplish such removal within the time stated therein will result in removal under the direction of an appropriate Township employee, and the cost of such removal shall be charged to the owner of such lands and shall be payable to the Township within thirty (30) days after date of submission of the charges. Unless such charges are paid within the thirty-day period, the costs as assessed shall become a lien upon the lands and shall be collected as provided by law.

Whenever an owner of lands within the Township receiving notice provided for by this section fails or neglects, within the prescribed time, to effect removal of such substances, such removal shall be accomplished under the direction of the appropriate Township employee.

The removal shall be accomplished in either of the two following methods: by use of the Township employees or through an independent contractor approved by the Township.

Retention and approval of the independent contractor shall be accomplished in accordance with the provision of NJSA 40A:11-1, et seq.

Where removal is accomplished by Township employees, an accurate record of the cost of such removal shall be determined by an appropriate Township employee, who shall certify the cost thereof to the governing body, which cost shall include time, labor, materials and equipment. Any bills submitted by an independent contractor pursuant to the provisions of NJSA 40A:11-1, et seq, shall likewise be submitted to the governing body, and an appropriate Township official shall certify that the work specified in the statement submitted by the independent contractor was, in fact, performed.

If the governing body finds the certification correct, it shall forward same to the Tax Collector who shall charge the cost against the lands, and the amount charged shall become a lien upon the lands and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

10. Applicants are encouraged to enter into solar easements with neighboring property owners in order to ensure continuing access to sunlight for solar or photovoltaic system.
11. The installation shall conform to the National Electrical Code as adopted by the New Jersey Department of Community Affairs (DCA).
12. The installation of a wind or solar energy system is subject to all Atlantic City Electric Company's (or its successor) requirements for interconnection.
13. The height limitations provided in the District Zone Regulations shall be complied with unless inconsistent with the height restriction provided for in this section.

**D. Accessory Renewable Energy Facilities (Small Wind and Solar Energy Facilities)**

1. The primary purpose of a small wind or solar system is to provide power to the principal use of the property whereon said system is located, as an accessory use. The primary purpose of a small wind or small solar energy system under this section shall not be for the generation of power for sale, although this provision shall not be interpreted to prohibit the sale of excess power back to the utility grid from time to time from a wind or solar energy system primarily designed to meet the energy needs of the principal use. For the purpose of this ordinance, the sale of excess power shall be limited to no more than 10% of the average annual power used by the principal use for the proceeding two years.
2. Small wind and solar energy systems shall only be permitted as an accessory use on the same lot or tract of land as the principal use. All energy systems require approval from the zoning officer and construction code office prior to installation. Applications for a renewable energy system shall include information demonstrating compliance with the provisions of this ordinance, including but not limited to a survey prepared by a New Jersey licensed land surveyor with current conditions of the site shown thereon, together with location of proposed facilities. In the event that the zoning officer or construction code official finds that the provisions of this ordinance will not be satisfied, an applicant may apply to the Planning Board for a variance in accordance with the provisions of Municipal Land Use Law (NJSA 40:55D-70).
3. Renewable energy facilities (small wind and solar energy systems) on farms – Small wind and solar energy systems are permitted on preserved and unreserved farms in any zoning district in accordance with P.L. 2009 Chapter 213 (approved on January 16, 2010), which permits solar and wind generation facilities, structures, and equipment on the commercial farm or within the exception area on a preserved farm, for the purpose of generating power or heat. Prior to installing or constructing renewable energy facilities, the owner of a farm must apply to the Township for a zoning permit and must apply to the New Jersey Department of Agriculture as required by Section 5 of P.L. 2009 C. 213.
  - a. For preserved farms the following standards apply:
    - (1) The wind and solar energy systems may not interfere significantly with the use of the land for agriculture or horticultural production.
    - (2) The wind and solar energy systems must be owned by the land owner or will be owned by the landowner upon the conclusion of a term of agreement with the installer of the renewable energy system.
    - (3) The wind and solar energy systems must be used to power or heat the farm, and to reduce energy costs on the farm.
    - (4) The energy generation capacity must be limited to the previous calendar year's energy demand plus ten percent (10%) or at the option of the land owner may be limited to occupy no more than one percent (1%) of the areas of the entire farm (including the preserved or unreserved areas). This does not include roof mounted equipment that was already in place at the time of the adoption of this ordinance.



- (5) Energy produced may only be sold through net metering to ensure that the energy produced is primarily used on site.
- (6) The land owner must seek and obtain approval of the State Agriculture Development Committee before constructing, installing or operating the wind or solar energy generation facilities, structures or equipment. The land owner must provide the Township with a copy of the State Agriculture Development Committee (SADC) approval.
- (7) The solar and wind energy generation systems must comply with the setbacks requirement in Sections 4 and 5 below as applicable.

b. For unpreserved commercial farms the following standards apply:

- (1) In addition to other activities protected by the “Right to Farm”, a commercial farm that conforms to generally accepted agricultural management practices (AMPs) may engage in the generation of power or heat from biomass, solar or wind energy consistent with applicable laws and the agricultural management practices adopted by the State Agriculture Development Committee (SADC)
- (2) The land used for the renewable energy system may be eligible for farmland assessment if the following conditions are met:
  - i. the property is part of an operating farm;
  - ii. in the prior tax year the land used for the renewable energy system was valued, assessed, and taxed as agricultural or horticultural land;
  - iii. the power or heat generated is used to provide power or heat to the farm or agricultural or horticultural operation supporting the viability of the farm, though not necessarily exclusively;
  - iv. the property owner has filed a conservation plan with the soil conservation district to account for the aesthetic, impervious coverage and environmental impacts of the renewable energy facilities and the conservation plan has been approved by the district;
  - v. where ground mounted solar panels are installed, the property under the solar panels is used to the greatest extent practicable for the farming of shade crops or for pasture grazing;
  - vi. the amount of acreage devoted to the structures needed for the renewable energy facility does not exceed a ratio of one to five for land devoted to renewable energy facilities and land devoted to agricultural operations;
  - vii. the renewable energy facilities are constructed or installed on no more than ten acres of the farmland for which the owner is applying for valuation, assessment and taxation, and no more than two megawatts are generated on the ten acres or less; and
  - viii. Income received for energy generated may not be considered income for farmland assessment eligibility.

- (3) The solar and wind energy generation systems must comply with the setbacks required in Sections 4 and 5 below as applicable.

4. Small Wind Energy Systems.

- a. Small wind turbines are a permitted accessory use in all zoning districts subject to the following requirements:
  - (1) Minimum setbacks: All wind turbines shall be set back from all property line a distance equal to 125% of the height of the structure including the blades.
  - (2) Wind turbines shall not be permitted in front of the foundation of the principal structure located on the lot.
  - (3) Maximum height: The maximum height shall not exceed 150 feet or the maximum permitted to comply with the setback requirements, whichever is less.
  - (4) No more than one wind turbine shall be permitted per property, unless the wind turbines are used to power a farm and more than one is required.
  - (5) Wind turbines shall not be permitted as a rooftop installation.
  - (6) Wind turbines on residential properties shall have the nameplate capacity of 50 kilowatts or less.
- b. Noise: All wind energy systems shall comply with the following:
  - (1) Sound levels of the wind energy system shall not exceed 55 dBA at a common property line or 50 dBA to the closest occupied structure.
  - (2) These levels may be exceeded during short term events such as utility outages and/or severe wind storms.
- c. Wind turbines shall be designed with an automatic brake or other similar device to prevent over-speeding and excessive pressure on the tower structure.
- d. Wind energy systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration (FAA) or other applicable authority. Proposed lighting should be shown on the plan and should be in accordance with FAA regulations.
- e. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- f. The tower shall be designated and installed so as not to provide step bolts, a ladder, or other publicly accessible means of climbing the tower, for a minimum height of eight feet (8') above the ground.

- g. All moving parts of a wind energy system shall be a minimum of twelve feet (12') above ground level.
- h. The blades on the wind energy system shall be constructed of a corrosion resistant material.
- i. All guy wires and all parts of the wind energy system shall be located on the same lot as the energy system.
- j. The wind energy generation equipment must be painted or finished to minimize visual impact. Neutral colors are required such as white, grey or beige.
- k. Approval required: All applications for small wind energy systems shall be presented to the Pennsville Planning Board for minor site plan approval.
  - (1) Permit and site plan requirements: In addition to other normally required application materials for site plan applications as set forth in the Land Development Checklist, the site plan application shall be accompanied by a current certified survey prepared by a New Jersey Licensed surveyor which includes the following:
    - i. property lines and physical dimensions of the property;
    - ii. location, dimensions, and types of existing structures on the property;
    - iii. location of the proposed small wind energy system tower;
    - iv. the location of the right-of-way of any public road that is contiguous with the property;
    - v. the location of overhead utility lines;
    - vi. small wind energy system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);
    - vii. tower and tower foundation drawings signed and sealed by a professional engineer licensed in the State of New Jersey;
    - viii. sound level analysis prepared by the wind turbine manufacturer or qualified engineer including noise levels of the proposed wind energy system at all property lines and the closes neighboring inhabited dwelling;
    - ix. a visual analysis must be submitted, including photos of the subject property, that graphically simulates the appearance of any proposed small wind energy system and indicating its view from at least five locations around and within one mile of the proposed tower.
    - x. a report from a structural engineer containing the following: a description of the tower, including a description of the design characteristics and material; and documentation to establish that the tower has sufficient structural integrity for the proposed uses at the proposed location and meets the applicable minimum safety requirements. The applicant shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer for the wind turbine. Every

two (2) years the owner shall submit a structural report to the Construction Code Office attesting to the structural integrity of the tower and/or support system.

5. Solar Energy Systems

- a. Solar panels shall be permitted as a rooftop installation in any zoning district. The solar panels shall not exceed a height of twelve inches from the rooftop. In no event shall the placement of the solar panels result in a total height including building and panels than the height that is permitted in the zoning district in which they are located.
- b. Solar panels shall be permitted as ground arrays in accordance with the following:
  - (1) All ground arrays shall be set back in accordance with the setbacks required for principal structures upon any lot, except the rear yard which the array shall be no less than 20 feet from the rear property line.
  - (2) Ground arrays shall not be permitted in a front yard.
  - (3) Ground arrays shall not include reflective mirrors to intensify solar rays.
  - (4) Ground arrays shall not exceed a height of 13 feet.
  - (5) Ground solar arrays for accessory use may not exceed a gross area of 1,000 square feet.

**E. Commercial Solar Energy Facilities**

- 1. Purpose: The purpose of this section is to provide flexibility within the specified zoning districts to permit commercial solar energy systems as a principal use on properties meeting the criteria set forth below. “Solar or photovoltaic energy facility or structure” has been defined in the New Jersey Municipal Land Use Law as an inherently beneficial use and the Township concurs that the provision of electricity generated at a renewable energy facility will benefit the community by promoting the public health, safety and general welfare as long as the facility will be in harmony with the township’s overall land use plans and will not negatively impact upon the Township’s other goals and objectives. Commercial Solar Energy Facilities shall comply with the bulk requirements in the zone within which they are located.
- 2. Minimum Lot Size Requirements for Commercial Solar Energy Facilities: These standards are bulk requirements for permitted uses and conditions for conditional uses.
  - a. Light industrial zone: 10 contiguous acres.
  - b. Heavy industrial zone: 10 contiguous acres.
  - c. Renewal Energy Redevelopment Zone: 10 contiguous acres.

3. Requirements for Commercial Solar Energy Facilities

- a. Commercial solar energy systems shall require a minor site plan approval if the gross area of ground mounted systems, including the aggregate area of disturbance for multiple systems, consists of 5,000 square feet or more of disturbance. The site plan must show the location of any proposed or existing substation, inverter, transformer, or overhead transmission lines.
- b. The solar energy system equipment may be located outside as necessary for the function of the system, and is not limited by the requirements of the underlying zoning districts limiting outdoor storage.
- c. Setbacks: These standards are bulk requirements for permitted uses:
  - (1) Building structures, inverters, and equipment cabinets must be set back 200 feet from any property line.
  - (2) Ground arrays must be set back a minimum of 100 feet from all property lines.
- e. The maximum permitted height for ground arrays is 13 feet.
- f. Office and storage buildings and equipment cabinets are permitted as accessory to a commercial solar energy operation in accordance with the setbacks set forth in the District Zoning Regulations for the light and/or heavy industrial and/or the Renewable Energy Redevelopment Zone, depending upon which zone the array is located.
- g. Substations shall be set back a minimum of 200 feet from all property lines and must be buffered with evergreen trees.
- h. Ground mounted systems shall be screened from view with an opaque visual screen containing a combination of plantings, a fence and/or earthen berm, which must be approved at the time of site plan approval.
  - (1) Evergreen trees shall be a minimum of 6 feet at the time of planting and deciduous trees shall be a minimum of 3" caliper.
  - (2) The screened buffer area shall be a minimum of 30 feet in width to adjacent residential properties and 20 feet in width between non-residential properties and along public roads.
  - (3) In addition to the perimeter screening standards, substations shall be screened with a double row of evergreen plantings with a minimum height of 8 feet.
  - (4) Existing vegetation, including existing hedgerows or windbreaks, shall be retained to the extent practical to provide or partially provide the required opaque visual screen.
- i. The applicant must submit a narrative with the site plan application explaining:

- (1) The intended consumers of electricity produced.
  - (2) The anticipated number of employees at the site and the anticipated vehicle traffic.
  - (3) Description of how the energy generated by the facility will be transmitted to the larger electrical distribution system.
  - (4) The type of solar or photovoltaic panels proposed.
  - (5) How the facility will be maintained.
- j. In addition to other required site plan information, the site plan must illustrate the following:
- (1) The location of proposed and existing overhead and underground utility and transmission lines.
  - (2) Location and dimensions of any proposed or existing substations, inverters or transformers.
  - (3) Description of any necessary upgrades or modifications to existing substations or the necessity for a new substation.
- k. One off street parking space is required for each employee anticipated during the busiest shift, plus one (1) visitor space.
- l. All exterior electrical lines must be placed in a conduit pursuant to National Electrical Code except for such portion of lines that are connecting or will connect to overhead wires for the use of electricity off site; and, except to such portion of lines that are connecting or will connect to overhead wires for use of electricity off site, exterior electrical lines shall be buried below the surface of the ground where needed in order to comply with the National Electrical Code or standards or regulations promulgated by DCA or the New Jersey Board of Public Utilities.

## **SECTION 5.17 – GRADING AND DRAINAGE**

- A. **General Purpose; Authority.** One of the purposes of the Municipal Land Use Law, as expressed in *N.J.S.A. 40:55D-2(a)*, is to encourage municipal action to guide the appropriate use or development of land in a manner which will promote the public health, safety and general welfare. The lot grading regulations contained in this Ordinance have been established to promote the public health, safety and general welfare in Pennsville Township by requiring grading plan review and approval for all lots within the Township on which development will result in more than one thousand (1000) square feet of land disturbance to ensure proper drainage and to protect the public from health hazards, property damage, and other problems that can result from flooding and pooling of water.
- B. **Soil Erosion and Sediment Control Act Requirements.** The requirements of this Section 5.17 are in addition to the requirements of the New Jersey Soil Erosion and Sediment Control Act (*N.J.S. 4:24-39, et seq.*), which authorizes the New Jersey Soil Conservation Committee and the Salem

County Soil Conservation District to evaluate project disturbance areas and off-site impacts (including general site grading and drainage) for purposes of soil erosion and sediment control, and to confirm compliance with vegetative and engineering standards promulgated by the Committee. Neither the Township Engineer nor any other Township official shall be required to inspect for compliance with the requirements of the Soil Erosion and Sediment Control Act at any development site.

- C. **Applicability.** The requirements set forth herein shall apply to development proposed on any lot in Pennsville Township involving land disturbance of one thousand (1000) square feet or a building permit that includes/requires one thousand (1000) square feet of land disturbance. (For purposes of this Section 5.17 referred to as “applicable development”).
- D. **Application Requirements; Grading Plan Checklist.** All applications for subdivision, site plan, variance, or any other development approval for an applicable development, and each application for a building permit for an applicable development that has not been reviewed for grading as part of any subdivision, site plan, variance or other development approval, must include an application for grading plan review and approval in accordance with Checklist Schedule C (Grading Plan Review), as well as a completed Application Cover Sheet, Checklist Schedule A (General Requirements), Checklist Schedule B (Approvals Requested), and all required fees and escrow deposits. The plan information required by Schedule C may be included in an individual or multiple lot grading plan, or it may be incorporated into a development applicant’s subdivision or site plan, provided that all of the required grading plan information must be included on the same plan sheet.
- E. **Plan Review.** Grading plans that are submitted as part of applications to the Planning Board must be reviewed by the Planning Board Engineer, grading plans submitted as part of building permit applications for applicable development that have not been reviewed as part of a Planning Board application or grading plans not associated with the types of development set forth above must be reviewed and approved by the Township Engineer. After said review and approval the Township Engineer shall issue a grading permit if the plan conforms with the below set standards:
  - 1. **Standards.** The grading plan requirements are for the purpose of confirming that proposed applicable developments will not result in flooding, pooling or other drainage-related problems at the lot on which the development is proposed or on nearby properties. Each grading plan must therefore confirm, to the reviewing engineer’s satisfaction, that the proposed applicable development on each lot will cause water to drain properly from the lot on which such development is proposed, and that such development will not increase the amount of water which drains onto adjoining lots (except as otherwise permitted as part of a site plan, subdivision, variance, or other development approval) or adversely change the manner in which it drains. All lots where applicable development is proposed must be graded in such a manner as to direct surface water runoff away from buildings and structures, and toward the frontage road or other defined drainage paths that meet the reviewing engineer’s approval. Where a drainage problem already exists, the drainage plan must confirm, to the reviewing engineer’s satisfaction, that the proposed development will reduce the impact on adjoining tracts to the greatest extent possible by causing the surface water to drain into nearby streets, approved drainage facilities, or other Township-approved devices. Additionally, each grading plan must meet the following standards:
    - a. **Lawn Areas.** Grading plans must confirm that lawn areas will be sloped away from buildings and structures at a minimum of one and one-half (1.5%) percent for the first eight (8) feet from building foundation walls or outer edges of structures, and to confirm a minimum slope of one and one-half (1.5%) percent in all other lawn areas. The intent of these lawn area slope requirements is to confirm that water will flow away from building

- foundation walls and the outer edges of structures at an acceptable rate, and also to increase the probability that any standing water in lawn areas will dissipate within twenty-four (24) hours following a storm event.
- b. **Swales.** Grading plans must confirm a minimum slope of one and one-half (1.5%) percent for all swales to provide a satisfactory flow of water within them. The reviewing engineer is authorized to approve flatter slopes in instances where the reviewing engineer is satisfied that special care will be taken during construction to achieve good water flow or that other special circumstances apply. Unless otherwise approved by the reviewing engineer, swales must be indicated along side lot lines so that water will flow from the rear portions of adjoining lots to the curb. If permitted by easement, the grading plan may also depict water as being directed from or over neighboring lots to the curb or other approved discharge point. The intent of this swale area slope requirement is to increase the probability that all standing water will be dissipated from swale areas within forty-eight (48) hours following a storm event.
  - c. **Slopes.** Grading plans must confirm that all slopes are no greater than three-to-one (3:1).
  - d. **Driveways.** Grading plans must confirm that driveway grades do not exceed twelve (12%) percent.
  - e. **Easements For Off-Lot Grading and Drainage.** Grading plans must confirm that no grading will occur within five (5) feet of any property line unless necessary to direct drainage off or onto the site and into acceptable drainage facilities in accordance with these standards. If a grading plan indicates an intention to grade, or directs drainage over an adjoining property to provide proper drainage, an existing or proposed easement for this purpose must be filed with the grading plan for review and approval by the reviewing engineer and either the Planning Board Solicitor (if the grading plans are incorporated into a subdivision, site plan, variance or other development application, unless the Township is the existing or proposed easement grantee) or the Township Solicitor (if the grading plans are not incorporated into a subdivision, site plan, variance or other development application, or if the Township is the existing or proposed easement grantee for a grading plan that is incorporated into a subdivision, site plan, variance or other development application). If the grading plan is approved based on a proposed easement, the zoning permit will not be issued unless and until (1) the developer has properly conveyed and recorded the approved proposed easement in the Salem County Clerk's Office; (2) provided a copy of the recorded easement to the reviewing Solicitor; and (3) confirmed, to the reviewing Solicitor's satisfaction that the approved easement has been properly conveyed and recorded, and that it is not subject or subordinate to any other interest that could extinguish it or otherwise diminish its effectiveness.
  - f. **Curbs, Gutters and Roadways.** Grading plans must confirm all existing and proposed elevations for curb, gutter, and roadway improvements.
  - g. **Location of Slope Excavation.** The top of any excavation of slope shall be no closer than five (5) feet to an adjoining property, and shall not provide for water run-off to the adjoining property unless an easement shall have been provided and recorded as required by subparagraph (e), above.
  - h. **Retaining Walls.** If a retaining wall is proposed, construction details must be provided. In cases where a retaining wall is higher than forty-eight (48) inches, calculations must be prepared by a licensed professional engineer who certifies as to the stability of the structure.



- i. **Trees.** All trees over five (5) inches caliper must be preserved unless, in the opinion of the reviewing engineer, such trees must be removed in order to accomplish proper grading and drainage.
  - j. **Sump Pumps.** Sump pumps are to be directed to curb or storm inlet. IN NO INSTANCE SHALL A SUMP PUMP BE TIED INTO A MUNICIPAL SANITARY SEWER LINE
- F. **Grading Plan Approval Prior to Issuance of Construction Permit.** A grading compliance review shall be included as part of the requirements for obtaining a construction permit. No construction permit shall be issued for applicable development until either:
- 1. the Township Engineer has reviewed and approved, within the preceding thirty (30) days, a completed grading plan checklist and individual or multiple lot grading plan which contain all the information required in the grading plan checklist for the proposed applicable development and which meet all requirements of this Ordinance;
  - 2. the Construction Official has approved, as part of the construction permit application, a written certification prepared within the preceding thirty (30) days by a New Jersey licensed professional engineer or land surveyor confirming that the proposed applicable development will conform to an individual or multiple lot grading plan(s) and checklist that were earlier approved by the Township Engineer, and that all conditions at the property, and relevant conditions at adjacent properties, are the same as they were when the individual or multiple lot grading plan(s) and checklist were approved; or
  - 3. the Construction Official has (i) approved, as part of the construction permit application review, a written certification prepared by a New Jersey licensed professional engineer or land surveyor confirming that the proposed applicable development will conform to all specifications of the grading plans that were approved as part of the developer's subdivision, site plan, variance, or other development approval, and that all conditions at the property and relevant conditions at adjacent properties are the same as they were when such approvals were granted; and (ii) that the developer's subdivision, site plan, variance or other development approvals for the applicable development have not expired and remain in effect.
- G. **Deadline for Completion of Grading.** All grading work must be completed, and all materials required to confirm grading plan compliance pursuant to section 5.17
- H. **Grading Plan Compliance Prior to Issuance of C.O.** No certificate of occupancy shall be issued for any lot in the Township until an "as-built" grading plan prepared by a New Jersey licensed land surveyor is approved by the Township Engineer as conforming to the grading proposed in the developer's approved individual or multiple lot grading plan(s), or the grading plans that were approved as part of the developer's subdivision, site plan, variance, or other development approval.
- I. **Issuance of Zoning Permit.** All zoning applicants can be processed prior to the approval of the grading plan.
- J. **Permit and review fees.** The following fees shall apply to applications for approval of grading in connection with construction permit applications. With respect to subdivisions, "lot" means each lot that will result from the subdivision, including remainder lots. If the grading approval is being requested as part of an application for subdivision, site plan, variance or other development approval,

the per-lot permit grading application fee remains applicable and must be paid at the time of each construction permit application that involves grading review pursuant to subparagraph J.1., below, but the actual cost of the reviewing engineer's review and inspection based on time spent can, upon such applicant's written request, be paid by, and then reimbursed to the Township from the applicant's review or inspection escrow pursuant to *N.J.S.A. 40:55D-53, et seq.*, in lieu of the "flat" fees set forth in subparagraphs 1 through 5, below):

1. Grading approval application fee (per lot, in addition to zoning permit fee): \$35.00
2. Engineer's review fee upon initial individual or multiple lot grading plan submission (per lot): \$100.00
3. Engineer's review fee upon submission of each revised or "as built" individual or multiple lot plan (per lot): \$100.00
4. Initial site inspection fee (upon request for initial site inspection) : \$200.00 per lot
5. Site re-inspection fee (upon each request for site re-inspection): \$100.00 per lot

#### **SECTION 5.18 – LOTS MUST ABUT IMPROVED STREETS**

A. Lots. No lot may be established or created by subdivision or other means unless each lot resulting from such establishment or creation, including any remainder or consolidated lot, abuts at least one street meeting the requirements of Section 5.18.B, below, which gives direct access to each such lot.

B. Building Permits.

1. No permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure. Such street shall:
  - a. have been duly placed on the official map;
  - b. be an existing State, county or municipal street or highway;
  - c. be a street shown upon a plan approved by the planning board; or
  - d. be a street on a plat duly filed in the office of the county recording officer prior to the passage of an ordinance under the Municipal Land Use Law (*N.J.S.A. 40:55D-1, et seq.*) or any prior law which required prior approval of plats by the governing body or other authorized body.
2. Before any such permit shall be issued:
  - a. such street shall have been certified to be suitably improved to the satisfaction of the governing body, or such suitable improvement shall have been assured by means of a performance guarantee, in accordance with standards and specifications for road improvements approved by the governing body, as adequate in respect to the public health, safety and general welfare of the special circumstance of the particular street; and

- b. the proposed access must be confirmed as conforming with the standards of:
  - i. the State highway access management code adopted by the Commissioner of Transportation under N.J.S.A. 27:7-91 of the State Highway Access Management Act in the case of a State highway;
  - ii. the standards of any access management code adopted by the county under N.J.S.A. 27:16-1 in the case of a county road or highway, or;
  - iii. the standards of any municipal access management code adopted under N.J.S.A. 40:67-1 in the case of a municipal street or highway.

**SECTION 5.19 – KEEPING ANIMALS AND/OR LIVESTOCK WITHIN THE CONFINES OF THE TOWNSHIP OF PENNSVILLE**

The keeping of animals and/or livestock and the use and operation of pig, livestock or poultry farms, apiaries, pet or pet grooming shops, kennels and/or animal hospitals shall be in accordance with the following conditions:

**A. CLASSIFICATION**

- 1. Class I Animals: Horses, ponies, donkeys, and other animals belonging to the biological order of perissodactyla, and llamas, alpacas, or similar South American pack animals.
- 2. Class II Animals: Cow, cattle, pigs, goats, sheep, ostriches, emus or similar large birds raised for meat or feathers, or other animals commonly referred to as “livestock”.
- 3. Class III Animals: Any feathered vertebrate animals, including but not limited to chickens, geese, ducks, turkeys, hens, pheasants, or other animals commonly referred to as “barnyard”.
- 4. Class IV Animals: Common household pets such as dogs, cats, pet birds such as parakeets, parrots, songbirds, or exotic birds, guinea pigs, ferrets, or other animals kept as pets and reasonably expected to be sold in a shopping center-type pet store.
- 5. Class V Animals: Fox, mink, or animals bred for their fur including rabbits (exception in the case of Class I or II animals being kept as domestic pets), monkeys, other wild or undomesticated animals which by State or Federal law require a license to be kept in captivity.

**B. CONDITIONS**

- 1. Not more than one (1) Class I animal shall be kept on a lot of at least five acres in size, provided that said animal is kept enclosed in a pen or corral containing not less than five thousand square feet in area. Each additional Class I animal shall require an additional acre in lot area and an additional two thousand square feet of pen or corral space area. At a minimum, box stalls of one hundred square feet and/or straight stalls of five by eight feet per animal within a barn or stable shall be provided. No animal shall be housed or

manure stored outdoors closer than two hundred feet to any adjacent street or property line.

2. In any residential district on a lot of at least two acres in size, not more than two (2) Class II animals (except pigs) or twelve (12) Class III animals may be kept, except in the case of cattle, wherein the lot size shall be no less than five acres. The keeping of pigs shall be prohibited in all residential, business, or industrial zoning districts. All Class II or Class III animals shall be kept enclosed in a pen, corral, or other suitable enclosure with appropriate animal housing provided. No animal shall be housed however, or manure stored outdoors closer than two hundred feet to any adjacent street or property line.
  3. The keeping of Class IV animals shall be permitted in all zoning districts, provided that the breeding and sale of such animals may be determined a commercial use by the Zoning Officer based upon the number of animals involved within a reasonable time period and the use of the property and structures thereon for such activity. When such commercial activity is determined, a site plan review shall be required.
  4. All fencing in connection with the enclosure of animals shall be installed no less than ten feet from all adjacent property lines and at least fifty feet from the nearest dwelling, excluding the dwelling of the animal's owner(s).
  5. The above-referenced limitations on various classes of animals shall not be applicable to any bona fide farm as defined in Chapter 2, except that the keeping, breeding or sale of all Class V animals shall be prohibited in all zoning districts within the Township of Pennsville.
  6. An apiary shall be permitted on any lot of at least two acres in size, provided that the hives housing bees shall be located no less than one hundred feet from the nearest dwelling, except the hives' owner(s). All hives or bee housing shall be located at least twenty-five feet from any property line if the adjoining property is not vacant land.
- C. Kennels, small animal grooming shops, animal hospitals or any place wherein animals may be boarded for a fee are permitted as provided they are located on parcels of at least three acres in size unless such use is contained in a fully enclosed, sound-proof building in which case the minimum lot area shall be reduced to one and half (1.5) acres. Where permitted, the following conditions shall apply:
1. Animal runs and any other outdoor animal areas shall be no less than fifty feet from adjacent property lines.
  2. Off-street parking facilities shall be provided on the premises in such quantity as shall be determined by the Pennsville Planning Board.
  3. Adequate screening and/or buffering shall be provided to reasonably protect adjoining properties.
  4. Any such use shall be reasonably free of noise, odor, or other objectionable nuisances to adjoining or nearby properties; and, in granting approvals, conditions may be imposed upon an applicant to eliminate or reduce any such nuisances.

D. Pet shops, riding academies or establishments and animal obedience or training schools shall be considered commercial use and are not covered in this section provided however that the Planning Board may utilize conditions herein when reviewing the site plan of any such uses.

E. COMMERCIAL FARMS.

Commercial poultry, fowl, turkey, or pig or livestock farms established for the breeding, raising, feeding and/or sale of said animals shall be considered a commercial use and may be established on a bona fide farm as defined by Chapter 2 provided that they meet the following conditions:

1. All applications for poultry, fowl, or turkey farms or the raising and breeding of any Class III animals, or pig farms shall be accompanied by a written opinion of the County Agricultural agent concerning the possible nuisance characteristics of such use and recommend measures for adequately dealing with them. Such recommendations shall be reviewed by the Planning Board and, where deemed appropriate and reasonable, made a condition of approval. All such farming activities shall be carried out according to the Best Management Practices as issued by Rutgers, the State University of New Jersey.

Site plan review shall be required for any such commercial use wherein the number of animals to be housed or present on the property involved shall exceed fifty during any thirty-day period. When the number of animals is less than fifty during any thirty-day period, then a site plan shall not be required in connection with any such proposed use; however, the applicant shall provide a drawing to scale of the proposed use and a written statement detailing the purpose of the operation, the manner in which the animals will be housed, methods for recycling and/or disposing of manure and wastes thereof, the number of animals to be kept in relation to the size of the parcel involved, all building or range areas, property line setbacks and proposals for regular rotation and cropping of range areas, including schedules.

2. Any such use must meet the following conditions:
  - (a) Turkeys are to be raised only inside entirely enclosed buildings.
  - (b) Minimum parcel size for such uses shall be ten acres when animals are to be outside.
  - (c) Surface runoff from range areas shall be retained and treated onsite or retained onsite and then removed to suitable facilities for treatment and disposal thereof.
  - (d) Fencing or other appropriate barriers are to be erected to catch debris from being blown off the site to whatever practical extent possible.
  - (e) Any enclosure or fenced run for the containment of fowl or livestock or for the storage of animals shall be no closer than two hundred feet of any property or street line.
  - (f) The feeding of swine upon garbage or similar refuse material, either cooked or uncooked, is specifically prohibited.
  - (g) Any certificate of occupancy or zoning permit shall remain valid only so long as the intensive fowl or livestock farm is operated in a nuisance-free manner in

accordance with the above listed standards and any additional conditions imposed by the approving authority.

## **SECTION 5.20 – APPEALS, INTERPRETATIONS AND VARIANCES**

A. The Planning Board shall have the following appeal, interpretation and variance powers pursuant to *N.J.S.A. 40:55D-70, -72, -34 and -36*:

1. Appeal of Zoning Officer Decision. The Planning Board may hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance. No application for appeal may be granted under the terms of this section, including an application for appeal involving an inherently beneficial use, without a showing that the appeal can be granted without substantial detriment to the public good and without substantially impairing the intent and the purpose of the zone plan and zoning ordinance. Applications for such appeals shall include a completed Application Cover Sheet, Checklist Schedule A (General Requirements), Checklist Schedule B (Approvals Requested), and Checklist Schedule FF (Appeal to Planning Board), with all applicable fees and escrow deposits, provided that the appellant must serve notice specifying the grounds of the appeal upon the Zoning Officer or Deputy Zoning Officer within 20 days following the date the appellant receives notice of the Zoning Officer’s decision, or within 23 days following the date the Zoning Officer’s decision is mailed to the appellant, whichever is earlier.
2. Zoning Interpretation. The Planning Board may hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act. No application for interpretation or decision may be granted under the terms of this section, including an application for interpretation or decision involving an inherently beneficial use, without a showing that the application can be granted without substantial detriment to the public good and without substantially impairing the intent and the purpose of the zone plan and zoning ordinance. Applications for such requests or decisions shall include an Application Cover Sheet and be made in accordance with Checklist Schedule A (General Requirements), Checklist Schedule B (Approvals Requested), and Checklist Schedule EE (Zoning Interpretation), and shall include applicable fees and escrow deposits.
3. “Bulk” or “c” variances. A “bulk” or “c” variance is an approval to depart from the literal requirements of the zoning ordinance which generally pertain to the physical layout of lots and structures in order to relieve a hardship or to promote the purposes of the Municipal Land Use Law (which purposes are also set forth in Section 1.2 of this Ordinance). The fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a “bulk” or “c” variance. No “use” or “d” variance as provided in subsection 5.20.A.4, below, may be granted using “bulk” or “c” variance criteria. Applications for “bulk” or “c” variances must include a completed Application Cover Sheet and be made in accordance with Checklist Schedule A (General Requirements), Checklist Schedule B (Approvals Requested), and Checklist Schedule Z, (“Bulk” Variance), and must include applicable fees and escrow deposits.
  - a. Hardship. Applicants for “bulk” or “c” variances to alleviate hardship must prove the existence and sufficiency of the following legally required “positive” and “negative” criteria:
    - i. Positive Criteria. Where:

- (1) By reason of exceptional narrowness, shallowness or shape of a specific piece of property; or
- (2) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or
- (3) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon,

the strict application of any regulation pursuant to this Zoning Chapter 5 would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, the Planning Board may grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.

- ii. Negative Criteria. No “bulk” or “c” variance may be granted, including a “bulk” or “c” variance involving an inherently beneficial use, without a showing that such variance can be granted without substantial detriment to the public good and without substantially impairing the intent and the purpose of the zone plan and zoning ordinance.
- b. “Bulk” or “c” variances to promote the purposes of the Municipal Land Use Law. Applications for “bulk” or “c” to promote the purposes of the Municipal Land Use Law (also set forth in Section 1.2 of this Ordinance) shall include a completed Application Cover Sheet and be made in accordance with Checklist Schedule A (General Requirements), Checklist Schedule B (Approvals Requested), and Checklist Schedule Z (“Bulk” Variance), and shall include applicable fees and escrow deposits. Applicants for “bulk” or “c” variances to promote the purposes of the Municipal Land Use Law must prove the existence and sufficiency of the following legally required “positive” and “negative” criteria:
- i. Positive Criteria. Where, in an application or appeal relating to a specific piece of property:
    - (1) the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and
    - (2) the benefits of the deviation would substantially outweigh any detriment,

the Planning Board may grant a variance to allow departure from regulations of this Zoning Chapter 5.
  - ii. Negative Criteria. No “bulk” or “c” variance may be granted, including a “bulk” or “c” variance involving an inherently beneficial use, without a showing that such variance can be granted without substantial detriment to the public good and without substantially impairing the intent and the purpose of the zone plan and zoning ordinance.
4. “Use” or “d” variances. A “use” or “d” variance is an approval to depart from the literal requirements of the zoning ordinance which pertain generally to prohibited or conditionally permitted structures and uses, and certain density, floor area ratio, and height requirements of lots and structures as set forth below, for “special reasons”. In order to satisfy the requirement for “special reasons” in support of a “use” or “d” variance application, an applicant must prove to the

Planning Board that granting the proposed variance would promote one or more of the purposes of zoning as set forth in the Municipal Land Use Law at *N.J.S.A. 40:55D-2* (a) through (o), and in Section 1.2 of this Ordinance. Applicants who assert that granting a “use” or “d” variance will “promote the public health, safety, morals and general welfare” pursuant to subpart (a) of that statute and Section 1.2.a of this Ordinance, the zoning board must also confirm that granting the variance will promote the public good because the proposed use is particularly well suited to the proposed location, and that granting the variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance (so that the grant of the variance can be satisfactorily reconciled with the ordinance’s omission of the proposed use from those permitted in the zone). “Use” or “d” variances may be granted only by affirmative vote of at least five (5) of the Planning Board’s Class II and Class IV members as defined in *N.J.S.A. 40:55D-23(a)* (Class I and Class III members may not participate in “use” or “d” variance application hearings). Applications for “use” or “d” variances shall include a completed Application Cover Sheet and be made in accordance with Checklist Schedule A (General Requirements), Checklist Schedule B (Approvals Requested), and Checklist Schedule AA (“Use” Variance), and must include applicable fees and escrow deposits. Applicants for “use” or “d” variances must prove the existence and sufficiency of the following legally required “positive” and “negative” criteria:

- a. Positive Criteria. In particular cases for “special reasons” the Planning Board may grant a variance to allow departure from regulations of this Zoning Chapter 5 to permit:
    - i. a use or principal structure in a district restricted against such use or principal structure;
    - ii. an expansion of a nonconforming use (as defined in this Ordinance);
    - iii. deviation from a specification or standard pursuant *N.J.S.A. 40:55D-67* pertaining solely to a conditional use;
    - iv. an increase in the permitted floor area ratio as defined in *N.J.S.A. 40:55D-4* and this Ordinance;
    - v. an increase in the permitted density as defined in *N.J.S.A. 40:55D-4* and this Ordinance, except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots either an isolated undersized lot or lots resulting from a minor subdivision; or
    - vi. a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure.
  - b. Negative Criteria. No “use” or “d” variance may be granted, including a “use” or “d” variance involving an inherently beneficial use, without a showing that such variance can be granted without substantial detriment to the public good and without substantially impairing the intent and the purpose of the zone plan and zoning ordinance.
5. Variance for Building Permit on Lot not Abutting Street. Where the enforcement of *N.J.S.A. 40:55D-35* (as set forth in Section 5.17, above) would entail practical difficulty or unnecessary hardship, or where the circumstances of the application do not require the building or structure to be related to a street, the Planning Board may upon application or appeal (which must include a completed Application Cover Sheet and be made in accordance with Checklist Schedule A (General Requirements), Checklist Schedule B (Approvals Requested), and Checklist Schedule



DD (Variance re Road Frontage), and which must include applicable fees and escrow deposits), vary the application of *N.J.S.A. 40:55D-35* and direct the issuance of a permit subject to conditions that will:

- a. provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety; and
  - b. protect any future street layout shown on the official map or on a general circulation plan element of the municipal master plan pursuant to *N.J.S.A. 40:55D-28(b)(4)*.
6. Time for decision on variances. The Board must render its decision on applications for appeal, interpretations and variances no later than one hundred twenty (120) days after the date the application is certified or deemed complete pursuant to Section 4.1.B.
7. Expiration of Variances. Any variance granted by the Planning Board pertaining to the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire in one (1) year from the date of adoption of the resolution of approval unless the property owner shall have satisfied all pre-construction conditions of the variance approval, secured a construction permit, and commenced construction in conformity with the variance approval. For variance approvals or denials that are appealed, the one-year expiration period shall commence on the expiration of the appeal period of the last reviewing court's decision to grant or affirm the variance. For good cause shown, and after a hearing before the Planning Board on notice in the manner required for original variance applications, the Planning Board may extend the variance expiration period by written resolution. Any such extension may not exceed one (1) year in duration, and no more than two (2) such extensions shall be permitted. An application for extension of the variance expiration period shall be made prior to the expiration dated sought to be extended. The foregoing notwithstanding, any variance granted with a site plan, subdivision or conditional use approval shall expire upon the expiration deadlines established by the Municipal Land Use Law for such approvals, or upon any extended or reaffirmed deadline.

## **SECTION 5.21 – INCLUSIONARY ZONING DISTRICTS**

- A. General. Inclusionary zoning districts are residential and mixed-use residential and commercial districts that facilitate the development of townhouse and multifamily housing developments at appropriate permitted densities that include an affordable housing set-aside. These districts are classified as TH-Townhouse Inclusionary Zoning District, MF-1 Multifamily Inclusionary Zoning District, MF-2 Multifamily Inclusionary Zoning District, and MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District. With the exception of the MF-1 and MF-2 zones, each district is subject to different use regulations.
- B. Permitted Principal Uses and Structures. A lot and the principal structure existing or to be erected upon it may be used or occupied for only one of the following purposes in each of the inclusionary zoning districts and no other use or purpose shall be permitted:

1. TH-Townhouse Inclusionary Zoning District
  - a. Townhouse dwellings.
  - b. Municipal use.
  
2. MF-1 and MF-2 Multifamily Inclusionary Zoning Districts
  - a. Multifamily dwellings.
  - b. Municipal use.
  
3. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District
  - a. Permitted commercial uses (required minimum 60% of lot area, maximum 70% of lot area) shall include:
    - 1) Retail stores.
    - 2) Personal service shop; tailor, barber, beauty salon, dressmaker, shoe repair, or similar services.
    - 3) Professional business office, agency or studio.
    - 4) Tavern, restaurant, or catering establishment.
    - 5) Theater.
    - 6) Bank or other financial institution.
    - 7) Copy or business service center.
    - 8) Service, repair or supply shop, such as an electrician, plumber, carpenter, upholsterer, or similar trade.
    - 9) Nursery.
    - 10) Floral shop.
    - 11) Lodge, office or headquarters for a fraternal or social club, or religious, political, charitable or non-profit organization, church or other house of worship.
    - 12) Combinations of -3.a.1 through -3.a.10 uses in single or multiple structures.
  - b. Required residential uses (minimum 30% of lot area, maximum 40% of lot area) shall include:
    - 1) Townhouse dwellings.
  - c. Municipal purpose.

C. Conditional Uses

1. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District. The following commercial uses shall be permitted in this district only upon a showing that such use in a specified location shall comply with the conditions and standards for the location or operation of such use as set forth below, and upon the issuance of an authorization thereof by the Planning Board:
  - a. Dry cleaning or laundry pick-up agency, subject to the following conditions:

- 1) Consumer drop off and pick-up only; no dry cleaning or dry cleaning facilities are permitted at the premises.
- b. Hotel or Motel, subject to the following conditions:
  - a. Off-street parking:
    - 1) A minimum of one (1) off-street parking space is required for each room to be rented; one (1) space for each employee; and ten (10) spaces for short-term parking and deliveries.
- c. Confectionery or bakery:
  - 1) Must produce goods for on-site retail sale only.
- d. Personal wireless telecommunications facilities and personal wireless telecommunications equipment facilities as defined in this Ordinance, subject to the provisions of Section 5.15.

D. Permitted Accessory Uses and Structures. The following accessory uses may be conducted and the following accessory structures may be erected or placed on the same lot as one of the foregoing permitted or conditional principal uses or structures.

1. TH-Townhouse Inclusionary Zoning District

- a. Off-street parking, including private automobile garages, car sheds, and parking lots for residents' use.
- b. Decks, balconies and open porches.
- c. Parks and conservation areas; open space.
- d. Gazebos, mail kiosks, ornamental gatehouses and other street furniture.
- e. Private sheds.
- f. Satellite antenna less than one meter in diameter.
- g. Other customary accessory uses and structures which are clearly incidental to the principal structures and uses.

2. MF-1 and MF-2 Multifamily Inclusionary Zoning Districts

- a. Off-street parking, including private automobile garages, car sheds, and parking lots for residents' use.
- b. Decks, balconies and open porches.
- c. Parks and conservation areas; open space.
- d. Gazebos, mail kiosks, ornamental gatehouses and other street furniture.
- e. Indoor and outdoor recreational uses for residents and their guests.
- f. Community structure for the use of residents.
- g. Management office.
- h. Sheds for tools and equipment for the maintenance of the grounds.
- i. Satellite antenna less than one meter in diameter.
- j. Other customary accessory uses and structures which are clearly incidental to the principal structures and uses.

3. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

- a. Any accessory use or structure permitted in the TH-Townhouse inclusionary zoning district for residential uses.
- b. Other customary accessory uses and structures which are clearly incidental to the principal structures and uses.

E. Conditionally Permitted Accessory Uses and Structures. The following accessory uses may be conducted and the following accessory structures may be erected or placed on the same lot as one of the foregoing permitted or conditional principal uses or structures.

1. TH-Townhouse Inclusionary Zoning District

- a. A “home occupation” meeting the definitional requirements established in Chapter 2 of the Land Development Ordinance.
- b. Fences and walls, subject to applicable site plan requirements and the conditions set forth in Section 5.5.
- c. Signs, subject to the residential district requirements and the conditions set forth in Section 5.4.
- d. A single flagpole (a) having a height that is no greater than forty (40) feet or no greater than the flagpole’s distance from the nearest lot line (whichever is less), (b) having no more than one yard-arm, and (c) upon which is flown no more than three flags, with each flag having an area of no more than twelve (12) square feet (zoning permit required for flagpole construction but not for flags).
- e. Solar panels or cells, only if mounted on the roofs of permitted principal or accessory structures.

2. MF-1 and MF-2 Multifamily Inclusionary Zoning Districts

- a. Any accessory use or structure conditionally permitted in the TH-Townhouse inclusionary zoning district for residential uses.

3. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

- a. Any accessory use or structure conditionally permitted in the TH-Townhouse inclusionary zoning district for residential uses.
- b. Signs, subject to the C-Commercial District requirements and the conditions set forth in Section 5.4.
- c. Parking and parking facilities subject to applicable zoning and site plan requirements.

F. Required Use. In all inclusionary zoning districts, twenty percent (20%) of the total number of for-sale dwellings or fifteen percent (15%) of the total number of rental dwellings shall be affordable to low- and moderate-income households. Affordable housing units shall be developed in accordance with the affordable housing regulations of the Township of Pennsville (Chapter 11 of the Land Development Ordinance).

G. General Tract Requirements.

1. TH-Townhouse Inclusionary Zoning District

- a. Minimum gross acreage of tract: 10 acres

- b. Maximum gross density: 8 units per acre
- c. Structure setback from tract perimeter: 60 feet from tract boundary that abuts public right-of-way, 100 feet from tract boundary that abuts single-family residential lots. Entrance structure or kiosk may be within 15 feet of the tract boundary.
- d. Parking area or internal driveway or street setback (excluding entrances and exits) from tract perimeter: 25 feet
- e. Landscape Buffer from Tract Perimeter: 25 feet minimum
- f. Number of Principal Structures on Tract: Not limited
- g. Number of Accessory Structures on Tract: As approved by the Planning Board
- h. Total Structure Coverage: 25% maximum
- i. Impervious Materials Coverage: 65% maximum

Additional Standards

- a. Off-Street Parking: (see RSIS Parking Standards at N.J.A.C. 5:21-4.14)
- b. Grading requirements: (see Section 5.17)
- c. Signs and Flag Poles (see Section 5.21.E)

2. MF-1 Multifamily Inclusionary Zoning District

- a. Minimum gross acreage of tract: 5 acres
- b. Maximum gross density: 14 units per acre
- c. Structure setback from tract perimeter: 60 feet from any tract boundary
- d. Parking area or internal driveway or street setback (excluding entrances and exits) from tract perimeter: 25 feet
- e. Landscape Buffer from Tract Perimeter: 25 feet minimum
- f. Number of Principal Structures on Tract: Not limited
- g. Number of Accessory Structures on Tract: As approved by the Planning Board
- h. Total Structure Coverage: 35% maximum
- i. Impervious Materials Coverage: 75% maximum

Additional Standards

- a. Off-Street Parking: (see RSIS Parking Standards at N.J.A.C. 5:21-4.14)
- b. Grading requirements: (see Section 5.17)
- c. Signs and Flag Poles (see Section 5.21.E)

3. MF-2 Multifamily Inclusionary Zoning District

- a. Minimum gross acreage of tract: 16 acres
- b. Maximum gross density: 10 units per acre
- c. Structure setback from tract perimeter: 60 feet from any tract boundary
- d. Parking area or internal driveway or street

- setback (excluding entrances and exits)  
from tract perimeter: 25 feet
- e. Landscape Buffer from Tract Perimeter: 25 feet minimum
- f. Number of Principal Structures on Tract: Not limited
- g. Number of Accessory Structures on Tract: As approved by the Planning Board
- h. Total Structure Coverage: 35% maximum
- i. Impervious Materials Coverage: 75% maximum

Additional Standards

- a. Off-Street Parking: (see RSIS Parking Standards at N.J.A.C. 5:21-4.14)
- b. Grading requirements: (see Section 5.17)
- c. Signs and Flag Poles (see Section 5.21.E)

4. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

- a. Commercial uses shall be permitted on the portion of the tract that fronts on South Broadway/Route 49. The commercial use component of this district shall comprise a minimum of 60% and a maximum of 70% of the developable lot area and shall be physically separate from the residential use component.
- b. Residential uses are required at the rear of the tract (a minimum of 30% and a maximum of 40% of the developable lot area) and behind the commercial use component that fronts on South Broadway/Route 49. The residential use component of this lot shall only be developed with residential uses.
- c. The residential component of this district is subject to the general tract requirements of the TH-Townhouse Inclusionary Zoning District.

H. Lot Area, Dimension, Configuration, Coverage, Setback, and Height Requirements.

1. TH-Townhouse Inclusionary Zoning District (Non-Fee Simple Lots)

- a. Lot Area: Entire tract
- b. Minimum distance between principal structures:
  - 1) From structure front to structure front: 60 feet
  - 2) From structure front to structure side: 50 feet
  - 3) From structure front to structure rear: 50 feet
  - 4) From structure side to structure rear: 35 feet
  - 5) From structure rear to structure rear: 50 feet
  - 6) From structure side to structure side: 20 feet
  - 7) From any common parking area to a structure: 15 feet
  - 8) From accessory structure: 15 feet
- c. Height (Principal Structures): 45 feet maximum
- d. Height (Accessory Structures): 15 feet maximum
- e. Stories (Principal Structure): 3 stories maximum
- f. Stories (Accessory structures): 1½ stories maximum
- g. Maximum number of dwelling units in one structure: 8 units

2. TH-Townhouse Inclusionary Zoning District (Fee Simple Lots)

- a. Lot Area: 2,000 s.f. minimum
- b. Lot Frontage: 20 feet minimum (per unit)
- c. Lot Width: 20 feet minimum (per unit)
- d. Lot Depth: 85 feet minimum (per unit)
- e. Front Yard (Principal Structure): 20 feet minimum
- f. Front Yard (Accessory Structures): 20 feet minimum or no less than the greatest actual front yard setback of the principal structure from each street, whichever is greater
- g. Side Yard (Principal Structure): 0 feet if adjoining another unit, 15 feet minimum if an outside wall
- h. Side Yard (Accessory Structures): 5 feet minimum
- i. Rear Yard (Principal Structure): 20 feet minimum
- j. Rear Yard (Accessory Structure): 5 feet minimum
- k. Height (Principal Structure): 45 feet maximum
- l. Height (Accessory Structures): 15 feet maximum
- m. Number of Principal Structures on Lot: 1 structure maximum
- n. Number of Accessory Structures on Lot: 1 structure maximum
- o. Stories (Principal Structure): 3 stories maximum
- p. Stories (Accessory structures): 1½ stories maximum
- q. Structure Coverage (Principal Structure): 65% maximum
- r. Structure Coverage (Accessory Structure): 10% maximum
- s. Total Structure Coverage: 75% maximum
- t. Impervious Materials Coverage (inc. bldgs): 80% maximum

Additional Standards

- a. Off-Street Parking: (see RSIS Parking Standards at N.J.A.C. 5:21-4.14)
- b. Grading requirements: (see Section 5.17)
- c. Lot must abut improved street (see Section 5.18)
- d. Signs and Flag Poles (see Section 5.21.E)

3. MF-1 Multifamily Inclusionary Zoning District

- a. Lot Area: Entire tract
- b. Minimum distance between structures:
  - 1) From structure front to structure front: 60 feet
  - 2) From structure front to structure side: 50 feet
  - 3) From structure front to structure rear: 50 feet
  - 4) From structure side to structure rear: 35 feet
  - 5) From structure rear to structure rear: 50 feet
  - 6) From structure side to structure side: 20 feet
  - 7) From any common parking area to a structure: 15 feet
  - 8) From accessory structure: 15 feet
- c. Height (Principal Structures): 55 feet maximum
- d. Height (Accessory Structures): 25 feet maximum
- e. Stories (Principal Structure): 4 stories maximum
- f. Stories (Accessory structures): 2½ stories maximum (no basement)
- g. Maximum number of dwelling units in one structure: 16 units

4. MF-2 Multifamily Inclusionary Zoning District

- |    |   |                                     |
|----|---|-------------------------------------|
| a. | Lot Area:   | Entire tract                        |
| b. | Minimum distance between structures:                  |                                     |
|    | 1) From structure front to structure front:           | 60 feet                             |
|    | 2) From structure front to structure side:            | 50 feet                             |
|    | 3) From structure front to structure rear:            | 50 feet                             |
|    | 4) From structure side to structure rear:             | 35 feet                             |
|    | 5) From structure rear to structure rear:             | 50 feet                             |
|    | 6) From structure side to structure side:             | 20 feet                             |
|    | 7) From any common parking area to<br>a structure:    | 15 feet                             |
|    | 8) From accessory structure:                          | 15 feet                             |
| c. | Height (Principal Structures):                        | 55 feet maximum                     |
| d. | Height (Accessory Structures):                        | 25 feet maximum                     |
| e. | Stories (Principal Structure):                        | 4 stories maximum                   |
| f. | Stories (Accessory structures):                       | 2½ stories maximum<br>(no basement) |
| g. | Maximum number of dwelling units in<br>one structure: | 16 units                            |

5. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

Residential Use

- a. The residential component of this district is subject to the lot area, dimension, configuration, coverage, setback, and height requirements of the TH-Townhouse Inclusionary Zoning District.

Commercial Use

- a. The commercial component of this district is subject to the lot area, dimension, configuration, coverage, setback, and height requirements of the C-Commercial Zoning District.

- I. Awnings. Awnings are permitted on commercial structure facades subject to the Commercial District requirements and the conditions set forth in Section 5.9.H.



## SECTION 5.22 – 100% AFFORDABLE HOUSING DISTRICTS

- A. Purpose and Intent. The purpose and intent of the 100% affordable housing districts is to apply appropriate land use controls on development where housing is or will be constructed to serve low and moderate income households that are typically supported through governmental programs.
- B. Permitted Principal Uses and Structures. A lot and the principal structure existing or to be erected upon it may be used or occupied for only one of the following purposes in each of the 100% affordable housing districts and no other principal use or purpose shall be permitted:
1. MF-3 100% Affordable Housing District
    - a. Multifamily dwellings.
    - b. Municipal use.
- C. Accessory Uses and Structures Permitted. The following accessory uses may be conducted and the following accessory structures may be erected or placed on the same lot as one of the foregoing permitted principal uses or structures:
1. MF-3 100% Affordable Housing District
    - a. Off-street parking lots and structures, including private garages and car sheds, for residents, staff and visitors thereto, including Make Ready and electric vehicle charging stations.
    - b. Decks, balconies and porches with no enclosure except railing.
    - c. Parks and conservation area, open space.
    - d. Gazebos, mail kiosks, ornamental gatehouses and other street furniture.
    - e. Indoor and outdoor recreational uses for residents and their guests.
    - f. Community structure for the use of residents and their guest.
    - g. Congregant dining for residents and guests; concierge services, store for convenience items, mail room, social services office, wellness or visiting physician's or nurse's office, laundry services for residents.
    - h. Management office within a principal building.
    - i. Superintendent's or manager's multifamily dwelling within a principal building.
    - j. Maintenance building for tools and equipment, not exceeding six hundred (600) square feet in floor area.
    - k. Signs. (See Section 5.4 for standards)
    - l. Rooftop satellite antenna for building use, telecommunications equipment for area-wide networks.
    - m. Rooftop photovoltaic panels, provided such panels are set back from the edge of the parapet wall a minimum of five (5) feet and rise no more than ten (10) feet higher than the top of the parapet wall.
    - n. Other customary accessory uses or structures which are clearly incidental to the principal use and structure.
- D. Required Use. Except for a superintendent or manager's dwelling, all dwellings in the MF-3 zoning district shall be affordable to low and moderate income households as defined in Chapter 11 of this Ordinance.

E. Lot Area, Dimension, Configuration, Coverage, Setback and Height Requirements.

1. Minimum lot area: Two (2) acres
2. Minimum lot frontage: Thirty (3) feet
3. Minimum lot width at building setback: Ninety (90) feet
4. Minimum lot depth: Two hundred forty (240) feet
5. Minimum building setbacks for principal buildings.
  - a. From a Street line: One hundred fifty (150) feet
  - b. From a commercial zoning district: Twenty (20) feet
  - c. From a single family detached use: One hundred (100) feet
6. Minimum building setbacks for accessory buildings.
  - a. From a Street line: One hundred fifty (150) feet
  - b. From a commercial zoning district: Twenty (20) feet
  - c. From a single family detached use: Fifty (50) feet
7. Minimum building separation dimensions:
  - a. Principal Building: Fifteen (15) feet or UCC requirement
  - b. Accessory building: Twenty (20) feet
  - c. Such building separation requirements shall not apply to building interconnection corridors, provided they do not exceed one-story in height.
8. Maximum building and structure heights.
  - a. Principal building: Ninety-six (96) feet and eight (8) stories
  - b. Accessory building: Twenty-two (22) feet and one (1) story
  - c. Accessory telecommunications and satellite antenna structures may arise to a height not to exceed fifteen feet above the parapet wall of a principal building above the principal roof, provided they are setback a minimum of five feet from the outer edge of such wall.
  - d. Accessory flagpoles as permitted in Section 5.4-K.6.d shall not exceed forty (40) feet in height from ground level.
9. Minimum parking area and stormwater management basin setbacks shall be twenty (20) feet from a commercial zoning district.
10. Maximum building coverage including all principal and accessory buildings shall not exceed twenty percent (20%) of total lot area.
11. Maximum impervious materials coverage shall not exceed sixty percent (60%) of total lot area.

F. Additional Standards. The following additional standards for development in the MF-3 district shall apply:

1. Buffers and landscaping. Landscaped buffering shall be a minimum of twenty (20) feet in width adjacent to any property line coterminous with a commercial zoning district boundary except for vehicular and pedestrian access to the site and ninety-degree (90°) utility crossings. Landscaping shall be as required pursuant to §8.3-F.
2. Recreation. An outdoor passive or active recreation area equal to or greater than twelve (12) square feet per dwelling unit shall be established for the use of residents and guests. Such recreation area may be subject to shared use by separate entities under a common agreement provided the minimum land area requirement for each ownership organization is met.
3. The provisions of Chapter 11 shall pertain to the initial leasing or sale of dwellings and the continued operation of the building(s) unless the Township shall approve a substantially similar program of subsidized affordable housing as permitted under NJAC 5:80-26.1.