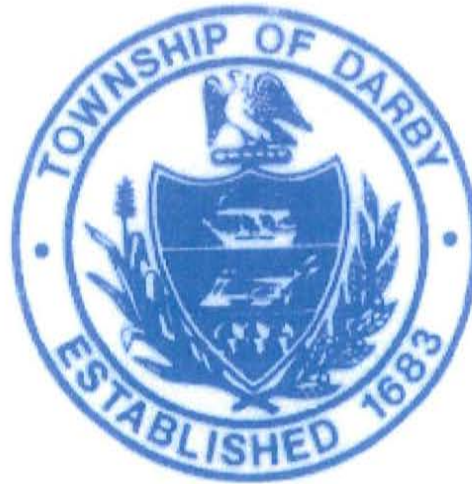


TOWNSHIP OF DARBY
Delaware County, Pennsylvania

ORDINANCE NO. 670

ZONING CODE



December 12, 2007

Thomas J. O'Brien, Architect
Lansdowne, Pennsylvania

Township of Darby
Delaware County, Pennsylvania

Ordinance No. 670
ZONING ORDINANCE

Commissioners

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Lawrence F. Patterson, President

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Loretta Touni, Township Secretary

Adopted December 12, 2007

Thomas J. O'Brien, Architect
Lansdowne, Pennsylvania

COMMUNITY DEVELOPMENT OBJECTIVES

FOR

DARBY TOWNSHIP

December 12, 2007

The Community Development Objectives (CHOs) listed below are intended and designed to guide and set the direction for the actual zoning ordinance provisions that will be developed in 2007.

1. Overall Community

Maintain the Township as an attractive and stable community that is pedestrian friendly, contains distinct and compact neighborhoods and a variety of housing types, commercial, light industrial and other non-residential establishments.

2. Residential Land Use

- a. Provide for and encourage a variety of residential uses including single-family detached, twins, and small apartments, and apartment developments located near public transit.
- b. Ensure blight free neighborhoods by protecting residential areas from physical deterioration by adoption of property maintenance ordinances and improvement of inspection and code enforcement programs and procedures.
- c. Encourage preservation of residential neighborhoods and discourage erosion of residential character by unregulated or poorly regulated home occupations, residential conversions, inappropriate signs, fences and similar uses and structures.
- d. Prevent widespread high population density and the accompanying traffic congestion, parking problems, and undue pressure on schools, recreation, public safety and other community facilities and services by limiting locations for multi-family and row housing. Allow higher density development in the form of small apartments and townhouses in vicinity of public transit and major shopping areas. In this fashion the Township will direct growth to central areas and stabilize development/limit density in remaining areas.

3. Non-Residential Land Use/Commerce/Industry

- a. Encourage the controlled expansion of the light industry and commercial districts allowing modern, high-tech and low impact light industrial and business uses representative of the present economic environment.
- b. Maintain light industrial districts in good condition through code enforcement and encouragement of owners/tenants to take measures to comply with codes and ordinances and make efforts to maintain or improve appearance of buildings and properties.
- c. Along MacDade Boulevard encourage shopping in a centralized area that offer a wide variety of commercial, retail, and service and micro enterprise uses. Office uses should

generally be allowed only above the first floor.. Auto-related commercial uses should be located along Hook Road.

4. Housing

- a. Maintain existing housing stock and properties so as to prevent deterioration of dwellings and decline of neighborhoods through a vigorous program of code enforcement.
- b. Improve the Township's housing stock by repairing or removing substandard residential structures and providing new housing in selected areas, as both infill and new development.
- c. Protect residential properties from the impacts of traffic, noise, adjacent industrial and other high impact uses by regulating permitted uses, landscaping and screening, setback requirements and other control measures.
- d. Maintain the current owner-renter ratio by stopping the increase in the number of new rental units in comparison to owner-occupied dwellings by initiating marketing efforts encouraging home-ownership. Explore opportunities in the County Home Ownership First Program and promote the Township as an attractive community for first-time buyers.
- e. Monitor Section 8 units by regular communication with the Delaware Housing Authority and control existing Section 8 units by requiring housing education (for tenants) and regular inspection of properties (for owners), together such inspection of all rental units.

5. Community Facilities

- a. Review the recreational programs and activities for all ages and institute additional and different activities where needed serve all age groups.

6. Zoning

- a. Encourage the creation of village concept of offices in the commercial area from Mac Dade Boulevard to Academy Road between Ashland Avenue and Oak Lane.
- b. Identify areas/districts in which residential conversions should be permitted.
- c. Provide limitations on home occupations and professional offices in order to prevent these facilities from creating negative impacts on residential areas.

7. Transportation

- a. Provide sidewalks where none exist, require sidewalks in new developments and, where feasible, provide walking/jogging trails in Township parks.
- b. Review traffic signs to determine whether they are clear, in proper locations and in good condition. Are street signs missing in places? Identify/areas/intersections that need "no through traffic" and "local traffic only" signs to protect residential areas from "cut through" traffic.

- c. Review bus routes periodically, with view of providing best possible service for Township riders.

8. Environment

- a. Pursue any needed funding for repair and replacement of storm water system components as need arises.
- b. In cooperation with nearby municipalities, consider the creation of an Environmental Advisory Council (EAC) in accordance with Act 148, the Environmental Advisory Council Law. The purpose of EACs is to advise the Township on issues concerning the conservation of natural resources and other environmental matters.

9. Parks and Recreation

- a. Conduct a study to determine the best possible facilities and redesign alternatives of Township parks to best serve the various age groups and maximize value parks and recreation areas to the community.
- b. Identify small, vacant or underutilized lots and select those deemed most suitable for development as pocket parks, neighborhood playgrounds or neighborhood gardens.
- c. Coordinate with officials of Southeast Delco School District for community use of District-owned playing fields to supplement the active recreation areas in the Township.
- d. Continue to identify needs for recreational programs, activities and events for all age groups.

**Township of Darby
Delaware County, Pennsylvania
Ordinance #670
Zoning Ordinance**

AN ORDINANCE OF DARBY TOWNSHIP TO RE-ENACT, AMEND, REVISE AND SUPPLEMENT ORDINANCE NUMBER 134 ADOPTED THE 24TH DAY OF NOVEMBER, A.D., 1947 ENTITLED "THE DARBY TOWNSHIP ZONING ORDINANCE OF 1947," and AMENDING, REVISING, SUPPLEMENTING, CHANGING AND CONSOLIDATING THE PROVISIONS RELATING THERETO.

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**Township of Darby
Delaware County, Pennsylvania
Ordinance #670
Zoning Ordinance**

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In accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, convenience, order, prosperity and general welfare of the community, the districts herein established have been designed to lessen congestion in the streets, to secure safety from fire, panic, and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements and with reasonable consideration among other things, as to the character of each district and its peculiar suitability for particular use of land throughout the Township; therefore:

BE IT ORDAINED by the Board of Commissioners of Darby Township in the County of Delaware, and the State of Pennsylvania, and it is hereby enacted and ordained by authority of the Pennsylvania First Class Township Code and the Pennsylvania Municipalities Planning Code.

SECTION 1. The Darby Township Zoning Ordinance of 1947 enacted and ordained on November 24, 1947, and reenacted and amended on July 21, 1965 is hereby re-enacted, revised, supplemented, changed, and consolidated as follows:

AN ORDINANCE

Regulating and restricting the height, number of stories, and size of buildings and other structures, their construction, alteration, extension, repair, maintenance, and all facilities and services in or about such buildings and structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings, structure, and land for trade, industry, residence, and other purposes, and for these purposes establishing districts and boundaries, and designating and regulating residential, commercial, and manufacturing and industrial uses within such districts and boundaries, providing for the administration and enforcement of this Ordinance, and penalties for violation thereof.

ARTICLE I: TITLE, PURPOSE, INTERPRETATION, CONFLICT, AND VALIDITY

SECTION 100 Short Title

This Ordinance shall be known and may be cited as The Darby Township Zoning Ordinance of 2007.

SECTION 101 Purpose

This ordinance is enacted for the following purposes: To promote the health, safety, morals, and general welfare of the inhabitants of Darby Township by lessening congestion in the streets, securing safety from fire, panic, and other dangers, providing adequate light and air, preventing the overcrowding of land, avoiding undue concentration of population, facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, conserving the value of buildings, and encouraging the most appropriate use of land.

SECTION 102 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, and general welfare of the Township.

SECTION 103 Conflict

It is not intended by this Ordinance to interfere with, or abrogate or annul The Darby Township Building Code, or any rules, regulations, permits or codes previously adopted, or issued thereunder, or the rules and regulations, or permits previously adopted, or issued thereunder, and not in conflict with any of the provisions of this Ordinance, provided that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building, or requires larger open spaces than are imposed, or required by such Code, rules and regulations, or permits, the provisions of this Ordinance shall control.

SECTION 104 Validity

Should any section or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole, or of any other part thereof.

**ARTICLE II: OBJECTIVE, PURPOSES, INTERPRETATION, SHORT TITLE,
DEFINITION OF TERMS**

SECTION 200 Statement of Community Development Objectives

It shall be, and is hereby declared to be, the objective of the Darby Township to provide for the orderly development of the Community through its Zoning Ordinance and Subdivision Regulations as presently in effect or hereafter amended in order to carry into effect the purposes, plans and guidelines as set forth in the Darby Township Comprehensive Plan, which plan is herein incorporated by reference.

SECTION 201 Purposes

This Ordinance is enacted in accordance with the Pennsylvania Municipal Planning Code, for the following purposes:

1. To promote, protect and facilitate one or more of the following:
 - the public health,
 - safety,
 - morals,
 - general welfare,
 - coordinated and practical community development,
 - proper density of population,
 - civil defense,
 - disaster evacuation,
 - national defense facilities,
 - the provisions of adequate light and air,
 - police protection,
 - vehicle parking and loading space,
 - transportation,
 - water,
 - sewerage,
 - schools,
 - public grounds,
 - other public requirements, and
 - protect the environment.

2. To prevent one or more of the following:
 - overcrowding of land,
 - blight,
 - danger and congestion in travel and transportation,
 - loss of health, life or property from fire, flood or panic dangers.

Zoning Ordinance shall be made in accordance with the spirit and intent of the Comprehensive Plan, and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures.

SECTION 202 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

SECTION 203 Short Title

This Ordinance shall be known and may be cited as *The Darby Township Zoning Ordinance of 2007*.

SECTION 204 Definition of Terms

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Ordinance to have the meaning herein indicated. The singular shall include the plural, and the plural shall include the singular. The word "used" shall include the words "arranged", "designed", "or intended to be used". The word "building" shall include the word "structure". The present tense shall include the future tense. The word "shall" is always mandatory.

1. ***Accessory Building***

A building subordinate to the main building on a lot and used for purposes customarily and clearly incidental to those of the main building.

2. ***Accessory Use***

A use subordinate to the main use of land or of a building on the same lot and customarily and clearly incidental thereto.

3. ***Alley***

Land over which there is a right of way, municipally or privately owned, on which no dwellings or stores front, serving as a secondary means of access to two or more lots.

4. ***Alteration***

An alteration, as applied to a building, is any change or rearrangement in the structural parts, or any enlargement, whether by extending on any side by increasing in height, or moving from one location or position to another.

5. ***Apartment***

A room or group of rooms in an apartment house designed for and used exclusively as a residence for only one family.

6. ***Apartment House***

A building designed for and occupied exclusively as a residence for three (3) or more families living independently of one another and which building is a single building unit for purpose of operation, management and maintenance. A basement in an apartment house shall not contain habitable rooms except for janitor's living quarters.

7. ***Basement***

A story, partly underground, but having more than half of its clear height below average level of adjoining ground.

8. ***Buffer Yard***
A strip of required yard space adjacent to the boundary of a property or district, not less in width than is designated in this Ordinance, and on which is placed year-around shrubbery, hedges, evergreens, or other suitable plantings.
9. ***Building***
Any structures, including a trailer, having a roof supported by columns, piers, or walls used for the housing or enclosure of persons or animals.
 - A. Detached a building which has no party wall.
 - B. Semi-detached a building which has only one party wall in common with an adjacent building.
 - C. Attached a building which has two party walls in common with adjacent buildings.
10. ***Building Area***
The aggregate of the maximum horizontal cross-section areas of all buildings on a lot, excluding cornices, eaves, gutters, or chimneys projecting not more than thirty (30) inches; steps, one story open porches not extending more than one (1) story and not projecting more than five (5) feet; and balconies and terraces.
11. ***Building Line***
The line parallel to the street line at a distance therefrom at least equal to the depth of the front yard required for the district in which the lot is located and which equals or exceeds the required lot width.
12. ***Cellar*** (See Basement)
13. ***Clear Site Triangle***
No structure, wall, fence, shrubbery, or trees shall be erected, maintained, or planted on any lot which unreasonably or dangerously obstructs or interferes with visibility of drivers of vehicles on a curve or at any street intersection. The minimum vision clearance shall require height not exceeding 2 ½ feet above the street grade within 35 feet of the intersecting street lines bordering corner lots.
14. ***Corner Lot***
A lot which abuts 2 intersecting streets. There shall be a front yard on each street on which the lot abuts.
15. ***Conditional Use***
A use which may be allowed or denied by the Township Board of Commissioners in accordance with the Municipalities Planning Code (Act 247).
16. ***Day Care Center***
A facility that provides care and feeding during the business day for more than five (5) children, babies or elderly adults who must not be left alone.
17. ***Density, overall***
The total number of dwelling units on a given tract divided by the total number of acres in the tract, not including existing dedicated roads, but including all residential streets to be built in conjunction with subdivision development and all land set aside and dedicated for public use.

18. *Dwelling*

- A. Single Family A building, on a lot, designed and occupied exclusively as a residence for one family.
- B. Two-family A building, on a lot designed and occupied exclusively as a residence for two families with one family living wholly or partly over the other.
- C. Multi-family A building, on a lot, designed and used exclusively as a residence for three (3) or more families.
- D. Single-family Semi-Detached
A building designed for and occupied exclusively as a residence for only one family and having a party wall in common with an adjacent building; a single family twin dwelling. Where a private garage is structurally attached to such building, it shall be considered as a part thereof.
- E. Two-family Detached
A building designed for and occupied exclusively as a residence for two families living independently of each other with one family living wholly or partly over the other and having no party wall in common with an adjacent building; a detached duplex dwelling. Where a private garage is structurally attached to such building, it shall be considered as a part thereof.
- F. Two-family Semi-Detached
A building designed for and occupied exclusively as a residence for two families living independently of each other with one family living wholly or partly over the other and having a party wall in common with an adjacent building; a semi-detached duplex dwelling. Where a private garage is structurally attached to such building, it shall be considered as a part thereof.
- G. Townhouse One of a structurally connected series of three or more buildings arranged in a row, each designed for and occupied exclusively as a residence for only one family, and each having a party wall in common with one or more of the other buildings in a series adjacent to it, any or all of which buildings may be under different ownership. The maximum number of Townhouses connected as one group is eight.

19. *Dwelling Unit*

One (1) or more rooms designed and equipped for one (1) family, or persons living together as one (1) family, to occupy as a residence, but shall not include tourist homes, or cabins, lodging, houses, hotels, motels, or other similar places offering overnight accommodations for transients.

20. *Employees or Number of Employees*

The greatest number of persons to be employed on the premises in question at any one time of the day or night.

21. *Family*

Any number of individuals living together as a single housekeeping unit when said individuals are related by blood, marriage, or adoption, including foster children; or no more than five (5) unrelated individuals living together as a single housekeeping unit with single kitchen facilities.

22. *Family-based Community Residence Facility*

A dwelling, licensed by the appropriate state agency, shared by persons requiring special care and their supervisors who live together as a single housekeeping unit in a family-like environment. This facility is designed to create residential environment for the developmentally disabled, mentally ill

or retarded, handicapped, or similar groups unable to live without supervision. The maximum number of residents shall not exceed five (5). These facilities shall not be used to accommodate persons recovering from the effects of drugs or alcohol or inmates of penal institutions.

23. ***Floor Area or Gross Floor Area***

The sum of the gross horizontal areas of the several floors of all buildings on the lot, measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings. The term shall include basement, elevator shafts and stairwells at each story, floor space used for mechanical equipment (with structural headroom of six feet, six inches or more), penthouses, attic space (whether or not a floor has actually been laid providing structural headroom of six (6) feet, six (6) inches or more), interior balconies, and mezzanines. It shall not include stair and elevator penthouses or cellars unless said cellars are utilized for anything other than storage rooms, utility rooms, mechanical equipment rooms, etc.

24. ***Garage***

- a. ***Private Garage*** – An accessory building used for the storage of motor vehicles.
- b. ***Storage Garage*** – A building or group of buildings, other than a private garage, one story in height, used for the storage of automobiles and not used for making repairs thereto.
- c. ***Public Garage*** – A building, other than a private garage or storage garage, one story in height, used for the storage, sale, service or repair of motor vehicles.

25. ***Height of Building***

A building's vertical measurement from the main level of the ground abutting the building to the highest point in the roof line of a flat roof or a roof having a slope of less than fifteen (15) degrees from the horizontal, and to a point midway between the peak and the eaves of a roof having a slope of fifteen (15) degrees or more; provided that chimneys, spires, towers, elevator penthouses, tanks, and similar projections of the building shall not be included in calculating the height.

26. ***Home Occupation or Accessory Professional Office Use***

An occupation or professional use which is carried on in a dwelling unit, or a structure accessory thereto, clearly secondary and incidental to the dwelling in which the practitioner resides.

27. ***Hospital***

A hospital is a building designed for the diagnosis, treatment or other care of human ailments, and includes facilities for the overnight care of patients

28. ***Lot***

A parcel of land which conforms to the Zoning Requirement for the zone in which it is located and has the required lot area and width and frontage on an improved street.

29. ***Lot Area***

Lot area shall not include any public easement, public right-of-ways, and does include wetlands and floodplains.

30. ***Motor Vehicle Service Station***

Any area of land, including structures thereon, or any building or part thereof, that is used for sale of gasoline or other vehicle fuel or accessories, and which may or may not include facilities for lubrication, washing, or otherwise servicing motor vehicles, but which shall not include painting, body and fender repairs, or sale, rental and storage of vehicles.

31. ***Nonconforming Building, Lot, or Use***
A building or other structure, use or lot, lawful when created which for reason of design, size, or use does not conform with revisions of the requirements of the district or districts in which it is located.
32. ***Off-Street Loading Space***
An on-the-property space for the standing, loading, and unloading of vehicles to avoid undue interference with the public use of streets and alleys. Such space shall be not less than fourteen (14) feet in width, fifteen (15) feet in height, and fifty-five (55) feet in length, exclusive of access aisles and maneuvering space.
33. ***Off-Street Parking Space***
A space containing a minimum area of two hundred (180) square feet with a minimum width of nine (9) feet, for the parking of an automobile. In determining the dimension of such space, access drives and aisles shall not be included. Minimum vertical clearance shall be eighty (80) inches.
34. ***Principal Building***
A building in which is conducted, or is intended to be conducted, the principal use of the lot on which it is located. In residential districts, only one principal building may be erected on each lot.
35. ***Professional Office Use***
(See Home Occupation)
36. ***Public Sewer***
A public sewer is any municipal or privately owned sewer system in which sewage is collected from buildings and piped to an approved sewage disposal plant or central septic tank disposal system and approved by the Delaware County Department of Public Health.
37. ***Public Water***
Public water is any municipally or privately owned water system for the distribution and sale of water, in accordance with the laws of the Commonwealth of Pennsylvania.
38. ***Seats***
The seating capacity of a particular building as determined by the specifications and plans and filed with the Zoning Officer; in the event individual seats are not provided, each twenty (20) inches of benches or similar seating accommodations shall be considered as one seat for the purpose of this Ordinance.
39. ***Shed***
An accessory structure for the storage of household and garden related items, personal use automotive parts or similar items, products, tools, equipment or items such as lawnmowers, tires, etc. Sheds shall not be used for storage, parking or repair of motor vehicles.
40. ***Sign***
Any structure, device, display, or part thereof, or device attached thereto, or painted or represented thereon, located outside, on, or within the building in such a manner that the sign is viewed from outside the building, which shall be used for the purpose of bringing the subject thereof to the attention of the public or which displays or includes any letter, work, motto, banner, flag, insignia, device or representation which is in the nature of an advertisement, announcement, direction, or attraction, but not including the flag, insignia of the United States of America, the Commonwealth of Pennsylvania or any political subdivision thereof.

41. ***Single and Separate Ownership***
The ownership of a lot by one (1) or more persons, partnerships, or corporations, which ownership is separate and distinct from that of any adjoining lot.
42. ***Story***
That part of a building located between a floor and the floor or roof next above. The first story of a building is the lowest story having seventy-five (75) percent or more of that wall area above grade level.
43. ***Street***
A public street, road, highway which is legally open or officially plotted by the Township or a private street, road, or way, over which the owners or tenants of two (2) or more lots held in single and separate ownership have the right-of-way. Maximum of two houses is permitted on a private street.
44. ***Street Line***
The dividing line between a lot and a street. The street line shall be determined by the legal right-of-way of street.
45. ***Structure***
Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including trailer.
46. ***Swimming Pool***
A swimming pool (above or below ground level) including any container designed to hold 750 gallons or more of water, and the apparatus and equipment pertaining to the swimming pool maintained by an individual for the sole use of his household and guests without charge for admission and not for the purpose of profit or in connection with any business operated for profit, located on a lot as an accessory use to a residence.
47. ***Trailer (Mobile Home)***
Any vehicle designed, intended, arranged, or used for living, eating, sleeping, business or other similar purposes, whether arranged to stand on wheels or rigid supporters.
48. ***Township Specifications***
Specifications duly adopted by the Board of Supervisors by formal resolution for a specific purpose.
49. ***Trailer Court***
A lot or premises used for occupancy by two (2) or more house trailers or mobile home units for any length of time.
50. ***Variance***
A modification given by the Zoning Hearing Board to a landowner relieving the landowner from the strict application of the requirement of the Zoning Ordinance as provided in the Municipalities Planning Code.
51. ***Yards***
 - A. **Front:** the required open space, the full width of the lot extending from the street line to the nearest structure on the lot, exclusive of overhanging eaves, gutters, or cornices.

- B. **Side:** the required open space, from front to rear yards, extending from the side line of the lot to the nearest structure on the lot, exclusive of steps, overhanging eaves, gutters, or cornices.
- C. **Rear:** the required open space, the full width of the lot extending from the rear property line of the lot to the nearest structure on the lot, exclusive of steps, overhanging eaves, gutters, or cornices.
- D. **Interior:** the open space separating any buildings situate on a lot held single and separate ownership.

ARTICLE III: CLASSIFICATION OF DISTRICTS

SECTION 300 Classes of Districts

For the purpose of this Ordinance, the Township of Darby is hereby zoned in districts as follows:

RA	Single Family Detached
RB	Single Family Semi-detached Two Family Detached
RC	Single Family Attached
RD	Single Family Attached
A	Apartment
C	Commercial
LI	Light Industrial
M	Municipal Use
REC	Recreation

SECTION 301 Zoning Map

The boundaries of said districts shall be shown on the map attached to and made a part of this Ordinance, which map shall be known as The "Zoning Map of Darby Township". Said map and all notations, references, and dates, shown thereon are hereby incorporated by reference into this Ordinance, and shall be as much a part of this Ordinance as if all were fully described herein.

SECTION 302 District Boundaries

1. The boundaries between districts are, unless otherwise indicated, either the center lines of streets of railroad rights-of-way, or such lines extended or lines parallel thereto.
2. Where a district boundary line divides a lot in simple and separate ownership at the effective date of this Ordinance, the use regulations applicable to the more restricted district shall apply.

ARTICLE IV: R-A RESIDENTIAL DISTRICTS

SECTION 400 Use Regulations

A building may be erected, altered or used, and a lot or premises may be used or occupied for the following purposes and no other:

1. Single family detached dwelling
2. A public school or any other educational use when operated by the Central Delaware County School District.
3. A private school, parochial school, church or other place of worship, religious use, philanthropic use, hospital or sanitarium for human beings, when authorized as a special exception, excluding penal or correctional institutions.
4. Municipal building or Municipal use.
5. Accessory use on the same lot which is incidental to any of the above permitted uses, and not seriously detrimental to a residential neighborhood. The term "accessory use" shall not include a business, but shall include:

A - A private garage, shed, gazebo.

B - "No-impact home-based business," a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- (1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- (2) The business shall employ no employees other than family members residing in the dwelling.
- (3) There shall be no display or sale of retail goods and not stockpiling or inventory of a substantial nature.
- (4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- (5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- (6) The business activity may not generate any solid waste or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood.
- (7) The business activity shall be conducted only within the dwelling and may not occupy

more than 25% of the habitable floor area.

(8) The business may not involve any illegal activity.

C- Personal service shops, such as barber shops, beauty salons and massage parlors are not permitted in residential districts.

6. Family-Based Community Residence Facility

A dwelling, licensed by the appropriate state agency, shared by persons requiring special care and their supervisors who live together as a single housekeeping unit in a family-like environment. This facility is designed to create a residential environment for the developmentally disabled, mentally ill or retarded, handicapped or similar groups unable to live without supervision. The maximum number of residents and supervisors in a facility shall not exceed five (5), which is the maximum number of unrelated persons permitted in a "family." See definition of "family."

SECTION 401 R-A Residential Lot Regulations

Single Family Detached Dwelling

Minimum Lot Area	5,000 square feet
Minimum lot width at the building line	50 feet
Minimum frontage	20 feet
Minimum front yard set back	30 feet from the street line on each street on which the lot abuts
Minimum side yard set back	2 side yards are required with an aggregate of 20 feet, neither of which may be less than 8 feet. A side yard containing a parking space or driveway must be at least 12 feet wide.
Minimum rear yard set back	25 feet
Maximum building coverage	35% of the lot area
Maximum impervious coverage	
Maximum height	35 feet
Minimum number of off-street parking spaces (behind the building live)	2

SECTION 402 Regulations For Uses Permitted By Special Exceptions

Churches permitted by special exception in residential zones must meet the following requirements:

Minimum Lot Area	25,000 square feet
Minimum Lot Width	100 feet
Minimum Frontage	50 feet
Minimum Front Yard Setback	30 feet
Minimum Side Yard Setback	20 feet
Minimum Rear Yard Setback	30 feet
Maximum Building Coverage	40 feet
Maximum Impervious Coverage	80%
Maximum Height	40 feet
Minimum Number of Off-street Parking Spaces	5 + 1 space for each 3 seats

SECTION 403 Regulations for Decks and Garages

Sheds, decks and garages shall be considered accessory structures that shall comply with the requirements below:

1. Sheds

- A. Not more than one shed, shall be placed on a lot.
- B. Sheds shall be permitted only in rear yards and side yards
- C. There shall be a distance of not less than 2 feet between the shed and a side or 3 feet to rear lot Line.
- D. On corner lots, sheds shall not be placed in a front yard
- E. The maximum height of a shed shall not exceed 8 feet.
- F. The area of a shed shall not exceed 120 square feet.
- G. In residential districts, sheds shall not be used for automobile repair work or similar high impact activities incompatible with residential uses.
- H. Prior to the construction or placement of a shed, the owner shall obtain a permit from the Building Official.
- I. Sheds shall be constructed and located in accordance with all applicable ordinances and regulations.

2. Decks

- A. Decks shall be permitted in the building envelope.
- B. On corner lots, decks shall not be placed in the front yard.
- C. The deck shall not be placed closer than 1 foot from the party wall of an attached (row) or semidetached (twin) dwelling or building, to allow access for maintenance and repair.
- D. There shall be a distance of not less than 3 feet between the outer edge of a deck and an adjacent common driveway easement.
- E. Prior to construction of a deck, a permit must be obtained from the Building Official.
- F. All materials used in the construction of a deck shall comply with the most recently adopted Township Building Code.
- G. All decks may be inspected by the Building Official at any time during and after construction. Such official may at any time require the builder or homeowner to delay or close construction, if he determines that the materials or building methods used are unsafe or questionable.
- H. After a building permit is issued for a deck, no change in plans regarding setbacks, dimensions

or heights is permissible without first receiving written permission from the Building Official.

3. Garages (Private)

- A, Garages shall be located in rear yards only.
- B. Garages shall be located not less than 10 feet behind the rear most portion of the principal dwelling.
- C, The height of garages shall not exceed 15 feet.
- D. There shall be a setback of not less than 3 feet between the garage and the rear property line and not less than 2 feet to side property line.
- E. Garages shall not be used for permanent or temporary human habitation.

ARTICLE V: R-B RESIDENCE DISTRICTS

SECTION 500

In RB Residence Districts the following regulations shall apply.

SECTION 501 Use Regulations

A building may be erected, altered or used, and a lot or premises may be used or occupied for the following purposes and no other.

1. Any use permitted in RA Residence Districts but RA uses in the RB district must conform with the RA regulations.
2. Single family semi-detached dwelling, provided that the dwelling with which it has a party wall in common is erected at the same time.

Minimum Lot Area per dwelling	2,500 square feet
Minimum Lot Width	35 feet
Minimum Frontage	35 feet
Minimum Front Yard Setback	20 feet
Minimum Side Yard Setback	15 feet
Minimum Rear Yard Setback	25 feet
Maximum Building Coverage	35 %
Maximum Impervious Coverage	80%
Maximum Height	25 feet
Minimum Number of Off-street Parking Spaces	2 per dwelling

3. Two-family detached dwelling

Minimum Lot Area per 2 family dwelling	5,000 square feet
Minimum Lot Width	50 feet
Minimum Frontage	50 feet
Minimum Front Yard Setback	30 feet
Minimum Side Yard Setback	An aggregate of 20 feet – a minimum of 8 feet . A side yard containing a parking space or driveway must be at least 12 feet wide.
Minimum Rear Yard Setback	25 feet
Maximum Building Coverage	35 %
Maximum Impervious Coverage	80%
Maximum Height	35 feet
Minimum Number of Off-street Parking Spaces	2 per dwelling

SECTION 502 Uses Permitted by Special Exception

1. Day care centers for 5 or less children
2. Day care centers for more than 5 children
Day Care Centers for children and adults operating during normal business hours (7:00 a.m. to 6:00 p.m.) are permitted by special exception in churches and other buildings on the same premises as the church in residential zones.
3. Day care centers for 5 or more children are permitted in Commercial Districts.
4. Care facilities that do not operate during normal business hours are permitted only in the Commercial districts.

ARTICLE VI: R-C RESIDENCE DISTRICTS

SECTION 600

In RC Residence Districts the following regulations shall apply.

SECTION 601 Use Regulations

A building may be erected, altered or used, and a lot or premises may be used or occupied for the following purposes and no other.

1. Any use permitted in RB Residence Districts but, RB uses in the RC district must conform with the RB regulations.

2. Single Family attached dwelling – maximum number of dwellings per group is 10

Minimum Lot Area	2,200 square feet
Minimum Lot Width	18 feet
Minimum Frontage	18 feet
Minimum Front Yard Setback	30 feet
Minimum Side Yard Setback	0 feet; 8 feet at break
Minimum Rear Yard Setback	30 feet
Maximum Building Coverage	45 %
Maximum Impervious Coverage	80%
Maximum Height	25 feet
Minimum Number of Off-street Parking Spaces	2

ARTICLE VII: R-D RESIDENCE DISTRICTS

SECTION 700

In RC Residence Districts the following regulations shall apply.

SECTION 701 Use Regulations

This section is for an existing neighborhood which does not comply with the other residential neighborhood district. The permitted use in this district is a single family attached unit only. No permanent additions or enclosed porches are permitted, but fences are permitted in the front and rear yard. Maximum height of these fences is 4 feet high. No accessory buildings are permitted. No business or accessory use is permitted. No off-street parking is required.

Minimum Lot Area	1,100 square feet
Minimum Lot Width	18 feet
Minimum Frontage	18 feet
Minimum Front Yard Setback	16 feet
Minimum Side Yard Setback	8 feet
Minimum Rear Yard Setback	10 feet
Maximum Building Coverage	60 %
Maximum Impervious Coverage	70%
Maximum Height	12 feet
Minimum Number of Off-street Parking Spaces	0

ARTICLE VIII: APARTMENT DISTRICTS

SECTION 800

In apartment districts the following regulations shall apply.

SECTION 801 Use Regulation

A building may be erected or used and a lot may be used or occupied for the following purposes and no other.

1. Apartment Buildings

a. Area and Bulk Standards

Minimum Lot Area	3,000 square feet per dwelling unit
Minimum Lot Width	70 feet
Minimum Frontage	20 feet
Minimum Front Yard Setback	20
Minimum Side Yard Setback	35 feet aggregate, 15 feet minimum – 14 feet with driveway
Minimum Rear Yard Setback	40 feet
Maximum Building Coverage	30 %
Maximum number of units per building	12
Maximum Impervious Coverage	
Maximum Height	35 feet
Minimum Number of Off-street Parking Spaces	2 spaces per apartment with 2 or more bedrooms 1 ½ spaces per apartment with 1 bedroom 1 space per efficiency apartment
Minimum distance between building on the same lot	25 feet when the length of both facing buildings is 50 feet or less and will be 40 feet when the length of either facing building is greater than 50 feet. In no case will buildings be closer than 25 feet

2. Two Family Attached Dwellings

a. Area and Bulk Standards

Minimum Lot Area	3,000 square feet per dwelling unit 6,000 square feet per 2 family dwelling
Minimum Lot Width	20 feet
Minimum Frontage	20 feet
Minimum Front Yard Setback	10 feet – end units 14 feet w/private driveway or parking space
Minimum Side Yard Setback	
Minimum Rear Yard Setback	20 feet
Maximum Building Coverage	30 %
Maximum number of attached 2 family units	6
Maximum Impervious Coverage	
Maximum Height	35 feet
Minimum Number of Off-street Parking Spaces	2 spaces per dwelling unit and as required by Article XX

ARTICLE IX: COMMERCIAL DISTRICTS

SECTION 900 Intent

In addition to the statement of legislative intent and objectives contained in Article XX, it is further intended that the purpose of the regulations contained in this Article shall achieve the following:

1. facilitate the development and/or maintenance of appropriate locations for the conduct of commercial and service-oriented businesses in areas of Darby Township which are appropriate to meet the needs of the community and which are consistent with the Township's Comprehensive Plan and supplemental detailed land use plans.
2. Encourage the development of a unique architectural complex of office and commercial uses in the Central Business area.
3. Insure that such establishments are protected from the intrusion of incompatible uses.
4. Protect and maintain the values of property located within and adjacent to commercial districts.
5. Strengthen the Township's tax base, employment base and the economic viability of commercial areas.
- F. Encourage a pattern of vehicular circulation and pedestrian access ways which will minimize traffic congestion and hazards while promoting free pedestrian movement.

SECTION 901 Neighborhood Commercial District – C1

1. Use Regulations – C1
 - A. Primary uses permitted by right
 - (1) meat, produce, grocery and similar food stores
 - (2) drug stores and pharmacies
 - (3) variety, hobby, gift, book, card and art stores
 - (4) bakery, provided that goods are baked for sale on the premises only.\
 - (5) Funeral homes
 - (6) Day care center
 - (7) Township use
 - (8) Barber and beauty shops
 - (9) Tailor, dressmaking, shoe repair shops
 - (10) Jewelry, watch, clock, or optical goods repair
 - (11) Laundromat or dry cleaners
 - (12) Offices including but not limited to those of attorneys, architects, engineers, doctors, opticians, and similar health care professionals, excepting veterinarians.
 - (13) Bank, savings and loan or similar financial institutions.
 - (14) Real estate or insurance broker offices; offices of accountants.
2. Prohibited Use:
 - A. no residential use permitted in conjunction with one of the above uses.

3. Area and Bulk Standards

Minimum Lot Area	5,000 per store or office
Minimum Lot Width	100 feet
Minimum Frontage	50 feet
Minimum Front Yard Setback	5 feet
Minimum Side Yard Setback	25 feet minimum must be provided for each side
Minimum Rear Yard Setback	40 feet, when adjoining a resident district an additional 10 foot buffer planting strip must be included
Maximum Building Coverage	50 %
Maximum Impervious Coverage	70%
Maximum Height	35 feet
Minimum Distance Between Structures	30 feet; groups of attached structures may not exceed 100 feet.

- 4. Off-street parking and loading
- 5. Signs
- 6. Performance and Design Standards
- 7. General Regulations

SECTION 902 General Commercial Districts

The purpose of this section is to make provisions in appropriate locations for general business activities having a Township-wide or larger trading area.

1. Use Regulations

A. Primary uses permitted by right

- (1) retail store
- (2) office
- (3) bank, savings and loan, or similar financial institutions
- (4) artist or craft studio. No more than 1000 square feet
- (5) schools such as Martial Arts, Dance or similar
- (6) personal service shops
- (7) shop for the repair of jewelry, watches, home appliances, bicycles.
- (8) printing shops not exceeding 1000 square feet floor area
- (9) restaurants, taverns, and catering establishments
- (10) indoor theatre
- (11) business or trade school
- (12) funeral home
- (13) physical fitness and weight control salon
- (14) Gas service station providing only sale of gasoline and petroleum products and performing state inspection and related minor repairs (3 service bays or less); body work and painting of automobiles is prohibited/

- (15) hotels, motels, tourist homes
- (16) shopping centers
- (17) township use
- (18) commercial parking lot
- (19) car wash

B. Accessory uses permitted by right

- (1) storage and warehousing of goods and supplies associated with a primary use at the same location provided that said warehousing and storage shall be conducted entirely within an enclosed structure or screened in such a way that it is not visible from the exterior of the property.
- (2). accessory uses customarily incidental to any of the above permitted uses.

C. Uses permitted by special exception

- (1) office of a veterinarian, veterinary hospital, animal grooming establishment and animal boarding home.
- (2) new motor vehicle sales agency provided that repair, lubrication, painting and washing of vehicles shall be done within an enclosed structure.
- (3) Used car sales with sales office only. No repair facilities
- (4) lodge halls, club houses, and public or private auditoriums
- (5) drive-in banks, provided that stacking lines for five automobiles are provided for each teller window.
- (6) Similar uses of the same general character as those specifically permitted in C-1 Commercial Districts.

2. Area and Bulk Standards

Minimum Lot Area	10,000 square feet
Minimum Lot Width	80 feet
Minimum Frontage	80 feet
Minimum Front Yard Setback	5 feet
Minimum Side Yard Setback	10 feet minimum; aggregate of 35 feet; 25 feet if side yard includes a driveway
Minimum Rear Yard Setback	45 feet
Maximum Building Coverage	35%
Maximum Impervious Coverage	85%
Maximum Height	40 feet
Minimum Number of Off-street Parking Spaces	

3. Off-Street Parking and Loading

4. Signs

5. Performance and Design Standards

6. General Regulations

ARTICLE X: LI LIGHT INDUSTRIAL DISTRICTS

SECTION 1000 Specific Intent

It is the purpose of this District to make special provisions for office, research and light industrial development in appropriate areas of the Township. The Light Industrial District, classification is designed (1) to provide a compatible environment for non-nuisance, light industrial development which is free from offensive noise, vibration, smoke, dust, odor, glare, hazard or other objectionable effects and which is subject to special requirements relating to tract size, low lot coverage, building placement, landscaping and buffering, and (2) to strengthen and diversify the Township's property tax base. All uses must be in accordance with all Township, County, State and Federal requirements.

SECTION 1001 Use Regulations

1. Primary uses permitted by right.

In any Light Industrial District, land, buildings or premises shall be used by right only for one or more of the following, provided that such buildings or use does not create any substantial hazard or amount of noise, vibration, smoke, dust, odors, heat, glare, or other objectionable influence, and meets other requirements of this Ordinance.

- A. as permitted in Commercial Districts
- B. scientific or industrial research, testing or experimental laboratory or product development.
- C. an office building or offices of an administrative, executive, governmental or similar agency.
- D. repair, assembly, distribution and service of the following: home, commercial and industrial E electrical appliances, supplies and equipment. Manufacturing, repair assembly, distribution and service of the following: electrical appliances, supplies and equipment, electric instruments and devices, such as precision instruments and measuring control devices; medical, dental, drafting, and similar scientific and professional instruments; optical goods and equipment, clocks and watches; office machines and equipment; sporting goods, jewelry; cameras and photographic equipment other than film, musical instruments, toys and novelties.
- E. printing, publishing, book binding, engraving, lithographing, reproducing, photofinishing, film processing or similar establishment.
- F. Indoor storage building, warehouse, distribution centers, packaging and crating.
- G. township use
- H. monument establishment.
- I. cold storage plants, frozen food plants and lockers, and catering plants.
- J. cinema studios, radio and TV stations
- K. commercial laundry, laundry services, cleaning and dyeing plants.
- L. general service or contractor's shop, lumber, millwork, carpenter, cabinet making, furniture repair, light metal working, electrical, plumbing, roofing or similar shop.
- M. automobile repair shop, including auto body work and painting
- N. mail-order merchandise business
- O. manufacture, compounding, assembly, processing, and distribution of confections, candy, chewing gum and food products (excluding meat, fish), cosmetics, pharmaceuticals, ink, hat bodies, textiles and hosiery.
- P. manufacture, compounding, assembly, processing and distribution of products from the following previously prepared materials: sheet cellophane, polyethylene and similar material, canvas, cloth, rope, twine, glass, china, plastic, feathers, felt, fiber, fur, hair (excluding washing, curling and dyeing), leather, paper, cardboard, ceramics, textiles, wood (excepting chemical treatment or preservation. Rubber and synthetic processing).
- Q. commercial greenhouse, nursery, wholesale florist

- R. all industrial uses which are of the same general character as those enumerated above shall be permitted.
- S. crematorium.
- T. Wireless Telecommunication Towers and Antennae (see Article XV)

2. Adult Use Regulations

A. Purpose and Objectives. Because adult entertainment businesses tend to bring with them secondary concerns that impact the health, safety and general welfare of Darby Township, the Township desires to limit the location where such uses may locate to the LI-Light Industrial District and to enact provisions designed to minimize the impact of these secondary characteristics on the Township. The Township does not intend to suppress activities protected by the First Amendment of the United States Constitution but instead to address these secondary effects. Neither is it the intent of this 1201-2 to condone or legitimize the distribution of obscene material. The purpose of the provisions in 1201-2 is minimize these secondary effects which include difficulties for law enforcement, municipal maintenance, trash, declines in business and residential property values, increased crime, particularly corruption of the morals of minors and prostitution, and which encourage residents to move elsewhere. This Section includes permitting requirements for adult entertainment businesses. The Township of Darby has concluded that permitting requirements are a legitimate and reasonable means of accountability to ensure that operators of adult entertainment businesses comply with reasonable regulations and do not knowingly allow their establishments to be used for places of illegal sexual activity or solicitation.

B. Definitions.

- (1) Adult Bookstore, Adult Novelty Store or Adult Video Store – a commercial establishment in which not more than 15 percent of the sales floor area is occupied by materials devoted to:
 - (a) books, magazines, periodicals or other printed matter, photographs, motion pictures, video cassettes, slides or other visual representations which contain or depict material characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
 - (b) instruments, devices or paraphernalia designed to be used in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be characterized as an adult bookstore, adult novelty store or adult video store. Such other business purpose or inventory will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its business purposes and activities is the offering for sale or rental for consideration the materials characterized by the description or depiction of specified sexual activities or specified anatomical areas.

- (2) Adult Entertainment Business – any of the businesses enumerated in 1201-3.
- (3) Adult Motion Picture Theater – a motion picture theater where not more than 15% of the movies or other visual presentations depict or show specified sexual activities or specified anatomical areas.
- (4) Establishment – this term denotes the following:

- (a) the opening or commencement of any sexual oriented establishment as new business
 - (b) the conversion of an existing establishment, whether sexually oriented or not, to any sexually oriented business.
 - (c) the addition of any sexually oriented business to any other sexually oriented business.
 - (d) the relocation of any sexually oriented business.
- (5) Planted Visual Screen – a strip of trees or hedges adjacent to the boundary of a property which, at the time of planting, shall be not less than 6 feet high and of sufficient density to constitute an effective visual screen and thereby give visual protection to abutting properties. Such screen shall consist primarily of dense evergreens that shall be planted not farther than 7 feet from one another. Such screens shall be permanently maintained. Deciduous trees may be added to create interest and variety.
- (6) Specified Anatomical Areas – human genitals, pubic region, anus, buttocks, female breast(s) below a point immediately above the top of the areola or human male genitals in a discernibly turgid state, even if completely covered.
- (7) Specified Sexual Activities
- (a) the fondling or touching of human genitals, pubic region, buttocks, anus or female breasts.
 - (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy.
 - (c) excretory functions as part of or in connection with any of the activities set forth in (a) or (b) above.

4. Permitted Uses

The adult entertainment uses listed below shall be permitted only as a conditional use reviewed by the Board of Commissioners of Darby Township, subject to the applicable provisions of the Light Industrial District.

- A. Adult bookstore, adult novelty store and adult video store, provided that not more than 16% of the sales floor area shall be devoted to materials describing or depicting specified sexual activities or specified anatomical areas.
- B. Adult motion picture theater, provided that not more than 15% of all movies or other filmed productions shall be devoted to showing or depicting specified sexual activities or specified anatomical areas.

5. Special Development Regulations

A. All applicable provisions of Supplementary Regulations, shall be followed where they do not conflict with the provisions below.

B. Signs

- (1) all signs shall comply with the applicable provisions of the Sign Ordinance.
- (2) signs shall not depict or display any obscene words or graphics
- (3) the content of signs shall be limited to the name, address and listing or products or services that the adult entertainment business provides.
- (4) illumination of signs shall be directed at the sign only and shall not be placed so that it casts direct or excessive light on adjacent or nearby properties, streets or sidewalks.
- (5) Roof signs shall not be permitted on buildings devoted to adult entertainment uses.
- (6) not less than two "no loitering" signs shall be prominently displayed on the exterior of the adult entertainment business or at other conspicuous locations on the premises. Such signs shall have an area of not less than 2 and not more than 4 square feet.

C. Parking

- (1) adult entertainment uses shall provide one off street parking space for every 200 square feet of floor area. (See Section 1300)
- (2) Parking shall comply with all applicable provisions of Section 1300

D. Screening

- (1) there shall be a planted visual screen consisting of evergreen plantings, which shall be not less than 5 feet high at the time of planting.
- (2) the planted visual screen shall be placed inside the property line and shall constitute an effective visual barrier between the adult entertainment business and adjacent uses.

E. Refuse

- (1) all refuse shall be placed in covered, vermin proof containers
- (2) there shall be an opaque fence or planted screen to shield the refuse container from the principal use, adjacent and nearby uses and streets and sidewalks.

6. Area and Bulk Requirements

A. The front yard setback of an adult entertainment business shall be not less than 50 feet.

- B. Except for the front yard setback, all other dimensional regulations in Light Industrial District shall apply to adult entertainment businesses.

7. Permit Process, Licensing, Revocation

The Building Official, upon submission of an application to the Township, shall present the applicant with a building permit for an adult entertainment business as follows:

- A. in the Light Industrial District, a permit shall be issued only if the applicant is successful in obtaining conditional use approval for the proposed type of adult entertainment, use, the application meets all health use and occupancy and or building permits as required in the pertinent ordinances and their amendments and the location of said use is in the LI district.
- B. the application for a permit to operate an adult entertainment business must be made on a form provided by the Building Official of the Township. The application must be accompanied by a sketch or diagram showing the configuration of the premises occupied by the business. The sketch or diagram need not be professionally prepared but a least be drawn to a designated scale or drawn with marked dimensions on the interior and exterior of the premises to an accuracy of plus or minus 6 inches.
- C. The applicant must be qualified according to the provisions of this Section, and the premises must be inspected and found to be in compliance with all applicable ordinances by the Building Official, Fire Chief and the police.
- D. if a person wishes to operate an adult entertainment business as an individual, he/she must sign the application for a permit as an applicant. If a person who wishes to operate such business is other than an individual, each individual who has a 10% or greater interest in the business must sign the application for a permit as an applicant. If a corporation is listed as owner of an adult entertainment business or as the entity that wishes to operate such business, each individual having a direct or indirect interest of 10% or greater in the corporation must sign the application for permit as an applicant.
- E. the fact that a person possesses other types of Township permit(s) does not exempt the person from the requirement of obtaining an adult entertainment business permit.
- F. The Building Official shall approve the issuance of a permit to an applicant within 30 days after the Board of Commissioners awards the applicant a conditional use permit, but the Building Official will not approve a permit if he finds one or more of the following to be true:
 - (1) applicant is under 18 years of age
 - (2) applicant or applicant's spouse is overdue on his or her Township taxes, fees, fines or penalties assessed against him or her in relation to the operation of an adult entertainment business.
 - (3) Applicant has failed to provide information required in this Section and reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
 - (4) The permit fee required in this Section has not been paid or the permit fees for health, use, occupancy and/or building permits have not be satisfied.
 - (5) applicant for the proposed use is in violation of or is not in compliance with any provision of Article X.

- G. The permit, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the adult entertainment business. The permit shall be posted in a conspicuous place at or near the entrance of the business so that it can be read at any time.
- H. The permit, if granted, shall have an effective duration of 1 year from the date of issuance. At that time, the applicant must file another application before the expiration of the permit in order to continue doing business without interruption. Application for renewal must be made at least 30 days before the expiration date. When an application is made less than 30 days before the expiration date, the pendency of the application will not prevent the expiration of the permit. All the regulations of this Section must be complied with as if a new permit is being issued.
- I. The Building Official, Fire Chief, and the police shall complete their certification that the premises is in compliance or not in compliance within 30 days of receipt of the application by the Building Official.
- J. If the Building Official denies a renewal of a permit, the applicant shall not be issued a permit for 1 year from the date of such denial, except that after 90 days of lapse since the date of denial, the applicant may be granted a permit if the Building Official finds that the basis for denial of the renewal permit has been corrected or abated.

8. Inspection

An applicant or permittee shall permit a representative of the police, Fire Chief, Building Official or other Township departments or agencies to inspect the premises of an adult entertainment business for the purpose of ensuring compliance with this Section or other applicable laws at any time the adult entertainment business is open for business. These departments/agencies shall certify, in writing, whether the business is in compliance.

9. Fees

The annual fee for an adult entertainment business is \$1,000.

10. Suspension of Permit

The Building Official shall suspend a permit for a period not to exceed 30 days if he or she determines that a permittee or an employee of the permittee has:

- A. violated or is not in compliance with any provision of this Section or the Zoning Ordinance.
- B. Engaged in excessive use of alcoholic beverages while on the premises of the adult entertainment business.
- C. Refused to allow an inspection of the adult entertainment business as authorized by this Section.

11. Revocation of Permit

- A. The Building Official shall revoke a permit if a cause of suspension set forth in subsection (10) above has occurred and the permit has been suspended within the preceding 12 months.
- B. The Building Official shall also have the power to revoke a permit if he determines that:
 - (1) A permittee or any of the persons specified has given false or misleading information or materials to the Township during the application process.
 - (2) A permittee or employee has knowingly allowed prostitution on the premises, as defined by the Pennsylvania Crime Codes
 - (3) A permittee or employee of the permittee knowingly operated the adult entertainment business during a period of time when the permittee's permit was suspended or revoked.
 - (4) A permittee or employee of the permittee knowingly allowed any action of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur on the permitted premises.
 - (5) A permittee is delinquent in the payment of Township or State taxes or fees.
- C. When the Building Official revokes the permit, the revocation shall continue for 1 year and the permittee shall not be issued an adult entertainment business permit for 1 year from the date that the revocation became effective. If subsequent to the revocation, the Building Official determines that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the date the revocation became effective.
- D. After denial of an application or denial of a renewal of an application or suspension or revocation of a permit, the applicant, licensee or permittee may seek prompt judicial review of such administrative action in any court of competent jurisdiction.

12. Transfer of Permit

A permittee shall not transfer his permit to another person or business entity nor shall a permittee operate an adult entertainment business under the authority of a permit at any place other than the address designated within the application.

13. Injunction

A person who operates or causes to be operated an adult entertainment business without a valid permit or in violation of this Section is subject to an action in equity or a suit for injunction, as well as citations for violations of the Zoning Ordinance.

14. Violations and Penalties

For any and every violation of this Section, the permittee, owner, tenant, general agent, managing company, realtor or contractor of a building or premises where such violation has been committed or shall exist, and lessee or tenant of any building or premises in which such violation has been committed or shall exist, and the owner, permittee, general agent of contractor, lessee or tenant of a building or premises in which part such violation has been committed or shall exist, and the owner, permittee, lessee, general agent, architect, builder, realtor, contractor or any other person who knowingly commits, takes part, or assists in any such violation or maintains any building or premises in which any such violation shall exist shall be liable on conviction of a fine or penalty no exceeding \$600. such fine shall be paid to the Township of Darby. In default of payment thereof, the district justice may, at his discretion, commit the offender to prison in the County jail for a period not exceeding 30 days for each and every offense. Whenever such person shall have been officially

notified by the Township of Darby or by service of a summons in a prosecution or in any other official manner that he is committing a violation, each day's continuance of such violation shall constitute a separate offense punishable by like fine or penalty.

15. Accessory uses permitted by right.

- A. Accessory uses on the same lot with and customarily incidental to any of the uses permitted in the district, including signs, off-street parking facilities, living quarters for watchmen, and restaurant or cafeteria facility for employees and occupants of the permitted use, subject, however, to such safeguards as are necessary to insure that any such use shall comply with the requirements of Section XX and shall not be detrimental to the surrounding area.

16. Uses permitted by Special Exception

- A. the storage of flammable material refined or processed at another location.
- B. any use of the same general character as any of the uses herein-before specifically permitted above, when authorized as a Special Exception by the Zoning Hearing Board.

17. Prohibited Uses

- A. No residential dwellings are permitted in the light industrial districts.

18. Area and Bulk Standards

The following regulations shall be observed with regard to individual tracts or parcels within the LI-Light Industrial District:

Minimum Lot Area	½ acre
Minimum Lot Width	100 feet
Minimum Frontage	35 feet
Minimum Front Yard Setback	20 feet
Minimum Side Yard Setback	20 feet each yard
Minimum Rear Yard Setback	25 feet
Maximum Building Coverage	40 %
Maximum Impervious Coverage	70%
Maximum Height	35 feet

19. Occupancy permit

When an approval or a permit is required from a State or Federal Agency then such approval or permit (or a certified copy of same) shall be filed with the Township before the issuance of an Occupancy permit.

20. Sewerage

The applicant shall provide the Township with a D.E.P. permit or other proof acceptable to the Township that the waste products of the light industrial use will be acceptable for introduction into the municipal sanitary sewer system.

ARTICLE XI: REC RECREATION DISTRICTS

SECTION 1100 Recreation Districts

Recreation Districts are other than municipal use, which are owned and operated by private clubs and provide recreation for families of its members, for indoor and outdoor athletic games and outdoor swimming.

There are only two (2) Recreation District sites which are adjacent to each other. Expansion for other facilities or creation of new recreation facilities is permitted by special exception only.

ARTICLE XII: M MUNICIPAL DISTRICTS

SECTION 1200 Municipal Districts

Municipal uses include, but are not limited to, recreation parks and playgrounds, administration buildings, libraries, community centers, senior citizen centers, and highway and maintenance buildings and grounds.

Municipal uses are permitted in all zoning districts by right.

ARTICLE XIII: OFF-STREET PARKING AND LOADING REQUIREMENTS

SECTION 1300 Off-Street Parking

1. General regulations

- A. Off-street parking spaces, as herein defined, shall be provided for every building or other structure erected, altered, converted or used, and for every lot used or occupied after the effective date of the Ordinance.
- B. Off-street parking spaces existing at the effective date of this Ordinance shall not hereinafter be reduced to an amount less than that required under this Ordinance.
- C. Provision for adequate access to required off-street parking spaces shall be made. At the minimum, this will include aisles of 24 foot wide. Parking spaces and traffic flow directions shall be clearly marked.
- D. The minimum requirements for each parking space shall be as follows:
 - (1). Area – 180 square feet
 - (2) Width – 9 feet for angle or perpendicular parking
 - (3) Length – 18 feet for angle or perpendicular parking and 22 feet for parallel parking.
 - (4) All parking spaces must have hard surfaces

2. Parking in front yard areas

In any residence, it is prohibited to park, store or have standing any passenger motor vehicle, commercial motor vehicle, bus, trailer, boat, motorcycle, motor scooter or other similar type means of conveyance in the front yard. In all residential districts all required off-street parking must be behind the building line.

3. Off-street parking standards

The following standards shall be applied for all uses hereinafter established, either on original construction or by conversion, in Darby Township. If the computation results in a fraction, a parking space shall be required for each fractional amount. Net floor area shall be taken to mean all usable floor space, including all areas occupied by equipment or furnishings, but not including corridors, toilet rooms, and such other accessory rooms as may be provided.

- A automobile repair, body and fender shop, more than 3 bays – 5 spaces per bay plus one and one-half space per bay for employee parking.
- B automobile service station, 3 bays or less – 5 spaces for each bay, 5 spaces for employees
- C bowling alley – 8 spaces per lane
- D Church, theaters, auditorium, meeting place all purpose room – 1 space for every three (3) fixed seats or one space for each 30 square feet devoted to assembly purposes. A church which has an assembly or recreational building or hall in addition to the church must provide off-street parking for either the hall or the church which ever is largest. Bleachers, pews or benches without arms between seats will be computed on the basis of one person for every 18 inches in length of the bleachers, pews or bench.
- E Day Care Center – 1 space per staff member
- F Funeral Home – 1 space for each 10 square feet of viewing room

- G Hospital, nursing home – 3 spaces for each bed plus 1 space for each 400 square feet of floor area devoted to out-patient services. Parking required for medical offices, auditoriums or other accessory uses as required.
- H Hotel, motel, tourist home, and boarding house – 1 space for each rental room, plus one space for each 5 rooms for employee parking.
- I Medical or dental office – 1 space for each 120 square feet of net area.
- J Multi-family dwelling units including retirement homes –
 - Apartment with 2 or more bedrooms – 2 spaces per dwelling unit
 - Apartment with 1 bedroom – 1 ½ spaces per dwelling unit
 - Efficiency Apartment – 1 space per dwelling unit
- K Nursing or Convalescent homes – 2 spaces per patient bed
- L Office of bank, excepting medical or dental office – 1 space for each 300 square feet or net floor area.
- M One and two-family dwellings – 2 spaces per dwelling unit.
- N Recreation Facilities:
 - (1) Tennis Courts - 4 spaces per court
 - (2) Outdoor swimming pool – 1 space for every 300 square feet pool area
 - (3) Indoor swimming pool – 1 space for every 150 square feet pool area
 - (4) Skating rink, roller or ice – 1 space for every 300 square feet of rink area.
- O Restaurant or tavern – 1 space for each 100 square feet of net floor area plus 1 space for each 250 square feet of net floor area for non customer parking.
- P Retail store, including shopping centers – 1 space for each 150 square feet of net floor area
- Q Retirement Home -1 ½ spaces per living unit
- R. School, college or trade – 12 spaces for each classroom
- S School; middle, elementary or nursery – 3 spaces for each classroom
- T School, secondary – 10 spaces for each classroom
- U Veterinarian Hospital or Office – 1 space for each 10 square feet of waiting room area
- V Wholesale establishment; warehouse or industrial building – 1 space for every 300 square feet of net floor area
- W All other uses – 1 space for each 100 square feet of net floor area

SECTION 1301 Off-Street Loading

Off street loading spaces as defined herein shall be provided for all commercial, office and retail uses, and manufacturing and industrial uses or structures. A minimum of one such space shall be provided for all uses except wholesale establishments and light industrial establishments in which case one such space shall be required for every 10,000 square feet of gross floor area. Loading areas shall not intrude onto sidewalks nor interfere with traffic and not extend into the right of way. Truck backing onto street is prohibited.

ARTICLE XIV: SIGNS

SECTION 1400 Signs

SECTION 1401 Purposes

The purposes of this Article are to regulate the type and dimensions of signs in the various zoning districts of Darby Township, to recognize the commercial communication requirements of all sectors of the business community, to protect the public from damage or injury caused or attributable to distractions and obstructions caused by improperly designed or located signs, to safeguard property values and to assure that signs are consistent and harmonious in relation to the buildings and areas where they are placed.

SECTION 1402 Scope and Applicability

1. Any sign hereafter erected shall conform with the provisions of this Article and any other ordinance or regulations of the Township relating thereto. Any sign not specifically authorized by the provisions of this Article shall not be erected in the Township.
2. It shall be unlawful for any person, firm, corporation or individual to erect signs listed in Section 1706 without first obtaining a permit from the Township, except for those signs listed specifically in Section 1705.
3. No sign shall hereafter be erected or attached to, suspended from or supported on a building or structure, and no display sign shall hereafter be altered, rebuilt, enlarged, extended or relocated until a permit for the same has been obtained, except those listed specifically hereafter in Section 1705.
4. Applications for such permits shall be made in writing to the Township in accordance with Section 1706 and shall present full particulars as to size, shape, material, supports, location and height above the sidewalk or ground, together with the written consent of the owner of the property on which the sign is to be located. All applications shall be accompanied by a plan drawn to scale, showing the sign, its size and its location with respect to the building and to the boundaries of the lot upon which it is situated.
5. **Nonconforming Signs**
Signs and their respective illumination existing at the time of the passage of this Ordinance and which do not conform to the requirements of this Article shall be considered nonconforming signs and once discontinued for sixty (60) days, or damaged more than fifty (50) percent of their market value, or removed for any reason, shall be replaced with conforming signs. Nonconforming signs may be painted, repaired (including lighting) and altered in their wording provided such modifications do not exceed the dimensions of the existing signs.
6. **Abandoned signs**
No person shall maintain or permit to be maintained on any premises owned or controlled by him, a sign which has been abandoned. An abandoned sign for the purpose of this Article is a sign erected on and/or related to the use of a property which becomes vacant and unoccupied for a period of sixty (60) days or more; or any sign which was erected for a prior occupant or business; or any sign which relates to a time, event or purpose which is past. Any such abandoned sign shall be removed by the landowner or person controlling the property within ten (10) days of the abandonment as described above.

7. The Building Inspector is hereby authorized and empowered to revoke any permit issued by the Township, upon failure of the holder thereof to comply with any provision of this Article.
8. The provisions of this Article shall not apply where signage is erected and maintained by the Township for Township purposes, provided that all other required governmental permits are obtained by the Township prior to such Township use.

SECTION 1403 Determination of Size of Signs

1. The size of any sign shall be determined in accordance with the provisions of this Article and the following:
 - A. When a sign consists of letters, numbers and/or logos and not a lettered board and such sign is erected on or attached to a building wall or other similar surface, the size of such sign shall be measured by the geometric shape formed by the extreme outside edge of the largest letters, numbers or logos contained in the sign.
 - B. When a sign consists of a lettered board and such sign is erected on or attached to a building wall or other similar surface, the size of such sign shall be determined by calculating the area of the lettered board.
 - C. When a sign is a freestanding sign or ground sign, the size of such free-standing sign shall be determined by calculating the area of the lettered board or the area of the combination of letters, numbers and/or logos without a lettered board, as the case may be.

SECTION 1404 Sign Restrictions and Standards

1. Prohibited Signs

It is unlawful to erect or maintain the following signs:

- A. Flashing, blinking, twinkling, spinning, animated, inflatable, aerial, crane signs or lighted moving signs including automatic color changing and rotating lamps and other moving objects that call attention to the sign.
- B. Advertising cloth or paper banner or signs of any similar character suspended or hung on any property, except for temporary banners which may be permitted through special permission of the Township to be determined by the Board of Supervisors.
- C. Wall bulletins or any other signs painted directly on the facade of a building or other structure.
- D. Curb or sidewalk signs or signs painted, attached or suspended from any outdoor bench, chair or other structure.
- E. Swinging and hanging signs.
- F. Signs, letters, posters and advertisements which are tacked, pasted, tied or otherwise affixed to poles, posts, buildings, fences or other structures located on public property or within public right-of-way in the Darby Township.

G. No sign shall be temporarily or permanently placed, erected, attached or painted on any vehicle if such sign identifies, advertises or gives information with respect to a premises or a part thereof, or any sale or special event of other circumstances.

A sign is permitted on a vehicle when:

- (1) such sign is required by law;
- (2) such sign is in transit from one location to another, for permanent installation, for a time not to exceed three (3) days;
- (3) the sign which is permanently painted or affixed to a vehicle and is incidental to the use of a currently licensed vehicle when that use is a means of transportation; or
- (4) the vehicle, capable of sheltering a use or occupancy, is used as a construction shed or is located as prescribed for buildings in the zoning provision regulating the premises and is used and occupied for a purpose permitted by the zoning regulation. In such a case, the sign shall otherwise comply with this Article.

H. Signs placed, inscribed or supported upon the roof line or any structure which extends above the roof line of any building.

I. Signs indicating the location and direction of premises in the process of development.

2. Projecting Signs Prohibited

No new projecting signs shall be erected after the date of enactment of this Ordinance. Projecting signs in existence at the enactment of this Ordinance shall be considered nonconforming signs and shall be allowed to continue, however, such signs shall be removed after five (5) years from enactment of this Ordinance, as noted in Section 1709 2c or this Article.

3. Unsafe and Unlawful Signs

If the Building Inspector shall find that any sign or other advertising structure regulated herein is unsafe or insecure or is a menace to the public or has been constructed or erected or is being maintained in violation of the provisions of this Ordinance, he shall give written notice thereof to the permittee. If the permittee fails to remove or alter the structure so as to comply with the standards set forth herein within ten (10) days after such notice, such sign or other advertising structure may be removed or altered to comply by the Building Inspector at the expense of the permittee or owner of the property upon which it is located. The Building Inspector shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The Building Inspector may cause any sign or other advertising structure which is immediate peril to persons or property to be removed summarily and without notice.

4. Inspections

The Building Inspector shall cause a routine inspection of all signs in the Township to be made at least once every two years and at any other time when he deems such inspection necessary. He shall report to the Board of Supervisors all unsafe signs, all signs failing in any respect to conform to the requirements of this Article and all signs not licensed by the Township.

5. General Restrictions and Standards

The following restrictions shall apply to all permitted signs:

- A. No sign shall be located, arranged or placed in a position where it will cause danger to traffic or will interfere with traffic through glare; blocking of required sight lines for streets, sidewalks or driveways; confusion with a traffic control device by reason of color, location, shape or other characteristics; or through any other means.

- B. All signs constructed or erected under the provisions of this Article shall comply with the standards set forth in the latest applicable BOCA Code.
- C. No sign shall be erected within the right-of-way lines of any public street, nor shall any such sign be closer than five (5) feet to the right-of-way line of a public street, unless specifically authorized by other ordinances and regulations of Darby Township or other governmental bodies or agencies having jurisdiction or regulatory authority in the matter.
- D. No sign shall be designed or lighted in such a manner or placed in such a position or location that it will cause danger to traffic on a street by obstructing or hindering the view.
- E. No sign shall be designed or lighted in such a manner or placed in such a position or location where it will present an unreasonable risk of injury to persons or damage to property.
- F. All external illuminated signs shall be turned off not later than one-half (½) hour after closing of the business or entity which they identify or advertise.
- G. No illuminated sign shall be lighted on days when the business or permitted use is not open for business.
- H. Every sign must be constructed of durable materials and shall be solidly and firmly attached, supported and/or anchored to the supports or framework.
- I. Every sign must be kept in good condition and repair. Any sign which is allowed to become dilapidated shall be removed by and at the expense of the landowner or lessee of the property on which it is located.

6 Double-Faced Signs

- A. A sign may be double-faced providing it has two (2) parallel surfaces that are directly opposite and matching in size and shape and are not over twenty-four (24) inches apart. Should the two (2) surfaces deviate from being parallel, the sign shall be considered as two (2) signs.
- B. Should the faces of a double-faced sign be parallel, the sign shall be considered as one (1) sign and only one (1) face shall be used to calculate the total size of the sign.
- C. Each face of a double-faced sign shall be equal in size. Should the faces of a double-faced sign differ in size, then the area of both faces shall be used to calculate the size of the sign.

7 Multi-Faced Signs

A freestanding sign may be multi-faced beyond two (2) faces provided that:

- A. The combined area of all of the sign faces is no more than fifty (50) percent greater than the combined area of both faces of a permitted double-faced sign in that district.
- B. No plane or planes of any multi-face signs shall be open.
- C. All sign faces shall be of the same dimensions.

8 Freestanding Signs

- A. The bottom or lowest edge of any freestanding sign shall be no closer to the ground than seven (7) feet. At least five (5) feet of the upper portion of the seven (7) foot space shall be open and unobstructed. No more than two (2) feet above the ground level can be devoted to and maintained for flowers, ground covers and low spreading shrubs. If such plantings are installed, they shall be maintained at the maximum height of two (2) feet and shall be free of weeds, debris and other undesirable material.
- B. All single post freestanding signs shall be made of metal, except for those used in residential districts which may be made of pressure treated timbers. All such posts shall be embedded in the ground at least three (3) feet six (6) inches unless otherwise so directed by the Zoning Officer.
- C. Freestanding signs will be permitted in residential areas only when set back a minimum distance of ten (10) feet from the street line.
- D. Freestanding signs shall be illuminated only by concealed or indirect lighting attached to the sign itself.

9. Ground Signs

- A. The top edge of a ground sign shall be a maximum of five (5) feet above ground level and shall have an area of not more than thirty-six (36) square feet.
- B. Ground signs shall be supported and permanently placed by embedding, anchoring or connecting the sign in such a manner as to incorporate it into the landscape or architectural design scheme.
- C. Illumination. See subsection 8d above relating to freestanding signs.

10. Each sign shall be removed within ten (10) days of the time when the circumstances leading to its erection no longer apply, or as provided otherwise herein.

11. All sign provisions of this Article shall apply to smoke stacks, water towers, silos and other similar structures.

SECTION 1405 Signs for Which a Permit is Not Required (Exempt Signs)

The following signs, exactly as described below, are exempt from the need to secure a permit and are allowed within all zoning districts of the Township but are subject to the provisions of Sections 1702 and 1703.

1. Real Estate Signs

Signs advertising the sale or rental of the premises or lot upon which they are erected, provided that:

- A. No more than one (1) such sign shall be erected for any premises or lot held in single and separate ownership, unless such premises fronts on more than one (1) street, in which case one (1) such sign may be erected on each street frontage.
- B. No such sign shall be illuminated.

- C. All such signs must be removed on or before the date of settlement.
 - D. All real estate signs which do not exceed six (6) square feet do not require a permit.
 - E. All real estate signs from six (6) square feet to twenty (20) square feet do require a permit pursuant to this Article.
 - F. No signs which direct traffic to real estate that is for sale or rent can be placed on another property.
 - G. Directional real estate signs pertaining to Open Houses may be placed one-half hour prior to the Open House and must be removed one-half hour after the Open House.
2. Decorations for a recognized officially designated holiday provided they do not create a traffic or fire hazard.
 3. Official and governmental signs which shall include safety signs, trespassing signs, signs indicating scenic or historical points of interest and traffic signs.
 4. Signs designated the name of the owner or occupant of a property, the address of such property, the private ownership or roadways or other property provided:
 - A. Such sign is not in excess of two (2) square foot in area.
 - B. Not more than one (1) such sign is erected for each use.
 5. Temporary yard sale or garage sale signs, provided signs:
 - A. Do not exceed two (2) square feet in area.
 - B. Shall be removed within twenty-four (24) hours after said sale.
 6. Temporary signs announcing a public, educational, charitable, civic, or religious event provided:
 - A. Such sign may be erected for a period not to exceed thirty (30) days nor more than three (3) times in any calendar year.
 - B. Such sign shall not exceed eight (8) square feet.
 - C. Such sign shall not be placed in such a position that it will cause danger to traffic on a street by obscuring the view.
 - D. Such sign shall be no closer than five (5) feet to the right-of-way line of a public street, unless specifically approved by the Township Zoning Officer.
 - E. All temporary signs shall be removed within 24 hours after the event.
 7. Window Signs

Such signs shall be used to serve as an accessory sign to the sign associated with the principal use.

- A. Window signs shall be permitted in the commercial district and where nonconforming commercial uses occur in other districts.
 - B. The total area of window signs shall not exceed twenty-five (25) percent of the total glass area of the window in which it is placed.
8. Official Traffic Signs
9. Trespassing signs or signs indicating the private nature of a driveway or premises, provided that the size of any such sign shall not exceed two (2) square feet.
10. Signs of contractors, mechanics and artisans, provided that:
- A. Such signs shall be erected only on the premises or lot where such work is being performed.
 - B. The size of any such sign shall not exceed twelve (12) square feet.
 - C. No such sign shall be illuminated except that all signs for detours may be illuminated and flashing amber.
 - D. Such signs shall be removed promptly upon completion of the work by the contractor, mechanic or artisan.
11. Signs advertising sale of farm products grown on the premises, provided that:
- A. The size of any such sign shall not exceed six (6) square feet.
 - B. Not more than one (1) such sign shall be erected on the premises, unless such premises fronts on more than one (1) street, in which case one (1) such sign may be erected on each street frontage.
 - C. No such sign shall be illuminated.
 - D. Such sign shall be displayed only when farm products are on sale.
12. Informational signs such as "entrance," "exit," "no parking," "visitors parking," "no hunting," "no trespassing," "keep off the grass," and the like, on the same lot as the use to which the sign relates or the prohibition of the use to which the sign relates, provided that:
- A. The area of said sign shall not exceed two (2) square feet in area.
 - B. Such sign shall not contain any advertising.

SECTION 1406 Signs for Which a Permit is Required

The following signs are permitted, provided a sign permit has been obtained for such sign.

1. Temporary Signs Advertising Political Parties or Candidates for Election
- A. The size of any such sign is not in excess of four (4) square feet.
 - B. The erector of such signs or an authorized agent of the political party or candidate applies for and obtains a permit for the Township Zoning Officer and deposits with the Township at the time of his application, the sum of twenty-five (\$25) dollars per each one hundred (100) such

signs, or fraction thereof, as a guarantee that all such signs will be removed promptly within twenty (20) days after the date of the election to which such signs relate. If such signs are not removed at the end of thirty (30) days, the Township shall have them removed and keep the full sum deposited to reimburse the expenses incurred by it and for the general township purposes.

2. Signs in Residential and Similar Districts

The following types of signs and no others shall be permitted in R-1, R-3, Apartment, Townhouse, Mobile Home and Planned Residential Development Districts.

A. Professional, accessory use or name signs indicating the name, profession or activity of the occupant of a dwelling, provided that:

- (1) the size of any such sign shall not exceed two (2) square feet.
- (2) not more than one (1) such sign shall be erected for each permitted use or dwelling.
- (3) no such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.

B. Identification signs for apartment complexes, schools, colleges, churches, hospitals, and other permitted uses other than dwellings, provided that:

- (1) the size of any such signs shall not exceed twenty (20) square feet.
- (2) not more than one (1) such sign shall be erected on the premises.
- (3) no such sign shall be illuminated except by lighting, concealed or indirect, attached to the sign itself.

C. Signs advertising the development of the premises upon which they are erected, provided that:

- (1) the size of any such sign shall not exceed twenty (20) square feet.
- (2) not more than one (1) such sign shall be erected on the premises or lot unless such premises fronts on more than one (1) street, in which case one (1) such sign may be erected on each street frontage.
- (3) no such sign shall be illuminated.
- (4) all such temporary signs shall be removed upon settlement of all lots on the premises in all approved phases of the development.
- (5) permanent signs designating the name of a development shall be limited to thirty-two (32) square feet, may be double-faced and are limited to one (1) such sign at each entrance to the development.

3. Signs in Nonresidential Districts

A. General Provisions

The following types of signs shall be permitted in the Commercial and Industrial Districts.

- (1) any sign permitted in a residential district.

(2) real estate signs advertising the sale or rental of the premises upon which they are erected, provided that:

- a. Not more than one (1) such sign shall be erected for any premises held in single and separate ownership, unless such premises fronts on more than one (1) street, in which case one (1) such sign may be erected on each street frontage.
- b. The size of any such signs shall not exceed thirty-two (32) square feet
- c. No such sign shall be illuminated.
- d. All such signs shall be removed not later than on the date of settlement.

B. Freestanding Signs

Except where specifically noted otherwise, not more than one (1) freestanding sign shall be erected for each building or group of buildings. However, one (1) additional freestanding sign may be erected in the case of a property with more than one street frontage.

(1) the height of freestanding signs shall not exceed the following:

- a. Commercial Districts - twenty-five (25) feet.
- b. Limited Industrial Districts - thirty-five (35) feet.

(2) Size of Freestanding Signs

a. Commercial Districts

- one sign with a maximum of fifty (50) square feet is permitted for a detached building or buildings with nine (9) or fewer attached establishments.
- one sign with a maximum of sixty (60) square feet is permitted for two (2) or more detached buildings in single ownership or buildings with ten (10) or more attached establishments.

b. Limited Industrial District

- one (1) freestanding sign listing all establishments in a development shall be erected at the main roadway and one (1) such sign in the interior of the development.
- the size of the roadway sign shall not exceed seventy (70) square feet while that in the interior of the development shall not exceed fifty (50) square feet.

C. Freestanding Signs at Drive-through Restaurants

A restaurant with drive-through service may erect one (1) additional freestanding sign which shall be a menu sign, provided that such sign shall not exceed twenty-five (25) square feet.

D. Temporary Mobile Signs

Signs on mobile stands which can be moved from place to place and thereby not permanently affixed to the ground and other portable signs, be they freestanding, on the ground or temporarily attached to a building or other support. Said signs shall require a permit and a permit fee of twenty-five (25) dollars. Such temporary signs may be erected for a period not to exceed thirty (30) days nor more than three (3) times in any calendar year. Only one (1) sign per business shall be permitted.

E. Wall Signs

(1) not more than one (1) wall sign shall be permitted for every establishment with direct access to a parking area, except that establishments on corner properties may erect one (1) additional wall sign.

(2) Size of Wall Signs

a. Detached buildings in Commercial District - twenty-five (25) square feet.

b. Limited Industrial District - forty (40) square feet.

(3) Establishments with no direct access to parking area (establishments in interior of building) shall be permitted one (1) wall sign which shall be no larger than six (6) square feet.

(4) Establishments on second or upper floors shall be permitted one (1) wall sign, the size of which shall not exceed ten (10) square feet.

F. Awning Signs

Awning signs shall conform to the dimensional regulations relating to wall signs in subsection e above.

SECTION 1407 Billboards

1. Billboards shall be permitted only in the C2 District.

2. No billboard shall be erected within one-thousand (1,000) feet of another billboard.

3. Size

The maximum size of billboards shall be as follows:

A. One hundred (100) square feet by right.

B. Two hundred (200) square feet by special exception.

4. The minimum distance from a street right-of-way shall be thirty-five (35) feet.

5. The maximum height of billboards shall be thirty-five (35) feet.

6. No billboard shall be placed within the sight triangle as defined in the Township's Subdivision and Land Development Ordinance.

SECTION 1408 Permits

1. Except as otherwise provided in Section 1705, no sign shall be erected in the Township until a permit therefore has been obtained in the following manner:
 - A. An application in writing shall be made to the Township's Zoning Officer by the person desiring the permit.
 - B. The application submitted to the Township's Zoning Officer shall give full particulars regarding the size, shape, material and supports of the sign as well as a sketch or sketches showing the location of the sign on the building or lot, the distance from the curb line and the height of the sign. The application shall be sufficiently specific to enable the Zoning Officer to determine if the sign complies with the Township's zoning ordinance as well as any other ordinance or regulation of the Township relating thereto. Such application shall be accompanied by a fee as the Township Supervisors may establish.
 - C. If the person submitting the application is not the owner of the property upon which the sign is to be erected, the written consent of the owner of the property on which the sign is to be erected shall accompany the application.
2. Except as otherwise provided in Section 1709, whenever any sign is replaced by another sign, enlarged in any manner or altered, dismantled, damaged or otherwise destroyed to the extent of more than fifty (50) percent of its value, a permit shall be required as provided in paragraph 1 above before the sign is replaced, enlarged, altered or repaired.

SECTION 1409 Nonconforming Signs

1. Signs which are nonconforming and signs which identify nonconforming uses shall be permitted in accordance with the following regulations, except as otherwise provided in this Ordinance.
 - A. A sign which is nonconforming at the effective date of this Ordinance may remain, but the size of any such nonconforming sign may not be enlarged.
 - B. A nonconforming sign may be changed to or replaced by another nonconforming sign, when authorized as a special exception by the Zoning Hearing Board.
 - C. A nonconforming sign which has been damaged, or otherwise destroyed to the extent of more than fifty (50) percent of its value, shall be repaired or rebuilt only as a conforming sign, unless the Zoning Hearing Board grants a special exception to allow the sign to be repaired or rebuilt as a nonconforming sign.
 - D. If a nonconforming use of a building ceases or is discontinued for a continuous period of one (1) year or more and such nonconforming use is deemed to be abandoned by virtue of the applicable provisions of other ordinances and regulations of the Township of Darby, any nonconforming sign on the premises shall also be considered abandoned and any subsequent signs erected or maintained on the premises shall be in conformity with the provisions of this Article.

2. Amortization

The signs listed below shall be removed or otherwise brought into conformity with the provisions of this Ordinance in accordance with the following schedule.

- A. Temporary, sidewalk, sandwich or "A" frame signs, movable freestanding signs, banners, pennants and similar types of signs shall be abated, removed or brought into compliance within ninety (90) days after enactment of this Ordinance.
- B. Signs painted on buildings, walks, fences or benches shall be removed, abated or brought into compliance within two (2) years after enactment of this Ordinance.
- C. All other nonconforming signs shall be abated, removed or brought into compliance within five (5) years after enactment of this Ordinance.

SECTION 1410 Causes of Action

If any sign is in violation of this Article, the Township or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute an appropriate action or proceeding to prevent, restrain, correct or abate such violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Township. No such action may be maintained until such notice has been given.

SECTION 1411 Jurisdiction

District justices shall have initial jurisdiction over proceedings brought under Article X-A of the Pennsylvania Municipalities Planning Code as amended.

SECTION 1412 Enforcement Remedies

- 1. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than six hundred (600) dollars plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Zoning Ordinance shall be paid to the Township.
- 2. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- 3. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.

ARTICLE XV WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

SECTION 1500 Purpose

The purpose of this Section is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this Part are to:

- A. Protect residential areas and land uses from potential adverse impacts of towers and antennas.
- B. Encourage the location of towers in non-residential areas.
- C. Minimize the total number of towers throughout the community.
- D. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
- E. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
- F. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape, screening and innovating camouflaging techniques.
- G. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.
- H. Consider the public health and safety of communication towers.
- I. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

In furtherance of these goals, the Township of Darby shall give due consideration to the Township's comprehensive plan, zoning map, existing land uses and environmentally sensitive areas in approving sites for the location of towers and antennas.

SECTION 1501 Definitions

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

ALTERNATIVE TOWER STRUCTURES – man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

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

BACKHAUL NETWORK – the lines that connect a provider’s towers/cell sites to one (1) or more cellular telephone switching offices and/or long distance providers or the public switched telephone network.

FAA – The Federal Aviation Administration.

FCC – The Federal Communications Commission.

HEIGHT – when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the case pad and any antenna.

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

TOWER – any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes including self-supporting lattice towers, guyed towers or monopole towers. The term include radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. The term includes the structure and any support thereto.

ZONING ADMINISTRATOR – hereby designated as the Township manager for purposes of this Part.

TELECOMMUNICATIONS OVERLAY DISTRICT or TO – all that property owned, leased or otherwise controlled by the Township of Darby, including its rights-of-way and including the rights –of-way of state highways located in the Township with the permission of acquiescence of the State.

SECTION 1502 Applicability

1. New Towers and Antennas

All new towers or antennas in the Township of Darby shall be subject to these regulations, except as provided in subsections (2) through (4), inclusive.

2. Amateur Radio Station Operators/Receive Only Antennas

This Part shall not govern any tower or the installation of any antenna that complies with the pertinent host requirement in this Chapter and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

3. Preexisting Towers or Antennas

Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Section, other than the requirements of §1503, subsections (6) and (7).

4. AM Array

For purposes of implementing this Part, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as one (1) or more tower units and supporting ground system which functions as one (1) AM broadcasting antenna, shall be considered (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

SECTION 1503 General Requirements

1. Principal or Accessory Use

Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

2. Lot Size

For purposes of determining whether the installation of a tower or antenna complies with district zoning regulations including, but not limited to, setback requirements, lot-coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

3. Inventory of Existing Sites

Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of Township of Darby or within one (1) mile of the border thereof including specific information about the location, height, and design of each tower. The Zoning Administrator an inventory of its existing towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of Township of Darby or within one (1) mile of the border thereof including specific information about the location, height and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this Part or other organizations seeking to locate antennas within the jurisdiction of the Township of Darby; provided, however, that the Zoning Administrator is not by sharing such information, in any way representing or warranting that such sites are available or suitable.

4. Aesthetics

Towers and antennas meet the following requirements:

- A. Towers shall either maintain a galvanized steel finish or, subject to an applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- B. At a tower site, the design of the buildings and related structures shall to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
- C. if an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

5. Lighting

Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

6. State or Federal Requirements

All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Part shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

7. Building Codes; Safety Standards

To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. All towers shall be designed by a licensed professional engineer registered in the State of Pennsylvania and all drawings submitted for approval shall be signed and sealed by the same engineer responsible for the design. All construction shall be supervised by qualified personnel and a certification shall be prepared and presented to the Township by a licensed professional engineer registered in the State of Pennsylvania that the design and construction conform to the highest standards of engineering and construction. If, upon inspection, the Township of Darby concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons, or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

8. Measurement

For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Township of Darby irrespective of municipal and county jurisdiction boundaries.

9. Not Essential Services

Towers and antennas shall be regulated and permitted pursuant to this Part and shall not be regulated or permitted as essential services, public utilities or private utilities.

10. Franchises

Owners and/or operators of towers or antennas shall certify that all licenses and/or franchises required by law for the construction and/or operation of a wireless communication system in the Township of Darby have been obtained and shall file a copy of all required licenses and/or franchises with the Zoning Administrator.

11. Public Notice

For purpose of this Part, any special exceptions request, variance request or appeal of an administrative decision use or special exception shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation

distance listed in §1506 (2) (E) (2), Table 2, in addition to any notice otherwise required by the Zoning Ordinance.

12. Signs
No signs shall be allowed on an antenna or tower.
13. Buildings and Support Equipment
Buildings and support equipment associated with antennas or towers shall comply with the requirements of §1507.
14. Multiple Antenna/Tower Plan
The Township of Darby encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
15. Co-Location
In order to reduce the number of towers in the Township of Darby in the future, the proposed tower, if required by the Zoning Administrator and/or Zoning Hearing Board and/or Planning Board shall be designed to accommodate future other communications users, including commercial wireless communications companies, local police, fire and ambulance companies.
16. Service to the Township
A provide of telecommunications service within the Township of Darby shall make its telecommunications services available to the Township at its most favorable rate for similarly situated users, unless otherwise provided for in a lease, license or franchise agreement.

SECTION 1504 Permitted Uses

1. General
The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a special use permit.
2. Permitted Uses
The following uses are specially permitted:
 - A. A Telecommunications Overlay District is hereby created. This Telecommunication Overlay Zoning District applies to all zoning districts in the Township of Darby. The Telecommunications Overlay District ("T.O.") shall consist of property owned, leased or otherwise controlled by the Township of Darby including its rights-of-way and including the rights-of-way of S the State.
 - B. Each applicant for administrative approval shall apply to the Zoning Administrator providing the information set forth in §1506(2) (A) and (B) of this Part and a nonrefundable fee as established by resolution of the Board of Commissioners of the Township of Darby to reimburse the Township of Darby for the costs of reviewing the application.
 - C. The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with §1503, 1506 (2) (d) and 1506 (2) (E) of this Part.
 - D. the Zoning Administrator shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the Zoning Administrator fails to

respond to the applicant within said sixty (60) days, then the application shall be deemed to be approved.

- E. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements in §1506 (2) (E) by up to fifty (50) percent.
- F. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
- G. If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to §1506 prior to filing any appeal that may be available under the Township of Darby Zoning Ordinance.

SECTION 1505 List of Administratively Approved Uses

The following uses may be approved by the Zoning Administrator after conducting an administrative review.

- A. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any Telecommunications Overlay District.
- B. locating antennas on existing structures or towers consistent with the terms of subsections (1) and (2) below.
 - (1) Antenna on Existing Structures

Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional or multifamily structure of eight (8) or more dwelling units, provided:

 - (a) the antenna does not extend more than thirty (30) feet above the highest point of the structure.
 - (b) the antenna complies with all applicable FCC and FAA regulations.
 - (c) the antenna complies with all applicable building codes.
 - (2) Antennas on Existing Towers

An antenna which is attached to an existing tower may be approved by the Zoning Administrator and to minimize adverse, visual impacts associated with the proliferation and clustering of towers, co-location of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following

 - (a) a tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.

(b) Height:

- (i) an existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.
- (ii) The height change referred to in subsection (c) (i) may only occur one (1) time per communication tower.
- (iii) the additional height referred to in subsection (c) (k) shall not require an additional distance separation as set forth in §1506. the tower's pre-modification height shall be used to calculate such distance separations.

(c) Onsite location:

- (i) a tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.
- (ii) after the tower is rebuilt to accommodate collocation, only one (1) tower may remain on the site.
- (iii) a relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to §1506 (2) (E) shall only be permitted when approved by the Zoning Administrator.
- (iv) the onsite relocation of a tower which comes within the separation distances to residential units for residentially zoned lands as established in §1506 (2) (E) shall be permitted when approved by the Zoning Administrator.

C. New Towers in Non-Residential Zoning Districts

Locating any new tower in a non-residential zoning district other than Telecommunications Overlay District provided a Pennsylvania licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Administrator concludes the tower is in conformity with the goals set forth in §1500 and the requirements of §1506 (2) (E); and the tower meets the following height and usage criteria:

- (1) for single user, up to ninety (90) feet in height.
- (2) for two (2) users, up to one hundred twenty (120) feet in height.
- (3) for three (3) or more users, up to one hundred fifty (150) feet in height.

D. locating any alternative tower structure in a zoning district other than Telecommunication Overlay District that in the judgment of the Zoning Administrator is in conformity with the goals set forth in §1500 of this Part.

E. installing a cable micro-cell network through the use of multiple low-powered transmitters/receivers attached to existing wire-line systems, such as conventional cable or telephone wires or similar technology that does not require the use of towers.

SECTION 1506 Special Exception Permits

1. General

The following provisions shall govern the issuance of special exception permits for towers or antennas by the Zoning Hearing Board of the Township of Darby:

- A. If the tower or antenna is not a permitted use under §1504 of this Part or permitted to be approved administratively pursuant to §1505 of the Part, then a special exception permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
- B. applications for special exception permits under this Section shall be subject to the procedures and requirements of this Chapter, except as modified in this Section.
- C. in granting a special exception permit, the Zoning Hearing Board may impose conditions to the extent the Zoning Hearing Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- D. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a Pennsylvania licensed and registered professional engineer.
- E. An applicant for a special exception permit shall submit the information described in this Section and a non-refundable fee as established by resolution on the Board of Commissioners of the Township of Darby to reimburse the Township of Darby for the costs of reviewing the application.

2. Towers

A. Information Required

In addition to any information required for applications for special exception permit for a tower all submit the following information:

- (1) a scaled site plan clearly indicating the location, type and height of the proposed tower, onsite land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), comprehensive plan classification of the site and all properties within the applicable separation distances set forth in §1506 (2) (E), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the Zoning Administrator to be necessary to assess compliance with this Part.
- (2) legal description of the parent tract and leased parcel (if applicable)
- (3) the setback distance between the proposed tower and the nearest residential unit platted residentially zoned properties and unplatted residentially zoned properties.
- (4) the separation distance from other towers described in the inventory of existing sites submitted pursuant to §1503 (3) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
- (5) a landscape plan showing specific landscape materials.

- (6) method of fencing and finished color and, if applicable, the method of camouflage and illumination.
- (7) a description of compliance with §1503 (3), (4), (5), (6), (7), (10), (12), (13), (15), §1506 (2) (D) and (2) (E) and all applicable Federal, State or local laws.
- (8) a notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- (9) identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
- (10) a description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- (11) a description of the feasible location(s) of future towers or antennas within the Township of Darby based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

B. Factors Considered in Granting Special Exception Permits for Towers

In addition to any standards for consideration of special use permit applications pursuant to this Chapter, the Zoning Hearing Board shall consider the following factors in determining whether to issue a special use permit, although the Zoning Hearing Board may waive or reduce the burden on the applicant of one (1) or more of these criteria if the Zoning Hearing Board concludes that the goals of this Part are better served thereby.

- (1) height of the proposed tower
- (2) proximity of the tower to residential structures and residential district boundaries
- (3) nature of uses on adjacent and nearby properties
- (4) surrounding topography
- (5) surrounding tree coverage and foliage
- (6) design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- (7) proposed ingress and egress\
- (8) availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures, as discussed in §1506 (2) (D) of t his Part.
- (9) administrative review and recommendation by the Zoning Administrator.

C. Availability of Suitable Existing Towers, Other Structures or Alternative Technology

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Zoning Hearing Board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Zoning Hearing Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (1) no existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- (2) existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (3) existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna a related equipment.
- (4) the applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (5) the fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (6) the applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (7) the applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro-cell network using multiple low-powered transmitters/receivers attached to a wire-line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

D. Setbacks

The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Zoning Hearing Board may reduce the standard setback requirements if the goals of this Part would be better served thereby.

- (1) towers must be set back a distance equal to at least twice the applicable set back requirements but in no case less than fifty (50) feet from any adjoining lot line.
- (2) guys and accessory buildings must satisfy the minimum zoning district setback requirements.

E. Separation

The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Zoning Hearing Board may reduce the standard separation requirements if the goals of this Part would be better served thereby.

- (1) Separation from offsite uses/designated areas:
 - (a) tower separation shall be measured from the base of the tower to the lot line of the offsite uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 2.
 - (b) separation requirements for towers shall comply with the minimum standards established in Table 1.

TABLE 1	
Offsite Use	Designated Area Separation Distance
Single-family or duplex residential units ¹	500 feet or 300% height of tower, whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	500 feet or 300% height of tower ² whichever is greater
Vacant un-platted residentially zoned lands ³	250 feet or 150% height of tower whichever is greater
Existing multifamily residential units greater than duplex units	250 feet or 150% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

(2) Separate distances between towers.

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

¹Includes modular homes and mobile homes used for living purposes.

²Separation measured from base of tower to closes building setback line.

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

TABLE 2
Existing Towers; Types

	Lattice	Guyed	Monopole 75 ft in height or greater	Monopole less than 75 ft in height
Lattice	9,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 ft in height or greater	1,500	1,500	1,500	750
Monopole less than 75 ft in height	750	750	750	750

F. Security Fencing

Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Zoning Hearing Board may waive such requirements, as it deems appropriate.

G. Landscaping

The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Zoning Hearing Board may waive such requirements if the goals of this Part would be better served thereby.

- (1) tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
- (2) in locations where the visual impact of the tower would be minimal, the landscaping requirements may be reduced or waived.
- (3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

SECTION 1507 Buildings or Other Equipment Storage

1. Antennas Mounted on Structures or Rooftops

The equipment cabinet or structure in association with antennas shall comply with the following:

- A. the cabinet or structure shall not contain more than ten (10) square feet of gross floor area or be more than eight (8) feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over ten (10) square feet of gross floor area or eight (8) feet in height, shall be located on the ground and shall not be located on the roof of the structure.
- B. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than one (1) percent of the roof area.

C. Equipment storage buildings or cabinets shall comply with all applicable building codes.

2. All Other Legally Placed Antennas

For all other legally placed antennas the related unmanned equipment cabinet or structure shall comply with all applicable building codes and shall contain no more than sixteen (16) square feet of gross floor area not more than twelve (12) feet in height and may be located:

- A. in a front or side yard provided the cabinet or structure is no greater than six (6) feet in height or sixteen (16) square feet of gross floor area and the cabinet/structure is located a minimum of five (5) feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least sixty (60) inches –sixty-six (66) inches and a planted height of at least thirty-six (36) inches.
- B. In a rear yard, provided the cabinet or structure is no greater than six (6) feet in height or sixteen (16) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches.

3. Modification of Building Size Requirements

The requirements of §1507 (1) through (3) may be modified by the Zoning Administrator in the case of administratively approved uses or by the Zoning Hearing Board in the case of uses permitted by special use to encourage collocation.

SECTION 1508 Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township of Darby notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall become effective until all users cease using the tower.

SECTION 1509 Nonconforming Uses

1. Not Expansion of Nonconforming Use

Towers that are constructed and antennas that are installed in accordance with the provisions of this Part shall not be deemed to constitute the expansion of a nonconforming use or structure.

2. Preexisting Towers

Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Part.

3. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas

Notwithstanding §1508, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuild without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in §1806 (2) (D) and (E). The type, height and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in §1508.

ARTICLE XVI: ADMINISTRATION

SECTION 1600 Enforcement

It shall be the duty of the Zoning Officer, and he is hereby given the power and authority, to enforce the provisions of this Ordinance by the issuance of stop, cease, or desist orders or by other means. Permits for construction and uses which are a special exception to the requirement of this Ordinance shall be issued only upon order of the Zoning Hearing Board.

SECTION 1601 Zoning Permit Requirements

A permit shall be required prior to the erection or alteration of any building, structure, or portion thereof, and prior to the use or change in use of a building or land, and prior to the change or extension of a non-conforming use.

SECTION 1602 Zoning Permit Application

Applications for permits shall be made to the Zoning Officer on such forms as may be furnished by the Township. Each application shall contain all information necessary for such official to ascertain whether the proposed erection, alteration, use or change of use complies with the provisions of this Ordinance.

SECTION 1603 Issuance of Permits

No Building or Plumbing Permit or Use and Occupancy Certificate shall be issued until the Building Inspector has certified that the proposed building or alteration and proposed use of the property complies with all the provisions of this Ordinance. No Construction shall begin and no building or property shall be used or occupied until all Township fees have been paid, a Building Permit has been issued, or Occupancy Certificate has been issued and all fees paid to Darby Township Sewer Authority.

ARTICLE XVII: ZONING HEARING BOARD

SECTION 1700 Establishment and Membership

A Zoning Hearing Board, consisting of five members appointed by the Commissioners of overlapping terms of five years each, is established for the purpose of carrying out the function of a Zoning Hearing Board as approved by law. Members of the Board shall be residents of the Township except that no more than one member of the Board may also be a member of the Planning Board.

Section 1701 Organization of a Zoning Hearing Board

The Board shall elect a chairman from its membership, and, within the limits of funds appropriated by the Township Commissioners; the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.

1. Procedures Before the Board.

SECTION 1702 HEARINGS

The Board shall meet within 60 days of receipt of an application to hear and consider such matters which shall properly come before it. All such meetings shall be open to the public.

SECTION 1703 Persons Entitled to Initiating Action before the Board

Appeals from the Zoning Officer pursuant to Section 216 hereof and proceedings to challenge an Ordinance under Section 217 hereof may be filed by an officer or agency of the Township or by any person aggrieved. Requests for variance under Section 218 and for special exception under 219 hereof may be filed by any landowner or tenant with the permission of such landowner.

SECTION 1704 Manner of Initiating Before the Board

All action before the Board shall be initiated by a written application for hearing which shall be filed with the Zoning Officer at which the particular matter is to be heard. All applications shall be made on forms specified by the Board, and no application form shall be accepted unless the same shall be fully and legibly completed and unless all exhibits and supplemental material required by the application shall be attached.

SECTION 1705 Time Limitations

All appeals from the Zoning Officer and all requests for variances, as approved in Section 216 and 217 hereof, respectively, shall be filed within thirty (30) days following the refusal of the Zoning Officer to grant a building permit.

SECTION 1706 Notice of Hearing

Notice of the time and place of all hearings shall be given by mail to the applicants and to all persons who shall own real estate within five hundred (500) feet of any property which shall be the subject of the application. Notice of the hearing of any particular application shall also be given to any person who shall timely request the same in writing. Notice of the time and the place of all hearings shall be given by publishing the same in a newspaper of general circulation within the Township. All notices required by

this Section shall be given at least five (5) days prior to the date of the hearing for which notice is given. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

SECTION 1707 Parties

Parties to any hearing shall be any person entitled to notice under Section 206 without special request therefore who has given timely appearance of record before the Board and any other person permitted to appear by the Board.

SECTION 1708 Witnesses

The chairman or acting chairman of the Board shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

SECTION 1709 Representation

The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and cross-examine adverse witnesses on all relevant issues.

SECTION 1710 Rules of Evidence

Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

SECTION 1711 Record

The Board shall keep a record of the proceedings, stenographical, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.

SECTION 1712 Communications

The Board shall not communicate, directly or indirectly, with any party or his representative in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surrounding after commencement of hearings, with any party or his representative unless all parties are given an opportunity to be present. "Board" as used herein shall include not only the members, but also the secretary, clerk, legal counsel or consultant of the Board.

SECTION 1713 Decisions

The Board shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the board. Each decision shall be accompanied by findings of fact and conclusion based thereon together with the reasons therefore. Conclusions based on any provisions of any statute, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found. Where the Board has power to render a decision and fails to do so within the forty-five (45) day period above prescribed, the decision shall be deemed to have been rendered in favor of the applicant.

SECTION 1714 Copies of Decisions

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

SECTION 1715 Appeals to the Courts

Zoning appeals may be taken to the court by any party before the Board or any officer or agency of the Township, as provided by law.

2. Functions of the Board

SECTION 1716 Appeals from the Zoning Officer

The Board shall hear and decide appeals where it is alleged by the appellant that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of the Ordinance of map.

SECTION 1717 Challenge to the Validity of the Ordinance or Map

Except as provided in Section 218 relating to variances, the Board shall have no power to pass upon the validity of any provision of the Ordinance or map adopted by the Supervisors. Recognizing that challenges to the validity of the Ordinance or map may present issues of fact and of interpretation which may lie within the special competence of the Board, and to facilitate speedy disposition of such challenges by the Court, the Board may hear all challenges wherein the validity of the Ordinance or map presents any issue of fact or of interpretation, not hitherto properly determined at a hearing before another competent agency or body, and shall take evidence and make a record thereon as herein prescribed. At the conclusion of the hearing, the Board shall decide all contested questions of interpretation and shall make findings on all relevant issues of fact which shall become part of the record on appeal to the Court.

SECTION 1718 Variance

The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the appellant. The Board may grant a variance provided that the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;
2. That because of such physical circumstances or condition, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
3. That such unnecessary hardship has not been created by the appellant;

4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance

SECTION 1719 Special Exceptions

Where this Ordinance has provided for stated special exceptions to be granted or denied by the Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purpose of this act and the Zoning Ordinance.

1. Standards for Review of Special Exceptions

- A. In any instance where the Board is required to consider a request for a special variance, the Board shall consider the following factors where appropriate:
 - (1) That the proposed use is appropriate for the site in question in terms of size, topography, natural features, drainage, sewage disposal, water supply, accessibility, and availability of public services, and that adequate provisions will be made to protect sensitive environmental features such as streams, lakes, wetlands, slopes, and mature trees.
 - (2) That the proposed use is compatible with the character of the surrounding neighborhood and will not interfere with or detract from legitimate uses and adjacent properties, and that adequate measures will be provided through building design, site layout, landscaping, planting, and operational controls to minimize any adverse impacts caused by noise, lights,, glare., odors, smoke, fumes, traffic, parking, loading and signage.
 - (3) That the proposed special exception will serve the best interest of the Township, and convenience of the community, and the public health, safety and welfare.
 - (4) That the proposed use is consistent with the Darby Township Comprehensive Plan.
 - (5) That the proposed use promotes orderly development, proper population density, and the provision of adequate community facilities and services, including police and fire protection.
 - (6) That the proposed use is suitable in terms of its effect on highway safety and traffic circulation, and that access, on-site circulation, and parking are adequate in view of anticipated traffic.
 - (7) That the proposed use will provide for adequate off-street parking, as required in Article XVIII.
- B. Financial hardship shall not be construed as a basis for granting special exceptions.

4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance

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 - (2) That the proposed use is compatible with the character of the surrounding neighborhood and will not interfere with or detract from legitimate uses and adjacent properties, and that adequate measures will be provided through building design, site layout, landscaping, planting, and operational controls to minimize any adverse impacts caused by noise, lights,, glare., odors, smoke, fumes, traffic, parking, loading and signage.
 - (3) That the proposed special exception will serve the best interest of the Township, and convenience of the community, and the public health, safety and welfare.
 - (4) That the proposed use is consistent with the Darby Township Comprehensive Plan.
 - (5) That the proposed use promotes orderly development, proper population density, and the provision of adequate community facilities and services, including police and fire protection.
 - (6) That the proposed use is suitable in terms of its effect on highway safety and traffic circulation, and that access, on-site circulation, and parking are adequate in view of anticipated traffic.
 - (7) That the proposed use will provide for adequate off-street parking, as required in Article XVIII.
- B. Financial hardship shall not be construed as a basis for granting special exceptions.

- C. In granting any special exception, the Board may attach reasonable conditions and safeguards in addition to those expressed in this Zoning Code as it may deem necessary to implement the purposes of the Planning Code and this Zoning Code, which conditions and safeguards may relate to, but not be limited to screening, lighting, off-street parking, noise, safety, aesthetics and the minimization of noxious, offensive or hazardous elements. Such special exceptions shall be clearly authorized by the provision in this Zoning Code and shall comply with the more specific standards relating to such special exception contained in sections of this Zoning Code relating to uses by special exception.

2. Standards of Proof

- A. *For Variances:* An applicant for a variance shall have the burden of establishing both:

- (1) That a literal enforcement of the provisions of this Zoning Code will result in unnecessary hardship, as the term is defined by law, including court decisions; and,
- (2) That the allowance of the variance will not be contrary to the public interest.

- B. *For Special Exceptions:* An applicant for a special exception shall have the burden of establishing both:

- (1) That his application falls within the provisions of this Zoning Code which affords to the applicant the right to seek a special exception, and
- (2) That the allowance of a special exception will not be contrary to the public interest.

- C. *Evaluation of the Impact of an Application on the Public Interest:* In determining whether the allowance of a special exception or variance is contrary to the public interest, the Board shall consider whether the application, if granted, will:

- (1) Adversely affect the public health, safety and welfare due to changes in traffic conditions, drainage, air quality, noise levels, neighborhood property values, natural features, and neighborhood aesthetic characteristics;
- (2) Be in accordance with the Darby Township Comprehensive Plan;
- (3) Provide required parking in accordance with Article XVIII;
- (4) Adversely affect the logical, efficient and economical extension or provision of public services and facilities such as public water, sewers, refuse collection, police, fire protection and public schools.
- (5) Otherwise adversely affect the public health, safety or welfare.

3. Expiration of Special Exception and Variances

Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to obtain a building permit within six months from the date of authorization thereof.

4. Conditional Uses Where Specific Dimensional Standards Are Not Provided

In cases where this Zoning Code does not provide specific dimensional standards for uses permitted by special exception, the following general dimensional standards will be applied by the Board of Commissioners:

- A. In residential districts, the area, bulk and any other applicable requirements shall be not less than those for single family dwellings in that district or in the next more restrictive district in which single family dwellings are permitted.
- B. In non-residential districts, the area, bulk and any other applicable requirements shall be not less than those for the use which requires the greatest dimensions in the applicable non-residential district.
- C. The governing body may require additional, reasonable but more stringent requirements than those required in Article 16 hereof, provided that the Board of Supervisors makes one or more of the following determinations:
 - (1) Insufficient to accommodate the proposed building, facility, or use, and that larger dimensional requirements would substantially alleviate that condition.
 - (2) Insufficient to provide adequate area for parking and loading, as required by Article XVIII, and that larger dimensional requirements would substantially alleviate that condition.
 - (3) Insufficient to provide for lot areas and dimensions necessary to protect the adjacent area from the potential adverse impacts of the proposed use, such as noise, vibration, air pollution and similar impacts, and that larger dimensional requirements would substantially alleviate that condition.
- D. All parking requirements of Article XVIII must be followed.

5. Regulations for Home Occupations

Home occupations with one employee shall be permitted in Residential Districts.

- A. The occupation (or profession) shall be conducted entirely within the dwelling and shall be clearly incidental and secondary to the residential use of the dwelling.
- B. Only one occupation per dwelling shall be permitted.
- C. Not more than one person other than the resident shall be engaged as an employee or volunteer.
- D. Not more than twenty-five percent of the gross floor area of the dwelling shall be used for the home occupation. Areas used for storage shall be included in this calculation.
- E. No external alterations inconsistent with the residential use shall be permitted.
- F. There shall be no display of materials or products visible from outside the dwelling.
- G. No noise, vibration, smoke, glare or any other impact shall be noticeable at or beyond the property line.

- H. There shall be no outdoor storage of equipment, materials or supplies.
- I. Parking shall be provided subject to Article XIII.
- J. Deliveries from commercial suppliers may not be made more than once each week and shall not restrict traffic circulation.
- K. A home occupation shall in no case be operated before 7:00 a.m. or after 10:00 p.m. Monday through Friday.
- L. All home occupations shall be subject to periodic inspection by a local official.
- M. A special exception shall not be granted when it appears to the Zoning Hearing Board that the proposed home occupation will constitute a fire hazard to neighboring residences, will adversely affect neighboring property value or will constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, noise, odor, or other negative circumstances.

Article XVIII: AMENDMENTS, REMEDIES, PENALTIES, COMPLAINTS AND EFFECTIVE DATE

SECTION 1800 Power of Attorney

The Board of Commissioners from time to time amend this Ordinance, including the zoning map.

Before voting on the enactment of any amendment, the Board of Commissioners shall hold a public hearing. "Public Notice" as used in this section shall mean notice given not more than thirty (30) days and not less than fourteen (14) days in advance of the said hearing. Such notice shall be published once each week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall include the full text of the amendment and shall state the time and place of the hearing. If, after any public hearing held upon an amendment, the proposed amendment is revised to include land previously not affected by it, the Board of Commissioners shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

SECTION 1802 Submission to the Township Planning Commission

In case of an amendment, the Board of Commissioners shall submit each such amendment to the Township Planning Commission and to the Delaware County Planning Commission at least thirty (30) days prior to the hearing in order to provide the Planning Commission an opportunity to submit recommendations.

SECTION 1803 Enforcement

Any person, partnership or corporation who shall violate the provisions of this ordinance shall be subject to a civil penalty which penalty shall amount to Six Hundred Dollars (\$600.00) per day each day the violation shall continue.

SECTION 1804 Enforcement Remedies

In case any building, structure, or land is, proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of any of the provisions of this Ordinance, the Board of Commissioners or, with the approval of the Board, an officer of the Township, in addition to other remedies, may institute the name of the Township any appointment action or proceedings to prevent, restrain, correct or abate such buildings, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

SECTION 1805 Complaints of Violations

Whenever a violation of this Ordinance occurs any person may file a written complaint with the Zoning Officer in regard to hereto. The Zoning Officer shall promptly investigate all complaints and make report thereon to the Board of Commissioners.

SECTION 1806 Effective Date

This Ordinance shall become effective the 12th day of December, 2007.

APPENDIX A

**DIAGRAMS OF
REQUIREMENTS**

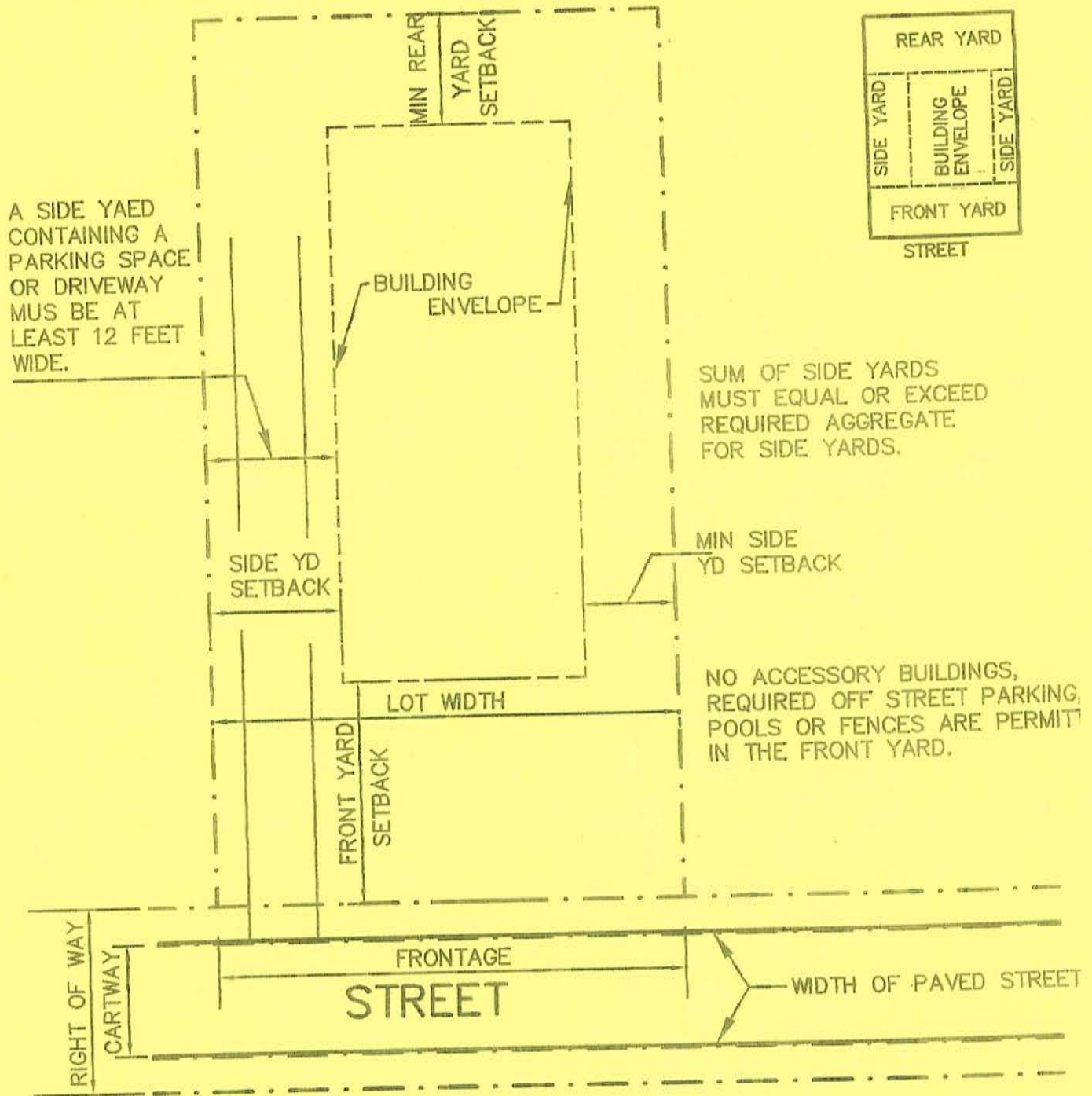
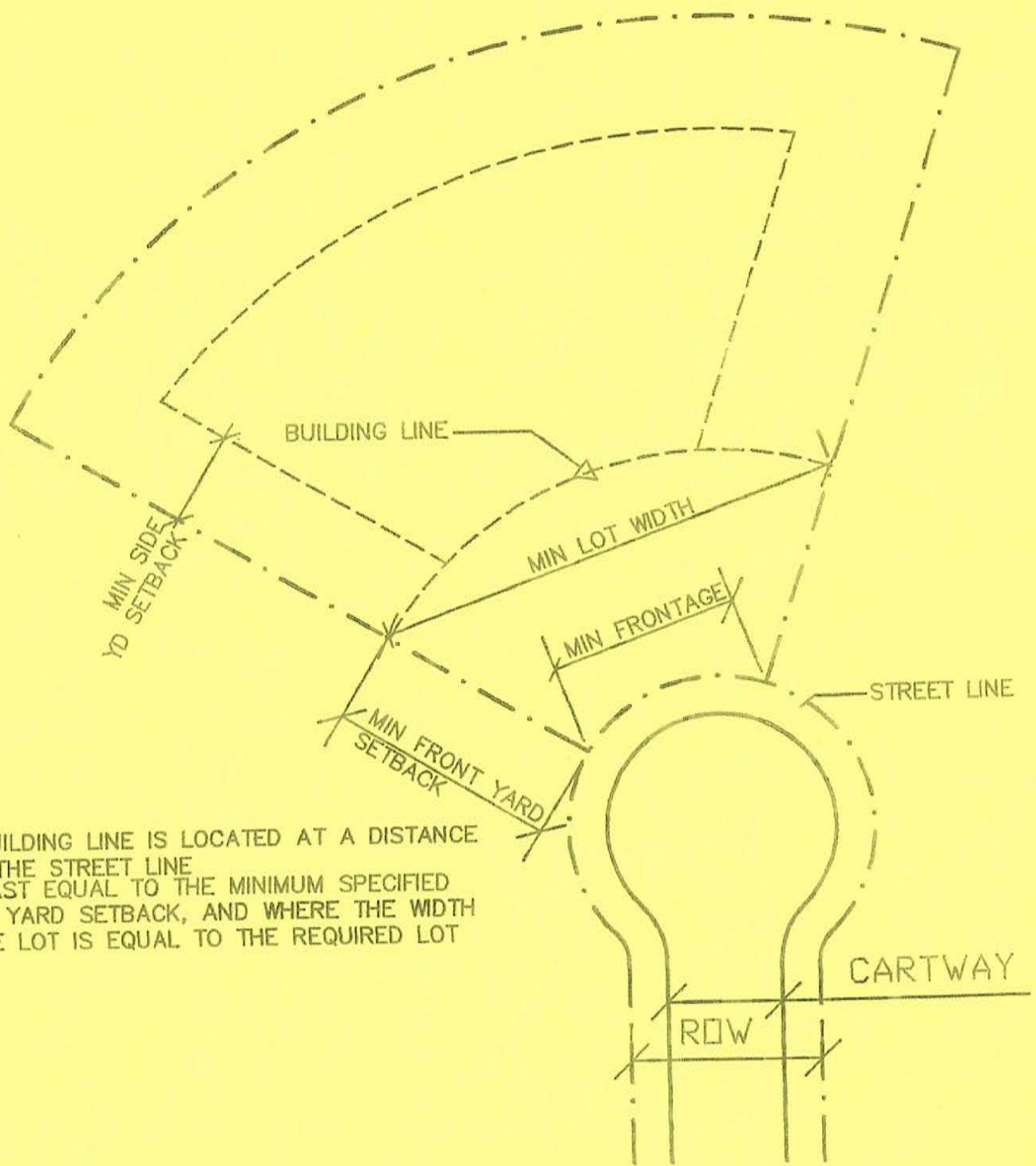


DIAGRAM OF REQUIREMENTS
RECTANGULAR LOT

D-1



THE BUILDING LINE IS LOCATED AT A DISTANCE FROM THE STREET LINE AT LEAST EQUAL TO THE MINIMUM SPECIFIED FRONT YARD SETBACK, AND WHERE THE WIDTH OF THE LOT IS EQUAL TO THE REQUIRED LOT WIDTH.

DIAGRAM OF REQUIREMENTS
IRREGULAR LOT

D-2

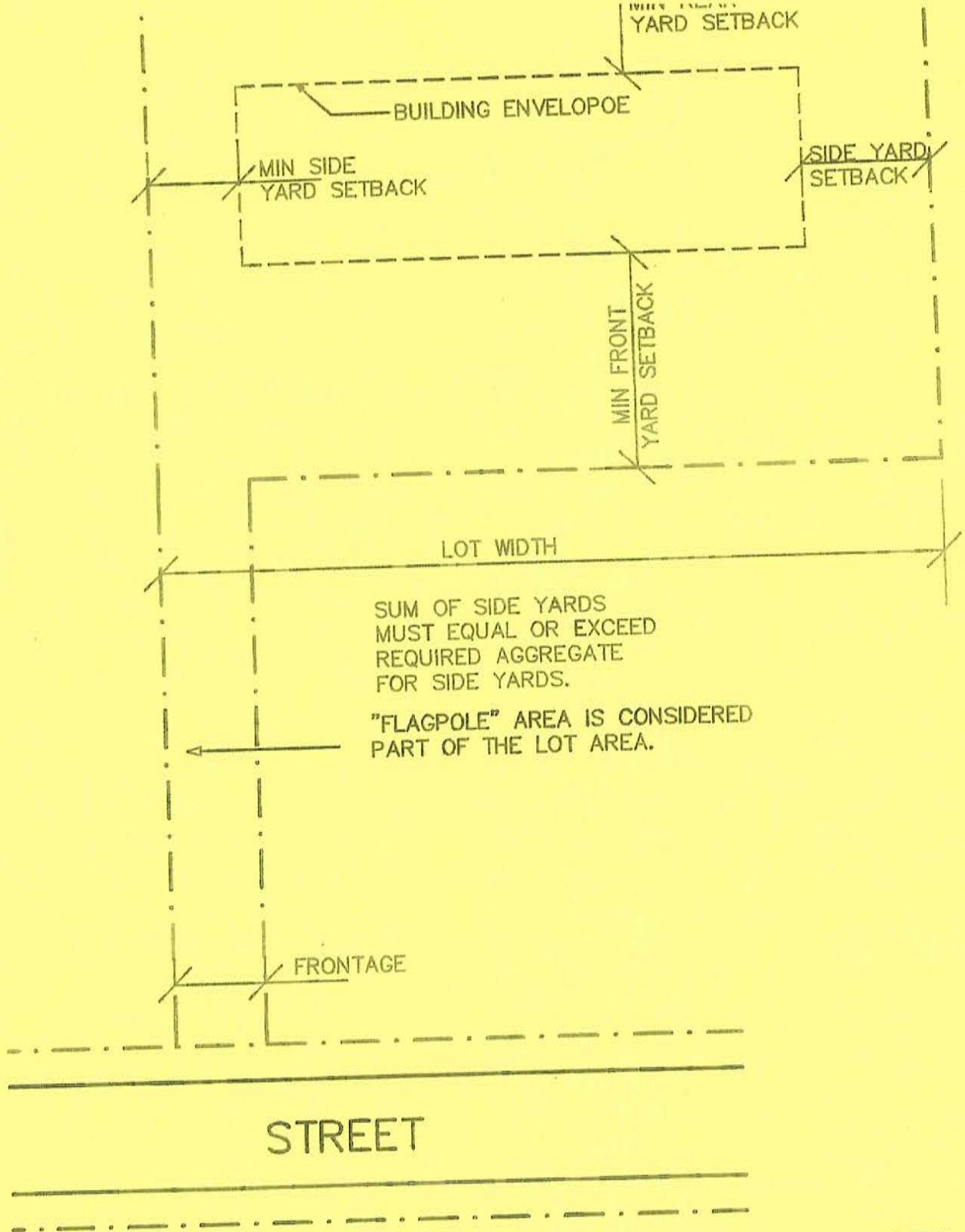
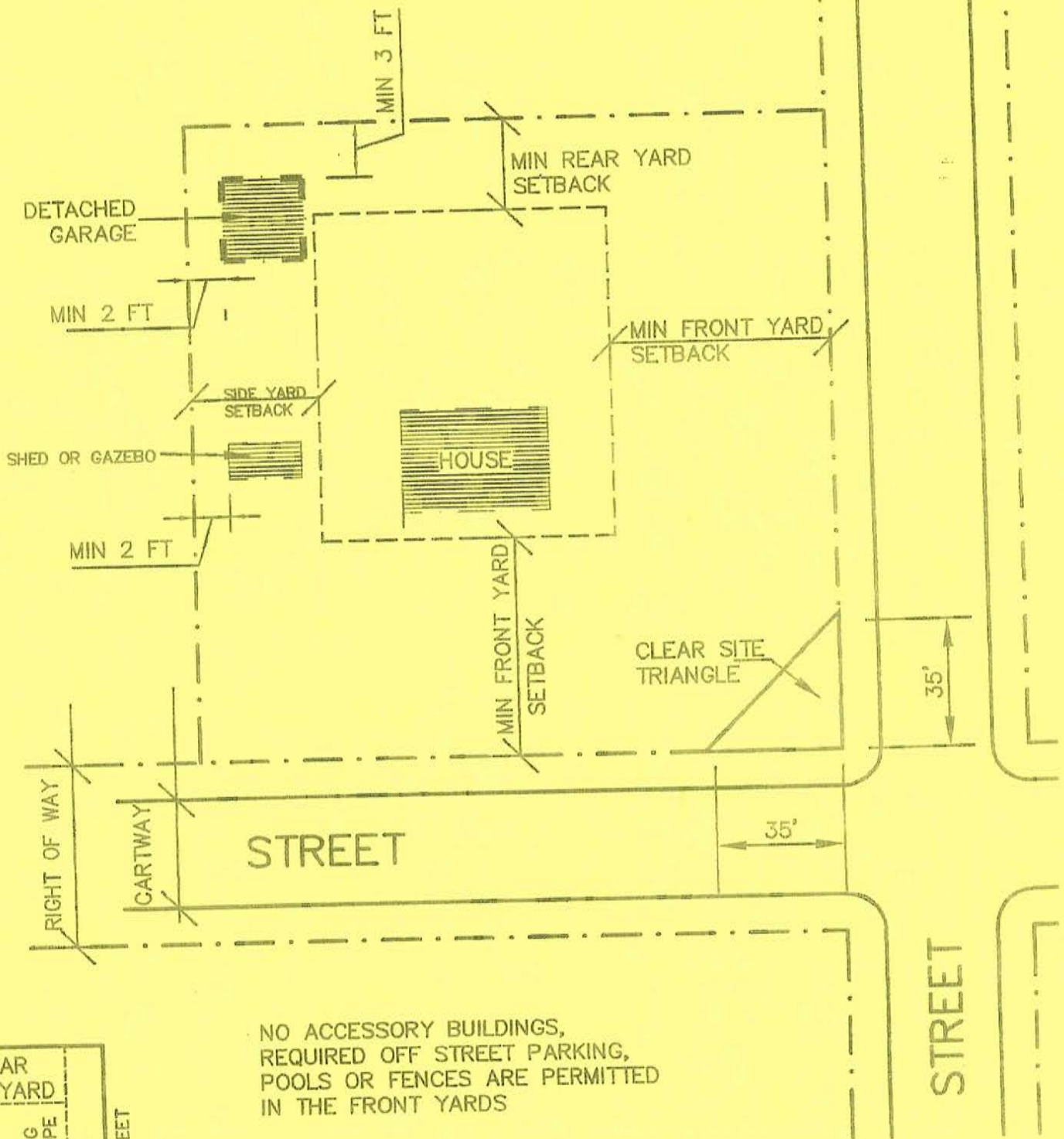


DIAGRAM OF REQUIREMENTS
"FLAG LOT"

DARBY TOWNSHIP ZONING CODE

D-3



NO ACCESSORY BUILDINGS,
 REQUIRED OFF STREET PARKING,
 POOLS OR FENCES ARE PERMITTED
 IN THE FRONT YARDS

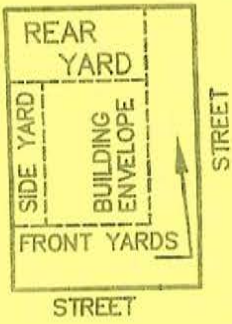


DIAGRAM OF REQUIREMENTS
 CORNER LOT

D-4

DARBY TOWNSHIP ZONING CODE

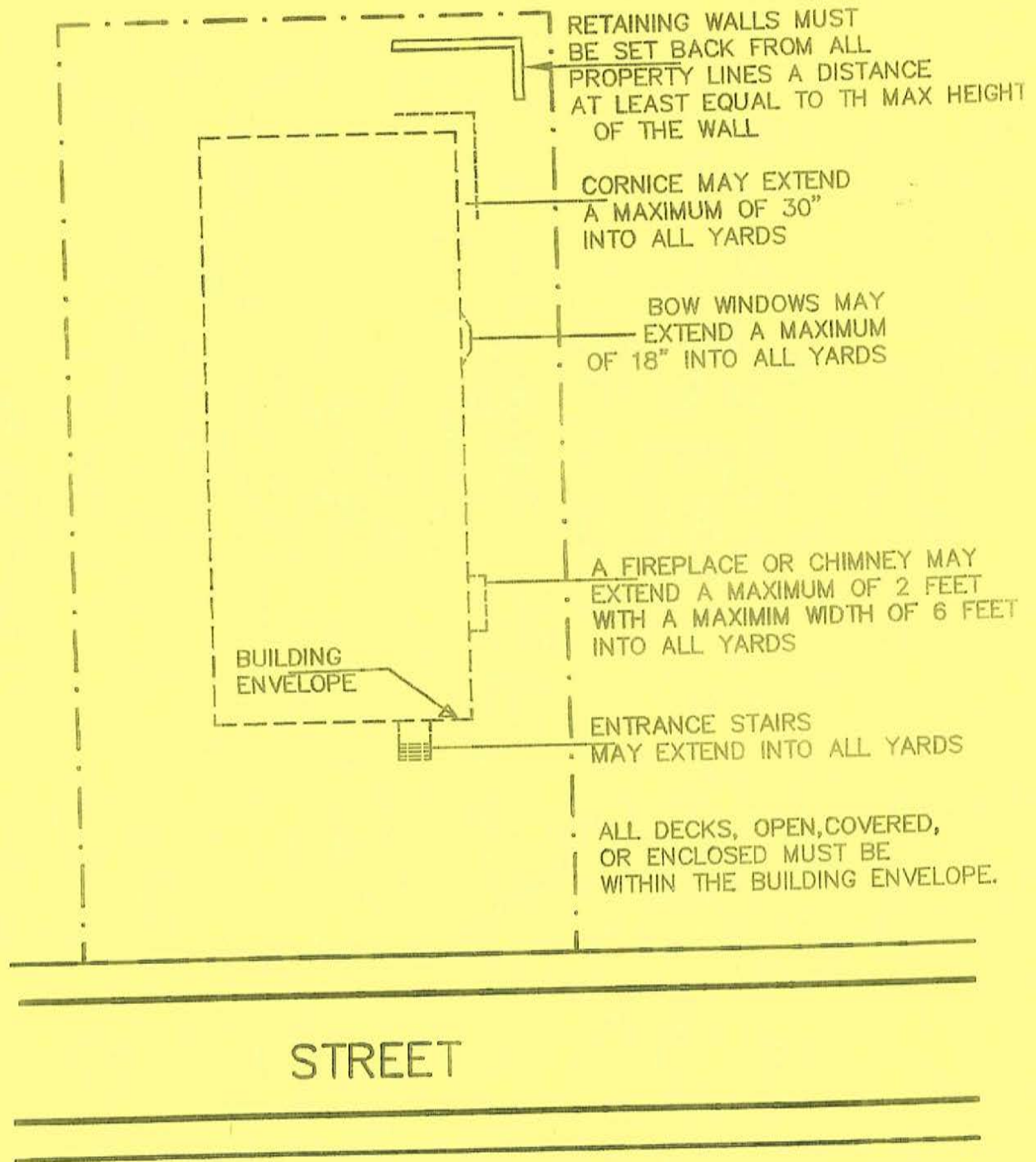


DIAGRAM OF PERMITTED ENCROACHMENTS
TYPICAL FOR ALL LOTS

D-5

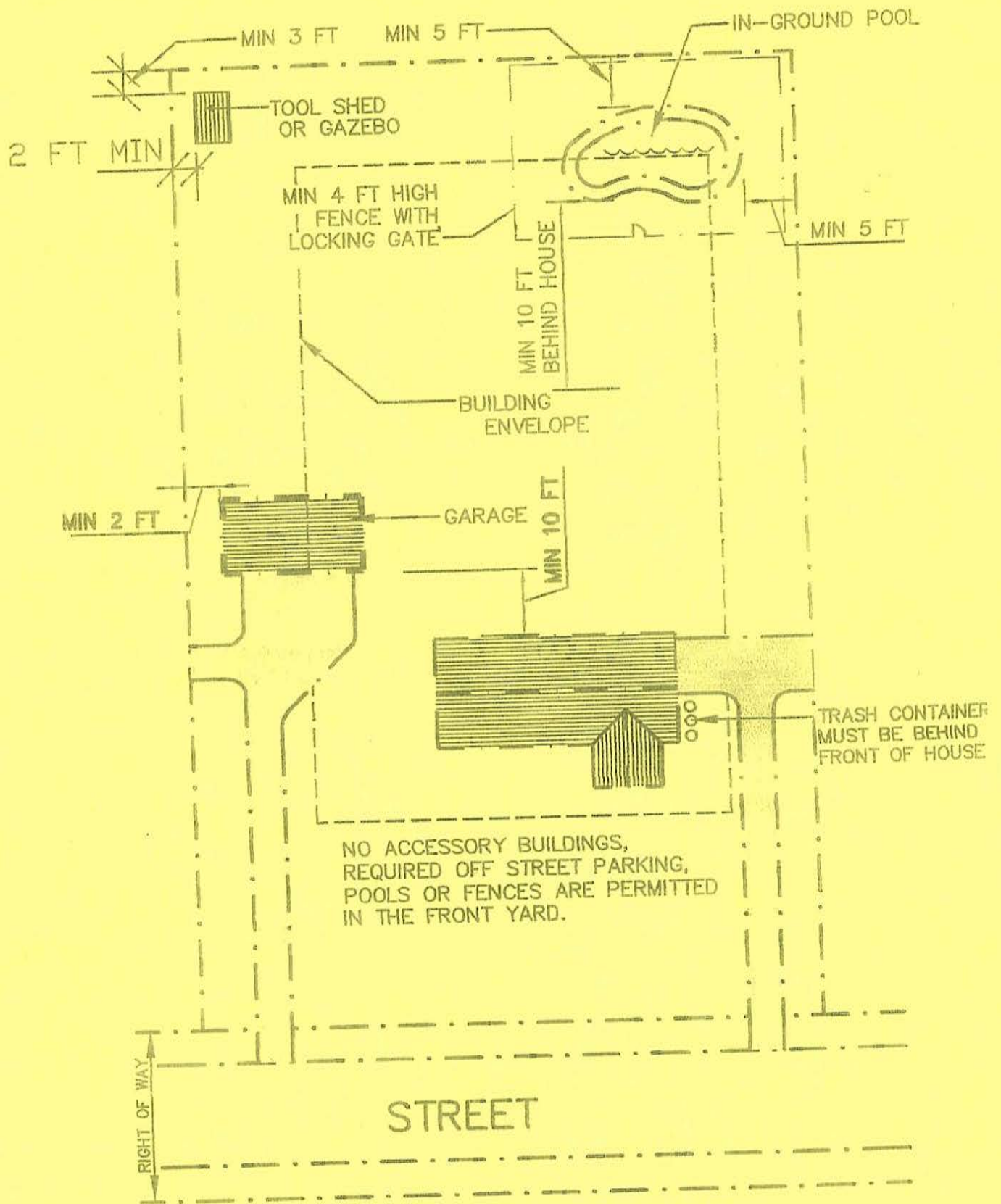
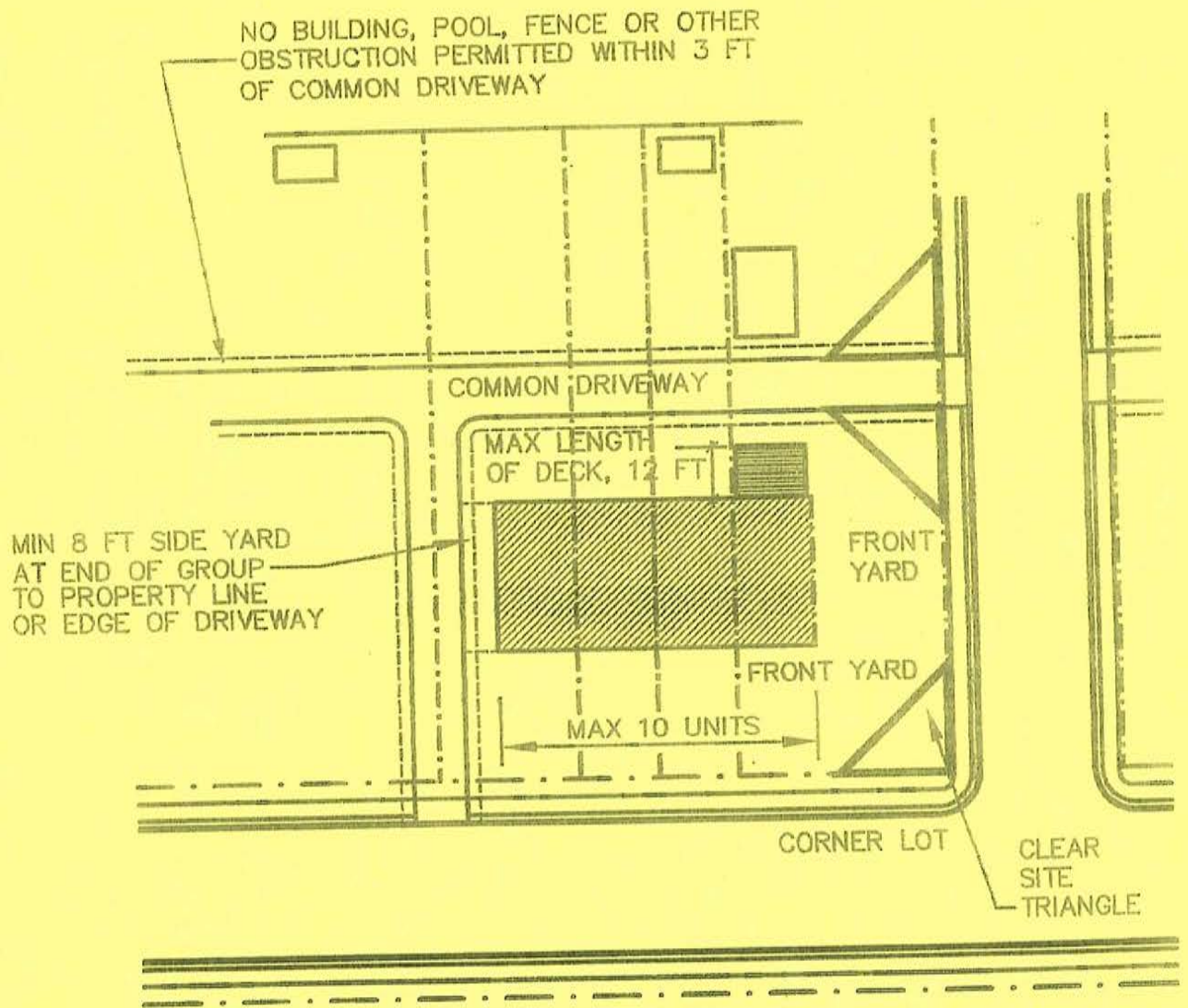


DIAGRAM OF REQUIREMENTS
ACCESSORY BUILDINGS

D-6



NO ACCESSORY BUILDINGS,
 REQUIRED OFF STREET PARKING,
 POOLS OR FENCES ARE PERMITTED
 IN THE FRONT YARD.

DIAGRAM OF REQUIREMENTS ATTACHED DWELLINGS

D-7

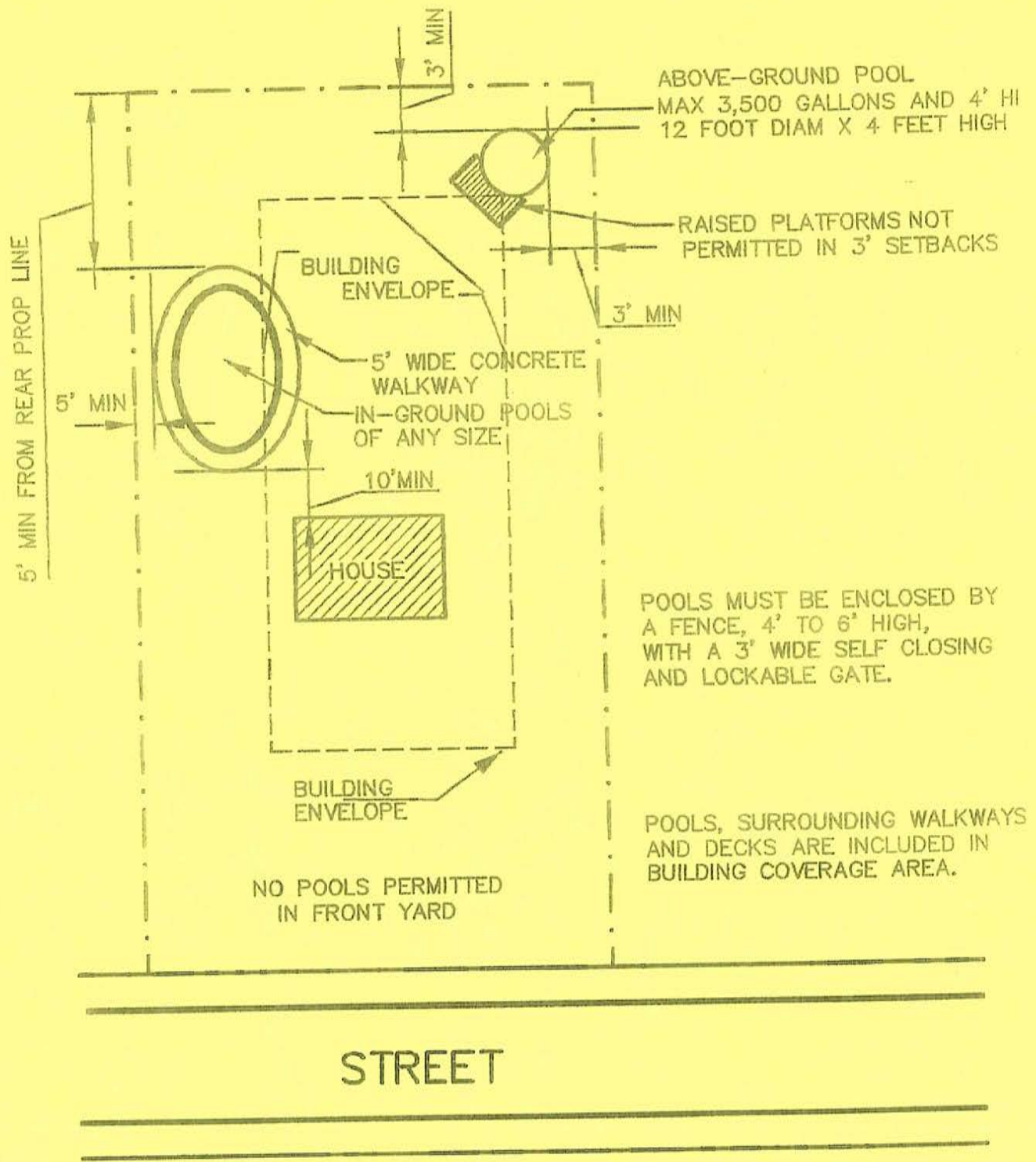


DIAGRAM OF SWIMMING POOL REQUIREMENTS

