

**NEWBERRY TOWNSHIP**  
**YORK COUNTY, PENNSYLVANIA**

**ZONING ORDINANCE**

**2006**

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Article  
GENERAL  
PROVISIONS

1

**SECTION 101 SHORT TITLE**

This Ordinance shall be known and may be cited as the “Newberry Township Zoning Ordinance of 2006.”

**SECTION 102 PURPOSE**

This Ordinance is enacted to promote, protect and facilitate:

1. Public health, safety and general welfare.
2. Coordinated and practical community development.
3. Proper density of population.
4. Provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements.
5. Prevention of overcrowding of land, blight, danger and congestion in travel and transportation.
6. Loss of health, life or property from fire, flood, panic or other dangers.
7. Preservation of prime agriculture and farmland considering topography, soil type and classification, and present use.
8. Reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

This Ordinance is enacted in accordance with an overall planning program, and with consideration for the character of the Township, its various parts and the suitability of the various parts for particular uses and structures.

### **SECTION 103 SCOPE**

From and after the effective date of this Ordinance, the use of all land and every building or structure or portion of a building or structure erected, altered with respect to height and area, added to, or relocated, and every use within a building or structure or use accessory thereto, in the Township shall be in conformity with provisions of this Ordinance. Any lawfully existing use, building, or land not in conformity with the regulations of the effective date of this Ordinance herein prescribed shall be regarded as nonconforming but may be continued, extended, or changed subject to the special regulations herein provided with respect to nonconforming buildings, structures, or uses.

### **SECTION 104 INTERPRETATION**

#### **104.1**

In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of public health, safety, comfort, convenience and greater welfare of the residents and property owners of Newberry Township.

#### **104.2**

In interpreting the language of this Ordinance to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the Newberry Township Board of Supervisors, in favor of the property owner and against any implied extension of the restriction.

### **SECTION 105 CONFLICT**

#### **105.1**

Where more than one provision of this Ordinance controls a particular matter, the provision that is more restrictive upon uses and structures shall apply. The provisions of this Ordinance are in addition to any other applicable Township Ordinance.

#### **105.2**

In any case where a regulation or requirement of this Ordinance is found to conflict with the regulation or requirement of a subdivision and land development, building, fire, safety or health ordinance or code of Newberry Township, or law, rule or regulation of the Commonwealth of Pennsylvania (hereinafter the "Commonwealth"), the provisions which establish the higher standard for the promotion and protection of the health and safety of the people shall prevail.

#### **105.3**

In any case where a regulation or requirement of this Ordinance is found to be in conflict with the regulation or requirement of another ordinance or code of Newberry Township, or law, rule

or regulation of the Commonwealth, which establishes a less restrictive standard for the promotion and protection of the health and safety of the people, the regulation and requirement of this Ordinance shall be deemed to prevail. In addition, should the MPC be amended to establish mandatory provisions which would be inconsistent herewith, those mandatory provisions shall be deemed to be incorporated herein by reference thereto without further amendment of this Ordinance.

#### **105.4**

It is not intended by this Ordinance to interfere with or abrogate or annul any regulations or requirements adopted or permits previously issued by the Township which are in conflict with any provisions of this Ordinance nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, building restrictions or other agreements between parties. Provided, however, that where this Ordinance imposes a greater restriction the provisions of this Ordinance shall control.

### **SECTION 106 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 this Ordinance as a whole or of any part thereof.

### **SECTION 107 LIABILITY**

#### **107.1**

Neither the review nor the granting approval of any building permit, floodplain permit, site plan review, subdivision approval, land development approval, zoning permit, erosion review, storm water runoff review, wetland delineation or wetland review, steep slope review or any other review or permit of this Ordinance, involving any land governed by the provisions of this Ordinance, by an officer, employee, consultant or agency of the Township, shall constitute a representation, guarantee or warranty of any kind by the Township or its employees, consultants, officials or agencies of the practicality or safety of any structure, use or subdivision and shall create no liability upon, nor a cause of action against any Township body, consultant, official or employee for any damage that may result pursuant thereto.

#### **107.2**

If the Zoning Officer issues a permit under this Ordinance in error, the Township shall not be liable for any later lawful withdrawal of such permit.

### **SECTION 108 USES NOT PROVIDED FOR**

1. If a use is neither specifically permitted nor prohibited under this Ordinance and an application is made by a landowner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Newberry Township Zoning Hearing Board to hear and decide such request as a special exception.
2. The Zoning Hearing Board shall permit the use or deny the use in accordance with the standards for the consideration of special exception contained herein.

3. The use may be permitted if it:
  - a. is of the same general character as the enumerated permitted uses in the zoning district.
  - b. is in accordance with the intended purpose of the zoning district.
  - c. is not permitted in any other zoning district by this Ordinance.
  - d. will comply with all performance standards applicable to the permitted uses in the zoning district.
4. The duty to present evidence and the burden of proof shall be on the applicant to demonstrate that the proposed use:
  - a. is of the same general character as the enumerated permitted uses in the zoning district.
  - b. is in accordance with the intended purpose of the zoning district.
  - c. is compatible with the permitted use in the zoning district.
  - d. is not permitted in any other zoning district.
  - e. will comply with all performance standards applicable to permitted uses in the zoning district.

## **SECTION 109 ESTABLISHMENT OF GROWTH AND RURAL RESOURCE AREAS**

### **109.1 GENERAL**

For the purposes of this Ordinance and to implement the Future Land Use Plan of the Newberry Township Comprehensive Plan, Newberry Township, York County, Pennsylvania, is hereby divided into the Designated Growth Area and the Rural Resource Area.

### **109.2 DESIGNATED GROWTH AREA (DGA)**

The Designated Growth Area is intended to accommodate the majority of the growth and development with a full range of land uses such as residential, commercial, and industrial needs. This area is currently served or planned to be served with public utilities, including water and sewer. The expansion of public utilities to vacant land currently not serviced with utilities is strongly encouraged in the DGA.

### **109.3 RURAL RESOURCE AREA (RRA)**

The Rural Resource Area is intended to be provided with a limited range of land uses including residential (at densities greater than one unit per acre), natural resource lands, villages, and agricultural resource lands. This area is currently not served or is not planned to be served with public utilities, including water and sewer. The expansion extension of public utilities to vacant land within the RRA is strongly discouraged except as necessary to alleviate unsafe conditions, such as failing septic systems or contaminated wells.

## **SECTION 110 ESTABLISHMENT OF ZONING DISTRICTS**

### **110.1 GENERAL**

For the purposes of this Ordinance, Newberry Township, York County, Pennsylvania, is hereby divided into the following zoning districts based upon the DGA and the RRA.

NEWBERRY TOWNSHIP, YORK COUNTY, PA



## **110.2 DESIGNATED GROWTH AREA ZONING DISTRICTS**

The DGA Zoning Districts include the following:

1. Open Space (OS)
2. Residential Holding (RH)
3. Suburban Residential (SR)
4. Residential Growth (RG)
5. Mobile Home Park (MHP)
6. Village (V)
7. Mixed Use Commerce (MU)
8. Commerce Center (CC)
9. Regional Commercial/Office (RCO)
10. Light Industrial (LI)
11. General Industrial (I)

## **110.3 RURAL RESOURCE AREA ZONING DISTRICTS**

The RRA includes the following zoning districts:

1. Agriculture (A).
2. Rural Resource (RR).
3. Rural Residential (R).
4. Rural Industrial (RI).

## **110.4 ZONING OVERLAY DISTRICTS**

The following zoning overlay districts include land within both the DGA and RRA, and encompasses one or more underlying zoning districts. These zoning overlay districts impose additional requirements above that required by the underlying zone:

1. Rural Commercial Overlay.
2. Sensitive Environmental Features Overlay.
3. Floodplain Protection Overlay.
4. Conservation Subdivision Design Overlay.
5. Traditional Village Overlay.

## **SECTION 111 ZONING MAP**

The base zoning districts identified in Sections 110.2 and 110.3, as well as the overlay zoning districts in Sections 110.4.1 and 110.4.5, respectively referred to above, in addition to the locations of such zoning districts established by this Ordinance shall be designated by boundaries

on the Zoning Map which is attached hereto and is hereby adopted by reference and declared to be part of this Ordinance, together with all future notations, references, and amendments.

### **SECTION 112 ZONING DISTRICT BOUNDARIES**

Where uncertainty exists regarding the boundaries of the zoning districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following municipality limits shall be construed as following municipality limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway, between the main tracks.
5. Boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections (1) through (5) shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
7. Where a zoning district boundary or a municipal boundary divides a lot, the minimum lot area shall be regulated by the zoning district or the municipality in which the principal use(s) are located, unless otherwise provided by applicable case law. The land area within each zoning district or municipality shall be regulated by the use regulations and other applicable regulations of each zoning district or municipality.
8. Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map or in circumstances not covered by subsections (1) through (7), the Zoning Hearing Board shall interpret the district boundaries.

### **SECTION 113 COMMUNITY DEVELOPMENT OBJECTIVES**

In addition to implementing the purpose(s) set forth herein Section 102, this Ordinance is enacted in accordance with the community development goals and objectives of the Newberry Township Comprehensive Plan, which generally seeks to:

1. Protect, enhance, and promote those characteristics in the Township that make it a distinctive place.
2. To ensure the provision of community services are adequate to serve the needs of existing and future residents of Newberry Township, and to limit and guide future development to a type and form that requires community facilities which are

compatible with resource constraints and otherwise in conformance with Township land use policies.

3. Achieve and maintain a healthy business climate to ensure sound economic growth and a high quality of life.
4. Sustain and enhance natural, scenic, and historical resources for the benefit of current and future generations while accommodating planned growth.
5. Continue to provide for a wide range of housing types, densities, and affordability that will meet the needs of the entire Township.
6. Preserve and enhance the diversified mix of rural and natural land uses within the Township through careful limitation and guidance of continued development in balance with critical environmental and community service needs and constraints.
7. Provide a coordinated and comprehensive system of parks, recreation, and open space that will meet the active and passive recreational needs of all residents in the Township and enhance the community design, identity, and vitality.
8. Achieve a high level of intergovernmental cooperation and public-private cooperation.
9. Ensure a safe and adequate transportation network through Newberry Township, serving both existing and anticipated transportation needs, and to retain both functional attributes and scenic qualities of roadways as new development and improvements occur.
10. Provide utility facilities and services to meet needs in the Township, protect the environment and public health and support development consistent with planned growth.

## **SECTION 114 DEFINITIONS**

### **A. WORD USAGE**

Words and phrases shall be presumed to be used in their ordinary context unless such word or phrase is defined differently within this section.

### **B. LANGUAGE INTERPRETATION**

1. Unless otherwise stated, words in the present tense shall include the future tense.
2. Unless stated otherwise, words used in the singular tense imply the plural and words used in the plural tense include the singular.
3. The word "shall" or "must" means as mandatory; the word "may" or "should" is discretionary.
4. The word "used" or "occupied" as applied to any land or building include the words "intended, arranged, or designed to be used or occupied".

5. The word "structure" includes "building;" both terms shall be construed as if followed by the phrase "or part thereof."
6. The words "such as", "includes", "including" and "specifically" shall provide examples. These examples shall not, by themselves, limit a provision to the examples specifically mentioned if other examples would otherwise comply with the provision.
7. Unless stated otherwise the male gender is neutral and includes the female gender.
8. The word "person" includes a firm, company, corporation, partnership, trust, organization or association, as well as an individual.
9. The word "lot" includes the word plot or parcel.
10. The term "Board" shall refer to the Zoning Hearing Board.
11. If a word or term is not defined by this Ordinance, but is defined in the Subdivision and Land Development Ordinance (SALDO), then the SALDO definition shall apply. If a word or term is not defined in this Ordinance or the SALDO, then the word or term shall have its plain and ordinary meaning within the context of the Section. A standard reference dictionary should be consulted.

### C. SPECIFIC WORDS AND PHRASES

The following words and phrases shall have the particular meaning assigned by this section in the appropriate sections of this Ordinance.

1. ABUT - Areas of contiguous lots that share a common lot line, except not including lots entirely separated by a street or a waterway. See definition of "adjacent."
2. ACCESS DRIVE - A private improved surface other than a street or driveway designed and constructed to provide for vehicular movement from a street to a parking area, garage, dwelling, building or other structure within a lot or property containing any use other than one single-family dwelling unit or farm. For purposes of this Ordinance, access drives shall be required for all commercial, institutional, industrial, multi-family, and all other uses not served by a Driveway as defined in this Ordinance.
3. ACT - The latest version of the Pennsylvania Municipalities Planning Code (MPC), as amended.
4. ADJACENT - Two (2) or more lots that share a common lot line or that are separated only by a street or waterway from each other. See definition of "abut".
5. ADULT-RELATED USES - A business or club which engages in one or more of the following areas of sales, services or entertainment:
  - a. ADULT BATH HOUSE - An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy during which specified anatomical areas are displayed or specified sexual activity occurs. This section shall not apply to

hydrotherapy treatment practiced by, or under the supervision of a medical practitioner. A medical practitioner, for the purpose of this Ordinance, shall be a medical doctor, physician, chiropractor or similar professional licensed by the Commonwealth of Pennsylvania.

- b. ADULT BODY PAINTING STUDIO - Any establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the human body when specified anatomical areas are exposed.
- c. ADULT BOOKSTORE - Any establishment which has a substantial or significant-portion of its stock in trade:
  - 1) Books, films, magazines or other periodicals or other forms of audio or visual representation which are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
  - 2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
- d. ADULT CABARET - A nightclub, theater, bar or other establishment which features live or media representations of performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- e. ADULT MASSAGE ESTABLISHMENT - Any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
- f. ADULT MINI-MOTION PICTURE THEATER - An enclosed or unenclosed building with a capacity of more than five (5), but less than fifty (50) persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- g. ADULT MODEL STUDIO Any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, except that this provision shall not apply to any "figure studio" or "school of art" or similar establishment which meets the requirements established in the Education Code of the Commonwealth of Pennsylvania

for the issuance or conferring of, and is in fact authorized thereunder, to issue and confer a diploma.

- h. ADULT MOTEL - A motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- i. ADULT MOTION PICTURE ARCADE - Any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- j. ADULT MOTION PICTURE THEATER - An enclosed or unenclosed building with a capacity of fifty (50) or more persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time, measured on an annual basis, is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- k. ADULT NEWS RACK - Any coin-operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.
- l. ADULT OUT-CALL SERVICE ACTIVITY - Any establishment or business which provides an out-call service which consists of individuals leaving the premises upon request or by appointment to visit other premises for a period of time for the purpose of providing any service during which time specified anatomical areas are displayed or specified sexual activity occurs.
- m. ADULT SEXUAL ENCOUNTER CENTER - Any business, agency, or person who, for any form of consideration or gratuity, provides a place where two (2) or more persons, not all members of the same family may congregate, assemble or associate for the purpose of engaging in specified sexual activity or exposing specified anatomical areas, excluding psychosexual workshops, operated by a medical practitioner licensed by the Commonwealth, to engage in sexual therapy.
- n. ADULT THEATER - A theater, concert hall, auditorium or other similar establishment, either indoor or outdoor in nature which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.
- o. ADULT VIDEO STORE - A commercial use which has fifty (50%) percent or more of its stock in trade consisting of video tapes, video discs, or both, which are distinguished or characterized by an emphasis, depiction, or description of specified sexual activities or specified anatomical areas.

- p. Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”.
6. AGENT - Any person other than the developer, who acting for the developer submits a plan for development, including but not limited to subdivision and/or land development, zoning permit, certificate of use and occupancy, special exception, variance, to the Township for the purpose of obtaining approval(s) thereof.
  7. AGRICULTURAL OPERATION - An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.
  8. AGRICULTURAL SUPPORT BUSINESSES - Commercial uses such as occupations and services directed at meeting the needs of those engaged in local farming. Activities are typically directed at providing materials and services needed to farm, rather than the distribution of goods produced on the farm. Farm-related businesses include but not be limited to blacksmith shops, butcher shops, composting and other farm waste storage facilities, feed supply, fuel and fertilizer distributors, grain mills, processing of locally-produced agricultural products, and sales and/or repair of agricultural equipment.
  9. AGRICULTURE - The tilling of the soil, the raising of crops, forestry, horticulture and gardening, including but not limited to the keeping or raising of livestock, such as cattle, cows, hogs, horses, sheep, goats, poultry, rabbits, birds, fish, bees, and other similar animals, excluding concentrated animal operations (CAO’s) and Concentrated Animal Feeding Operations (CAFO’s). This definition also includes non-commercial greenhouses, as well as the processing and accessory retail sale of goods produced on the farm.
  10. AIRPORT/HELIPORT - A principal commercial use where aircraft are stored, maintained, repaired and refueled, and where aircraft take-off and land. Airports may also include other accessory accommodations for aircraft passenger, cargo or both. For purposes of this definition, an airport shall be available for use by the general public and may include more than fifteen (15) total landings and take-offs in any seven (7) day period.
  11. AIRSTRIPE/HELI-PAD - A private principal or accessory use adapted with minimal improvements for use as a temporary runway for aircraft where aircraft take-off and land. For purposes of this definition, an airstrip or heli-pad shall not be generally available for use by the general public and may include not more than fifteen (15) total landings and take-offs in any seven (7) day period.

12. AISLES – The traveled way by which cars enter and depart parking spaces.
13. ALLEY - A strip of land over which there is a public or private right-of-way intended to serve as secondary vehicular access to the side and/or rear of those properties whose frontage is on a street. An alley is not a street and is not intended for general traffic circulation.
14. ALLUVIAL SOILS - A soil developing from recently deposited alluvium and exhibiting essentially no horizon development or modifications of the recently deposited material.
15. ALLUVIUM - A general term for all detrital material deposited or in transit by streams, including gravel, sand, silt, clay and all variations and mixtures of these. Unless otherwise noted, alluvium is unconsolidated.
16. ALTERATIONS - As applied to a building or structure, any change or rearrangement in the total floor area, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
17. ALTERATIONS, STRUCTURAL - Any change in the supporting members of a building or structure, such as bearing walls, column, beams or girders.
18. AMUSEMENT ARCADE - A commercial establishment which provides as a principal use, amusement devices and/ or games of skill or chance (e.g., pinball machines, video games, pool tables, skeeball, electronic or water firing ranges and other similar devices). This definition does not include the use of four (4) or less such devices as an accessory use.
19. AMENDMENT - A change in use in a zoning district that includes revisions to the zoning text or the official zoning map. The authority for any amendment lies solely with the Newberry Township Board of Supervisors.
20. ANIMAL EQUIVALENT UNIT (AEU) - One thousand (1,000) pounds of live weight of livestock or poultry regardless of the number of individual animals or birds comprising the unit.
21. ANIMAL FEEDING OPERATION (AFO) — An operation that confines animals for at least forty (45) days in a twelve (12) month period with on grass or other vegetation in the confinement area during the normal growing season.
22. ANIMAL HOSPITALS - Any establishment offering veterinary services. Animal hospitals can treat all types of animals and can include outdoor and overnight boarding of animals.
23. APARTMENT - An individual dwelling unit within a multi-family dwelling structure or building.
24. APARTMENT CONVERSION - A principal residential use designed through the creation of three (3) or more living units by conversion of an existing building.
25. APPLICANT - A landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.



26. APPLICATION FOR DEVELOPMENT - Every application, whether preliminary, tentative or final, required to be filed and approved prior to start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.
27. ATTIC - That part of a building which is immediately below and wholly or partly within the roof framing. Within a dwelling unit, an attic shall not be counted as floor area unless it is constructed as or modified into a habitable room by the inclusion of dormer windows, an average ceiling height of five (5) feet or more, and a permanent stationary interior access stairway to a lower building story.
28. AUTHORITY - A body politic and corporate created pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."
29. AUTOMOBILE AUCTIONS - A primary business where automobiles are stored, readied, and displayed for wholesale sales. Such uses generally only conduct actual sales on one or several designated days of the week.
30. AUTOMOBILE FUELING STATION - Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any retail sales of motor vehicle accessories, which may not include major repairing, body and fender work, painting, vehicular sales, nor rental or automatic car washes.
31. AUTOMOBILE PARKING COMPOUND - A primary business where privately-owned passenger vehicles may be stored for short-term, daily, or overnight periods.
32. AUTOMOBILE PARKING LOT - An accessory use in which required, and possibly additional, parking spaces are provided, subject to the requirements listed in Section 512 of this Ordinance.
33. AUTOMOBILE REPAIR/SERVICE - The retail repair, servicing, maintenance, and reconstruction of passenger vehicles, but not including car washes per se.
34. AUTOMOBILE SALES - Any building or land devoted to the retail sales of new and used passenger vehicles, including accessory service and repair facilities if conducted within a wholly-enclosed building.
35. AUTOMOBILE STORAGE COMPOUND - A use, either primary or accessory, where passenger vehicles with valid current registrations and inspections are stored for periods exceeding a daily basis. Automobile storage shall not involve retail, nor wholesale, sales, display areas.
36. AUTOMOBILE WASHING (CARWASH) - A principal or accessory commercial use whereby structures equipped with apparatuses for the washing, waxing, vacuuming, or any combination thereof, of vehicles are provided.
37. BANK (See Financial Institution)

38. BASE FLOOD - The flood having a one (1%) percent chance of being equaled or exceeded in any given year (100-year flood).
39. BASE FLOOD ELEVATION - The projected flood height of the base flood.
40. BED AND BREAKFAST INN - An accessory use to a single-family detached dwelling, where not more than five (5) rooms are rented to overnight guests on a daily basis for periods not exceeding two (2) weeks. Meals may be offered only to registered overnight guests, employees and residents of the dwelling.
41. BERM - A landscaped mound of earth or the act of pushing earth into a mound to shield, screen and buffer two separate, incompatible land uses. Berms may be used to provide visual interest, decrease noise and control the direction of water flow.
42. BILLBOARD - A sign upon which images and/or messages of any kind are printed, posted, or lettered, whether freestanding or attached to a surface of a building or other structure. A billboard is used to advertise products, services or businesses at a location other than the premises on which the sign is placed, or to disseminate other messages.
43. BOARD - The Zoning Hearing Board of Newberry Township.
44. BOARDING HOUSE - A detached building arranged or used for sheltering or feeding, or both for more than three (3) and not more than ten (10) individuals that do not constitute a family.
45. BUFFER - An area within a property or site generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to limit continuously the view, sound and/or light from the site to adjacent sites or properties.
46. BUILDING - Any structure, either temporary or permanent, having walls and a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes stated above. For the purposes of this section. The word building shall include gas or liquid storage tanks.
  - a. ATTACHED BUILDING - A building which is connected to another by two (2) or more party walls in common, except for end units which are considered semi-detached. For purposes of this definition, attached buildings shall each have one front yard and one rear yard, and two (2) party walls in common with, and attached to two (2) other buildings, except for end units which are considered semi-detached.
  - b. DETACHED BUILDING - A building which is completely surrounded by permanent open space. For purposes of this definition, detached buildings shall have two (2) side yards, one front yard and one rear yard.
  - c. SEMI-DETACHED BUILDING - A building which is connected to another building by only one party wall in common. For purposes of this definition, semi-detached buildings shall each have one side yard, one front yard, one

rear yard, and one party wall in common with, and attached to another building.

47. BUILDING, ACCESSORY – A detached, subordinate building, the use of which is customarily incidental and subordinate to that of the principal building, which is located on the same lot as that occupied by the principal building. Farm buildings not intended for habitation are considered to be accessory buildings.
48. BUILDING, PRINCIPAL - A building which is enclosed within exterior walls or fire walls, which is built, erected, and framed of component structural parts, which is designed for housing, shelter, enclosure, and support of individuals, or property of any kind, and which is a main structure on a given lot.
49. BUILDING AREA - The total area taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, awnings, terraces and steps.
50. BUILDING HEIGHT - A building's vertical measurement from the mean level of the ground abutting the building at its comers to the highest point of the roof.
51. BUILDING SETBACK LINE - A line within a property and parallel to a property line or street right-of-way line which delineates the required minimum distance between any permitted structure or building and that property line or street right-of-way line.
52. BUSINESS PARK - A campus like development containing a number of separate business and office buildings, supporting uses and open space designed, planned, constructed, and managed on an integrated and coordinated basis to ensure compatibility for circulation, parking, utility needs and aesthetics.
53. CAFÉ - An exterior seating area associated with a restaurant or tavern which is under constant supervision by an employee of the business.
54. CALIPER - The diameter of a tree trunk, measured in inches, six inches above ground level for trees up to four inches in diameter and 12 inches above ground level for trees over four inches in diameter.
55. CAMPGROUND - A lot, tract, or parcel of land upon which two or more campsites are located or established, intended and maintained for occupation by transients in recreational vehicles or tents.
56. CAMPSITES - A plot of ground within a campground intended for occupation by a recreational vehicle or tent.
57. CARPORT - An unenclosed structure for the storage of one (1) or more vehicles in the same manner as a private garage, which may be covered by a roof supported by columns or posts except that one or more walls may be the walls of the main building to which the carport is accessory.
58. CARTWAY - The surface of a street, road, or alley available for vehicular traffic, but not including shoulders, curbs, sidewalks or swales.

59. CELLAR - A space with less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than six and one-half (6 1/2) feet. Within a dwelling unit, a cellar shall not be counted as floor area, nor as a story of permissible building height.
60. CEMETERY - Land used or intended to be used for the burial of the deceased, including columbariums, mausoleums, and mortuaries when operated in conjunction with the cemetery and within the boundaries thereof. This definition shall not include crematoria, which shall be considered as funeral homes.
61. CERTIFICATE OF USE AND OCCUPANCY - A statement signed by a duly authorized Township officer, setting forth that a building, structure or use legally complies with the Zoning Ordinance and other applicable codes and regulations and that the same may be used for the purposes stated therein.
62. CHANNEL - A natural or artificial watercourse with a definite bed and banks which confine and conduct continuously or periodically flowing water.
63. CLEAR SIGHT TRIANGLE - A triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.
64. CO-LOCATION - The act of placing two (2) or more antennas on one communication tower or other structure.
65. COMMERCIAL KEEPING AND HANDLING - Producing and/or maintaining with the express purpose and intent of selling the product for a livelihood.
66. COMMERCIAL RECREATION USES - Any commercial use whose main purpose is to provide the general public with an amusing or entertaining activity, and where tickets are sold or fees are collected for the activity:
  - a. INDOOR COMMERCIAL RECREATION - An establishment operated as a gainful business, open to the public, for the purpose of leisure time activities, public recreation or entertainment, including, but not limited to, arcade, arena, assembly hall, bingo parlor, bowling alley, gymnasium, miniature golf courses, skating rink, swimming pool, tennis courts, theatres, etc., when operated within a completely enclosed building. For purposes of this ordinance, this use excludes a health and fitness club and indoor shooting range.
  - b. OUTDOOR COMMERCIAL RECREATION - An establishment operated as a gainful business, open to the public upon open land, wholly or partially outside of a building, for the purpose of leisure time activities, public recreation or entertainment such as a swimming pool, tennis court, batting and pitching cages, go-carts and skating rinks, but also includes amusement rides or regular live entertainment. For purposes of this ordinance this use excludes a park, golf course and an outdoor shooting range.
67. COMMON OPEN SPACE - A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and

intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities

68. COMMUNICATIONS ANTENNA - Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omnidirectional or whip antennas and directional or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence-mounted satellite dishes or television antennas or amateur radio equipment including, without limitation, ham or citizen band radio antennas.
69. COMMUNICATION EQUIPMENT BUILDING - An unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than two hundred fifty (250) square feet.
70. COMMUNICATIONS TOWER - A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support communications antennas.
71. COMMUNITY ACTIVITY BUILDING - A building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.
72. COMPREHENSIVE PLAN - The plan, or parts thereof, which have been adopted by the Board of Supervisors, which constitutes a policy guide to decisions about the physical and social development of the Township.
73. CONDITIONAL USE - A use which may not be appropriate to a particular zoning district as a whole, but which may be suitable in certain localities within the district only when specific conditions and criteria prescribed for such uses have been complied with. Conditional uses are reviewed by the Board of Supervisors after recommendations by the Planning Commission, in accordance with Section 805 of this Ordinance.
74. CONDOMINIUM - A form of property ownership providing for individual ownership of a specific dwelling unit, or other space not necessarily on ground level, together with an undivided interest in the land or other part of the structure in common with other owners.
75. CONSERVANCY LOT - A large, privately-owned lot comprising part of an area of open land. The purpose of the conservancy lot is to provide surrounding residents with visual access to open space and greenway land, while keeping the land under private ownership and maintenance. Only a small portion of such lots may be developed; the remainder must be protected through conservation easements and used in conformance with standard for greenway land. Public access to conservancy lots is not required.

76. CONSERVATION PLAN - A plan including a map(s) and narrative that, at the very least, outlines an erosion and sedimentation control plan for an identified parcel of land.
77. CONVENIENCE STORE - A commercial use that primarily sells routine household goods, groceries, prepared ready-to-eat foods and similar miscellaneous items to the general public, but that is not primarily a restaurant. Convenience stores may also provide for any or all of the following as an accessory use:
  - a. The rental of video tapes, provided that an adult-related facility is specifically prohibited.
  - b. The preparation and sales of delicatessen sandwiches and foods, which may include interior patron seating limited to not more than fifteen (15%) of the gross floor area of the principal structure.
  - c. The use of no more than two amusement devices (e.g., pinball machines, video games, and other similar devices).
  - d. Convenience stores shall not include the dispensing of gasoline or other vehicle fuels, unless the appropriate approvals for an automobile filling station (as defined herein) have been obtained.
78. COUNTY - The County of York, Commonwealth of Pennsylvania.
79. COUNTY PLANNING COMMISSION - The York County Planning Commission and its professional staff.
80. DAY-CARE - The offering of care or supervision over minors or special needs adults in lieu of care or supervision by family members. This definition does not include the offering of overnight accommodations.
  - a. ACCESSORY DAY-CARE - A day-care facility that is operated as an accessory use to a dwelling unit, whereby care and supervision is offered to no more than three (3) nonresidents of the site during any calendar day.
  - b. COMMERCIAL DAYCARE - A day-care facility that offers care and supervision to more than six (6) nonresidents of the site during any calendar day. Commercial day-care facilities can be operated as principal uses or as accessory uses associated with other uses (e.g., schools, churches, industries, residential complex. etc.). However, in no case shall a commercial day-care be considered an accessory use to one dwelling unit. Commercial day-care facilities shall include “group child day-care homes” and “child day-care centers”, as defined and regulated by the Department of Public Welfare of the Commonwealth of Pennsylvania. All commercial day-care centers must obtain a valid certificate of compliance from the Department of Public Welfare of the Commonwealth of Pennsylvania prior to operation.
  - c. FAMILY DAY-CARE - A day-care facility that is operated as an accessory use to a dwelling unit, in which the care and supervision is offered to between four (4) and six (6) nonresidents of the site during any calendar

day. Family day-care facilities must be registered by the Department of Public Welfare of the Commonwealth of Pennsylvania.

81. DENSITY - A term used to express the allowable number of dwelling units per net acre of land, exclusive of public rights-of-way and private streets.
82. DESIGNATED GROWTH AREA - Region within a county or counties described in a municipal or multimunicipal plan that preferably includes and surrounds a city, borough or village, and within which residential and mixed use development is permitted or planned for at densities of one unit to the acre or more, commercial, industrial and institutional uses are permitted or planned for and public infrastructure services are provided or planned. For purposes of this definition, the designated growth area within Newberry Township, zoning districts, uses and other regulations are further specified in Article 2 of this Ordinance.
83. DEVELOPMENT - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.
84. DEVELOPMENTAL DISABILITY - A disability of a person which has continued or can be expected to continue indefinitely. A disability which is:
  - a. Attributable to mental retardation, cerebral palsy, epilepsy or autism.
  - b. Found to be attributable to any other conditions found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons, or requires treatment and services similar to those required for such persons.
  - c. Attributable to dyslexia resulting from a disability described in Subsections (a) and (b) of this definition.
85. DEVELOPMENTALLY DISABLED PERSON - A person with a developmental disability.
86. DISTRIBUTION - A process whereby materials, goods, or products are imported, stored by one person and then delivered to another.
87. DOMESTIC PETS - The noncommercial keeping of no more than four adult nonfarm animals (livestock) that are locally available for purchase as pets, as an accessory use to a dwelling unit, on lots of up to one (1) acre. Lots containing more than one (1) acre would be permitted up to six (6) pets. Domestic pets shall not include farm animals, horses, or any animal or bird for which a permit is required under the Pennsylvania Game and Wildlife Code, 34 Pa. C.S. s. 101 et seq., or the regulations of the Pennsylvania Game Commission.
88. DRIVEWAY - A private improved surface designed and constructed to provide vehicular movement from a street to a parking area, garage, dwelling, building or structure within a lot or property containing a one single-family dwelling unit or a

farm except as provided in Section 605.04.8.f of the Newberry Township Subdivision and Land Development Ordinance pertaining to Joint Use Driveways.

89. DWELLING - Any building or portion thereof designed and used exclusively for residential occupancy, including those listed below, but not including hospitals, hotels, motels, boarding, rooming and lodging houses, institutional houses, tourists courts, and the like, offering overnight accommodations for guests or patients. In addition, all dwellings shall be properly connected to approved and permanently-designed public or on-lot sewer, public or on-lot water, electrical and other utility systems.
- a. DWELLING UNIT - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
  - b. MULTI-FAMILY DWELLING - A detached building, or a group of attached or semi-detached buildings containing three (3) or more dwelling units for housing three (3) or more families or housekeeping units.
  - c. SINGLE-FAMILY ATTACHED DWELLING - An attached building containing one dwelling unit for housing one family or housekeeping unit. For purposes of this definition, row house and townhouse are considered single-family attached dwellings.
  - d. SINGLE-FAMILY DETACHED DWELLING - A detached building containing one dwelling unit for housing one family or housekeeping unit. For purposes of this ordinance, recreational vehicles, as defined herein, shall not be construed as dwellings.
  - e. SINGLE-FAMILY SEMI-DETACHED DWELLING - A semi-detached building containing one dwelling unit for housing one family or housekeeping unit.
  - f. TWO-FAMILY DWELLING - A detached building containing not more than two dwelling units for housing not more than two (2) families or housekeeping units.
90. EARTH MOVING ACTIVITY - Any construction or other activity which disturbs the surface of the land including, but not limited to, excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth, excluding tilling of the soil.
91. EASEMENT - A right-of-way granted for limited use of private land for a public or quasi-public or private purpose, and within which the owner of the property shall not have the right to make use of the land in a manner that violates the right of the grantee.
92. ECHO HOUSING - An accessory residential use which involves an additional dwelling unit placed on a property for occupancy by either an elderly, handicapped, or disabled person related by blood, marriage, or adoption, to the occupants of the principal dwelling.



93. EMERGENCY SERVICES - A public use owned and/or operated by an independent fire department or company and/or emergency medical service or ambulance provider for related activities. Accessory club rooms, club grounds and meeting halls may be included if they are permitted uses in that zoning district. This use may include accessory housing for emergency service or fire personnel while on-call.
94. ESSENTIAL SERVICES - The erection, construction, alteration, or maintenance of public utilities or municipal or other governmental agencies or private corporations under contract to a municipality, of gas, electrical, telephone, steam or water transmission or distribution system, and sewage disposal systems, including buildings, enclosures, wells, pumping stations, poles, wires, mains, drains, sewers, pipes, conduits, cables, and accessories and services, fire alarm boxes, police equipment and accessories and services in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other agencies or private corporations under contract to a municipality, excluding firehouses or fire companies and emergency services and/or ambulances under agreement with the municipality or for the public health or safety or general welfare, as well as excluding wireless telecommunications facilities.
95. FAMILY - An individual or individuals related by blood, marriage, or adoption (including persons receiving foster care) that maintain one (1) common household and live within one (1) dwelling unit. Additionally, up to three (3) unrelated individuals who maintain a common household and live within one (1) dwelling unit may be considered a family. Finally, a family shall also expressly include any number of unrelated persons who reside within a licensed Group Home, as defined herein.
96. FARM - Any parcel of land with at least ten (10) acres which is used for a principal agricultural use, including one single-family detached dwelling and other necessary farm structures, and the use, repair, maintenance, and storage of equipment associated with the principal agricultural use.
97. FARM OCCUPATION - An accessory use to the active farm in which residents engage in a secondary, supplemental occupation.
98. FEEDLOT - An agricultural use whereby livestock which are in transport are temporarily fed and/or watered.
99. FENCE - A freestanding and artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.
100. FILL - Material placed or deposited so as to form an embankment or raise the surface elevation of the land, including, but not limited to levees, bulkheads, dikes, jetties, embankments, and causeways.
101. FINANCIAL INSTITUTION - A commercial use including a bank, savings and loan association, credit union, finance or loan company, etc.

102. FLEA MARKET - A commercial use where more than one (1) vendor displays and sells general merchandise that is new or used. Flea markets can include indoor and outdoor display or merchandise.
103. FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas from the overland flow of watercourses, or from the unusual and rapid accumulation or runoff of surface waters from any source.
104. FLOOD ELEVATION - The projected heights, in relation to the National Geodetic Vertical Datum of 1929 (NGVD), reached by floods of various magnitudes and frequencies in the floodplain areas.
105. FLOODPLAIN - An area of land adjacent to the channel of a watercourse which has been or is likely to be flooded, or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.
106. FLOODPROOF - Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to property, structures and their contents.
107. FLOODWAY - The channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the base flood elevation more than one (1) foot.
108. FLOOR AREA, GROSS- The sum of the floor areas of a building as measured to the outside surfaces of exterior walls and including all areas intended and designed for the conduct of a business or use.
109. FLOOR AREA, GROSS LEASABLE - The sum of the floor area of the several floors a building designed for the conduct of business and occupancy by an owner or tenant, as measured to the center of the interior joint walls and exterior of outside walls. For purposes of this definition, gross leasable floor area shall not include public or common areas such as utility rooms, stairwells, hallways or corridors, etc.
110. FLOOR AREA, HABITABLE - The sum of the floor areas of a dwelling unit as measured to the outside surfaces of exterior walls and including all rooms used for habitation, such as living room, dining room, kitchen, bedroom, bathroom, closets, hallways, stairways, but not including cellars or attics, or service rooms or areas such as utility rooms, nor unheated areas, such as enclosed porches, nor garages.
111. FORESTRY - The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development
112. FRONTAGE - The linear measurement taken along a property's common boundaries with adjoining street rights-of-way, other than a limited access highway.

113. FUNERAL HOME - A commercial use for the preparation and viewing of the dead prior to burial or cremation. Funeral homes shall not include cemeteries, columbariums, mausoleums, nor entombments, but do include mortuaries and crematoria.
114. GARAGE, PRIVATE - An accessory building for the storage of one (1) or more automobiles and/ or other vehicles accessory and incidental to the primary use of the premises.
115. GOLF COURSE - A tract of land for playing golf, improved with tees, greens, fairways and hazards, and which may include clubhouses and shelters. Golf courses must have a minimum of two thousand, eight hundred (2,800) yards of play in nine (9) holes.
116. GREENHOUSE — A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.
117. GROUND COVER - A planting of low-growing plants or sod that in time forms a dense mat covering the area, preventing soil from being blown or washed away and the growth of unwanted plants.
118. GROUP HOME - A single-family detached dwelling operated with a program to provide a supportive living arrangement for individuals where special care is needed by the individual served due to age, emotional, mental, or physical handicap. This definition shall expressly include facilities for the supervised care of developmentally disabled persons, those under treatment for alcohol abuse, drug abuse, or both, unwed parents, and those who have been physically abused. Group homes shall be subject to same limitations and regulation by the Township as a single-family dwellings, and are permitted by right in those zones where single-family detached dwellings permitted by right.
119. HAZARDOUS MATERIAL - A substance or combination of substances that, because of the quantity, concentration, physical, chemical or infectious characteristics, if not properly treated, stored, transported, used, or disposed of, or otherwise managed, would create a potential threat to public health through direct or indirect introduction into groundwater resources and the subsurface environment which includes the soil and all subsequent materials defined as Hazardous Waste herein below. Such hazardous substances include substances under PA DEP regulations.
120. HAZARDOUS WASTE - Any substance defined as a hazardous waste under the Pennsylvania Solid Waste Management Act, 35 P.S. s. 6018.101 et seq., the Pennsylvania Municipal Waste Planning, Recycling, and Waste Reduction Act, 53 P.S. s. 4000.101 et seq., the Pennsylvania Hazardous Sites Cleanup Act, 35 P.S. s. 6020.101 et seq., the Clean Streams Law, 35 P.S. s. 691.1 et seq., the Federal Resource Conservation and Recovery Act, 42 U.S.C. s. 6901 et seq., and

the regulations of the PA DEP and the United States Department of Environmental Protection.

121. HAZARDOUS WASTE FACILITY - Any structure, group of structures, aboveground or underground storage tanks, or any other area or buildings used for the purpose of permanently housing or temporarily holding hazardous waste for the storage or treatment for any time span other than the normal transportation time through the Township.
122. HEALTH AND FITNESS CLUB - A commercial business that offers active recreational and/or fitness activities. Such activities are provided only to club members and their guests. Such facilities do not include golf courses.
123. HEAVY EQUIPMENT - Vehicles, machinery or other devices that are not normally used for domestic purposes upon a residential dwelling lot. Examples include, but are not limited to, commercial trucks and trailers, farm equipment, excavation equipment, industrial machinery, etc.
124. HEIGHT, BUILDING - A building's vertical measurement from the average ground level at the corners of the building to the highest point of the roof.
125. HEIGHT, STRUCTURE - A structure's vertical measurement from the average level of the ground abutting the structure to the highest point of the structure.
126. HOME OCCUPATION - A business or commercial activity other than a no-impact home occupation that is conducted as an accessory use to and within a principal single-family detached dwelling.
127. HORTICULTURE - The growing of fruits, vegetables, flowers, or ornamental plants.
128. HOSPITAL - An institutional use, licensed in the Commonwealth of Pennsylvania, as a hospital, which renders inpatient and outpatient medical care for a twenty-four (24) hour per day basis; and provides primary health services and medical/surgical care to persons suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions. A hospital use can also include attached and detached accessory uses, provided that all uses are contained upon the hospital property.
129. HOTEL - A commercial use which provides lodging to boarders for compensation, which contains more than eight (8) rooms with less than twenty-five (25%) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building, and which may provide meals and other services as part of the compensation.
130. IMPERVIOUS MATERIAL - Any substance placed on a lot which covers the surface in such fashion as to prevent natural absorption of surface water by the earth so covered. The following items shall be deemed to be impervious material: buildings, concrete sidewalks, paved driveways and parking areas, swimming pools and other nonporous structures or materials.

131. IMPERVIOUS SURFACE - A surface that prevents the infiltration of water into the ground. Impervious surface includes, but is not limited to, any building, building roof, paved parking or driveway areas and any paved streets and concrete sidewalks, concrete features and areas designed to initially be gravel or crushed stone.
132. IMPORTANT NATURAL HABITAT - Any land area characterized by any or all of the following:
- a. Wetlands as defined herein:
  - b. Pennsylvania Natural Diversity Inventory (PNDI) confirmed extant plant and animal species and communities that are listed as Pennsylvania Threatened or Pennsylvania Endangered.,
  - c. PNDI confirmed extant plant and animal species and communities that have a State Rank of S1 or S2.
  - d. See also Conservation Subdivision.
133. INDUSTRIAL USE - Any enterprise in which goods are generally mass produced from raw materials on a large scale through use of an assembly line or similar process, usually for sale to, wholesalers or other industrial or manufacturing uses. This term includes but is not limited to those involving manufacturing; processing; packaging; printing, publishing and binding; production; testing of materials, goods and products; conversion and assembly; industrial laundries; repair of large appliances and equipment; machine shops, and welding shops.
134. INTENSIVE FARMING OPERATION - Agricultural uses that involve, but are not necessarily limited to, one or more of the following conditions:
- a. CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) - An operation meeting the definition of both a “concentrated animal operation (CAO)” and “animal feeding operation (AFO)” which is required to obtain a National Pollutant Discharge Elimination System (NPDES) permit in accordance with the Clean Water Act.
  - b. CONCENTRATED ANIMAL OPERATION (CAO) - Any animal feeding operation, which is required to develop a nutrient management plan in accordance with the Pennsylvania Nutrient Management Act.
  - c. OTHER - Any agricultural operation, whether involving animal, animal product, or vegetable production, which occurs within an enclosed structure exceeding ten thousand (10,000) square feet.
135. INTERIOR DRIVE - Any on-site vehicular movement lane(s) that is associated with a use other than a single-family dwelling.
136. JUNK - Used materials, discarded materials, or both, including but not limited to, waste paper, rags, metal, building materials, house furnishings, machinery, vehicles, or parts thereof, which are being stored awaiting potential reuse or ultimate disposal.
137. JUNK YARD - An industrial use with or without buildings, used for the storage, outside of a completely enclosed building, of used or discarded materials, including but not limited to, paper, rags, metal, building materials, house

furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other uses or disposition of the same. The deposit or storage on a lot of one or more unlicensed, wrecked, or disabled vehicles, or the major part thereof, shall be deemed to constitute a “junk yard”.

- a. For the purposes of this definition, a disabled vehicle is:
  - 1) a vehicle intended to be self-propelled that shall not be operable under its own power for any reason. or
  - 2) where inspection and/or registration is required, a vehicle that does not have a valid current registration plate or that has a certification of inspection which is more than sixty (60) days beyond the expiration date.
- b. Notwithstanding the foregoing, the storage of disabled farm vehicles or pieces of farm equipment on a lot shall not be considered a junk yard if:
  - 1) the lots are currently being used for agriculture.
  - 2) the vehicle or equipment is owned by the landowner or the operator of the farm.
  - 3) the vehicle or equipment was used on the lots in connection with the agricultural operation before such vehicle or equipment became disabled.

138. KENNEL - A commercial use or accessory use to a principal single-family detached dwelling, for the sheltering, boarding, breeding or training of more than six (6) dogs, cats, fowl or other small domestic animals defined herein at least six (6) months of age and kept for purposes of profit, but not to include livestock, animals and fowl raised for agricultural purposes. A kennel operation may include accessory uses such as animal grooming.

139. KNOLL - A small, round hill.

140. LANDOWNER - The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

141. LANDSCAPE PLAN - A component of a development plan, where required, on which is shown proposed landscape species (such as number, spacing, size at time of planting and planting details). Proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; etc.

142. LANDSCAPE STRIP - An area which contains required landscaping and separates the developed portions of the site from adjoining roads and/or properties.

143. LAUNDROMAT - A facility where patrons wash, dry, or dry-clean clothing or other fabrics in machines operated by the patron.

144. LIVESTOCK - Large animals, including, but not necessarily limited to, the following: horses, ponies, donkeys, mules, cattle, sheep, goats or swine but also includes poultry. Livestock shall not be considered domestic pets.
145. LOADING BERTH/SPACE - An off-street area on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.
146. LOADING SPACE - An off-street paved space suitable for the loading or unloading of goods and having direct access to a street or alley.
147. LOT - A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.
- a. CORNER LOT - A lot which has an interior angle of less than one hundred thirty- five degrees (135°) at the intersection of two (2) street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than one hundred thirty-five degrees (135°). Corner lots shall have two (2) front yards (abutting the street), one (1) side, and one (1) rear yard.
  - b. FLAG LOT - A lot whose frontage does not satisfy the minimum width requirements for the respective zone but that does have sufficient lot width away from the lot's frontage.
  - c. INTERIOR LOT - A lot other than a corner lot, the sides of which do not abut a street
  - d. THROUGH LOT OR REVERSE FRONTAGE LOT - An interior lot having frontage on two (2) parallel or approximately parallel streets.
148. LOT AREA - The area contained within the property lines of an individual lot excluding any area within any public rights-of-way and any drainage easement, but including the area of any other easement.
149. LOT COVERAGE - A percentage of the lot area which may be covered with an impervious surface (e.g., buildings, driveways, parking area, sidewalks).
150. LOT DEPTH - The horizontal distance measured between the street right-of-way line and the closest rear property line. On corner and reverse frontage lots, the depth shall be measured from the street right-of-way line of the street of address to the directly opposite property line.
151. LOT FRONTAGE - The linear horizontal measurement taken along a property's common boundaries with adjoining street rights-of-way, other than a limited access highway, along which lot access is prohibited. Except as may be modified in Sections 404 and 405 of this Ordinance, and not applicable for to single-family attached dwellings, new lots containing all other type uses must have minimum of fifty (50) feet of lot frontage.
152. LOT OF RECORD - A lot that has been recorded in the Office of the Recorder of Deeds of York County, Pennsylvania.

153. LOT LINES - The lines bounding a lot as defined herein.
154. LOT WIDTH - The continuous linear horizontal distance measured between side property lines. On corner lots, lot width shall be measured between the right-of-way line for the non-address street and the directly opposite property line. Unless otherwise noted, minimum lot width requirements shall be measured at the building setback line and the street line.
155. LUMEN – As used in the context of this Ordinance, the light-output rating of a lamp (light bulb).
156. MANUFACTURE - A function involving either the processing, conversion or production of materials, goods or products.
157. MANURE - The fecal and urinary excrement of livestock and poultry, often containing some spilled feed, bedding or litter.
158. MANURE STORAGE FACILITIES - A detached structure or other improvement built to store manure for future use, or disposal. Types of storage facilities are as follows: underground storage, in-ground storage, earthen bank, stacking area, and above-ground storage.
159. MAXIMUM FLOOD ELEVATION - The water surface elevations of a flood which would completely fill the floodplain to the boundaries of the Floodplain Zone.
160. MEAN SEA LEVEL - The average height of the sea for all stages of the tide, using the National Geodetic Vertical Datum of 1929.
161. MEDICAL OR DENTAL CLINICAL FACILITY - A commercial use of land and/or buildings for examination, diagnosis, and treatment of ill or afflicted human outpatients, including office, laboratory and dispensaries for the use of physicians, dentists, technicians and pharmacists.
162. MINERAL EXTRACTION OR RECOVERY OPERATION - The searching for or removal of rock, soil or mineral from the earth by excavating, stripping, mining, leveling, or any other process, but exclusive of excavations or grading involved in the construction of a building. Also includes any processing operations in connection with the above activities.
163. MINERALS - Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.
164. MINI-WAREHOUSE/SELF-STORAGE FACILITY - A building and/or series of buildings divided into separate storage units for personal property and/or property associated with some business or, other organization. These units shall be used solely for dead storage and no processing, manufacturing, sales, research and development testing, service and repair, or other non-storage activities shall be permitted.



165. MOBILE HOME - A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.
166. MOBILE HOME LOT - A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.
167. MOBILE HOME PARK - A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes
168. MOTEL - A commercial use which provides lodging to boarders for compensation, which contains more than eight (8) rooms with at least twenty-five (25%) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building, and which may provide meals and other services as a part of the compensation.
169. MUNICIPAL USE - Any use owned or operated by Newberry Township or a municipal authority created by Newberry Township.
170. NATURE PRESERVES AND WILDLIFE SANCTUARIES - An area maintained in a natural state for the preservation of both animal and plant life.
171. NEW CONSTRUCTION - Structures for which the start of construction commenced on or after the effective date of this section.
172. NIGHTCLUB - Any commercial use for which the on-site consumption of alcoholic or nonalcoholic beverages where live entertainment is offered. For the purposes of this definition, “live entertainment” is meant to include the use of disc-jockeys for the purposes of supplying musical entertainment. Nightclubs may also provide for on-site consumption of food. Additionally, nightclubs can offer the retail sale of carry out beer, wine and liquor as an accessory use. This is also meant to include an “under 21” club which features entertainment.
173. NO-IMPACT HOME OCCUPATION - A business activity administered or that is clearly conducted as an accessory use to and within residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pick-up, delivery or removal functions to or from the premises, in excess of those normally associated with the residential use. This use is subject to the following:
  - a. The business activity shall be compatible with the residential use of the property and surrounding residential uses
  - b. The business shall employ no employees other than family members residing in the dwelling.
  - c. There shall be no display or sale of retail goods and no stockpiling or inventory of substantial nature.

- d. There shall be no outside appearance of a business use, including but not limited to parking, signs or lights.
  - e. The business may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical interference, including interference with radio or television reception, which is detectable in the neighborhood.
  - f. 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.
  - g. The business activity shall be conducted only within the dwelling and may not occupy more than twenty-five (25%) percent of the habitable floor area.
  - h. The business may not involve any illegal activities.
174. NONCOMMERCIAL KEEPING OF LIVESTOCK - An accessory use to a principal single-family detached dwelling that is not contained upon a farm, whereupon livestock are kept exclusively by the residents of the site.
175. NONCONFORMING LOT - A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.
176. NONCONFORMING STRUCTURE - A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.
177. NONCONFORMING USE- A use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation
178. NONCONFORMITY, DIMENSIONAL - Any aspect of a land use that does not comply with any size, height, bulk, setback, distance, landscaping, coverage, screening, or any other design or performance standards specified by this Ordinance, where such dimensional nonconformity lawfully existed prior to the adoption of this Ordinance or amendment thereto.
179. NURSERY - Any lot or parcel of land used to cultivate, propagate and grow trees, shrubs, vines and other plants, including the buildings, structures and equipment customarily incidental and accessory to the primary use.

180. NURSING, REST OR RETIREMENT HOMES - Institutional uses designed for the full-time care, housing, boarding, and dining of human beings, being provided with some level of nursing care.
181. OBSTRUCTION - Any wall, dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or flood-prone area (1) which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water, or (2) which is placed where the flow of the water might carry the same downstream to the damage of life and property.
182. OFFICE - A use that involves administrative, clerical, financial, governmental or professional operations and operations of a similar character. This use shall include neither retail sales nor industrial uses, but may include business offices, medical offices, laboratories, photographic studios and/or television or radio broadcasting studios.
183. ON-SITE SEWER SERVICE - The disposal of sewage generated by one principal use with the use of a private, safe and healthful means within the confines of the lot on which the use is located, as approved by the PA DEP.
184. ON-SITE WATER SERVICE - The provision of a safe, adequate and healthful supply of water to a single principal use from a private well.
185. ONE HUNDRED (100) YEAR FLOOD - A flood which is likely to be equaled or exceeded once every one hundred (100) years (i.e., that has a one [1%] percent chance of being equaled or exceeded in any given year). A study by the Federal Insurance Administration, the United States Army Corps of Engineers, the United States Department of Agriculture's Soil Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed professional registered by the Commonwealth of Pennsylvania to perform such a study is necessary to define this flood.
186. ONE HUNDRED (100) YEAR FLOOD BOUNDARY - The outer boundary of an area of land that is likely to be flooded once every 100 years (i.e., that has a one [1 %] percent chance of being flooded each year). A study by the Federal Insurance Administration, the United States Army Corps of Engineers, the United States Department of Agriculture/Natural Resources Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed surveyor or professional engineer, registered by the Commonwealth of Pennsylvania is necessary to define this boundary.
187. ONE HUNDRED (100) YEAR FLOOD ELEVATION - The water surface elevations of the one hundred (100) year flood.
188. OPEN HOUSE - An event conducted as part of an attempt to sell or lease a property, whereby the property is open for public inspection. Open houses must always include on-site supervision by the property owner or his/her agent.

189. OPEN SPACE - A space unoccupied by buildings or paved surface and open to the sky on the same lot with principal use.
190. OPEN SPACE AND GREENWAY LAND - That portion of a tract that is set aside for the protection of sensitive natural features, farmland, scenic views, and other unique features. Greenway land may be accessible to the residents of the development and/or the municipality, or it may contain areas of conservancy lots which are not accessible to the public.
191. OUTDOOR SHOOTING RANGE - A commercial use outside of a completely enclosed building where firearms and other projectile-type weapon (e.g. guns, rifles, shotguns, pistols, air guns, archery, cross-bows, etc.) can be shot for recreation competition, skill development, training, or any combination thereof. Nothing within this definition shall be construed to include hunting when conducted in accordance with the rules and regulations of the Commonwealth of Pennsylvania.
- 191.1 OUTPARCEL - A parcel of land or lot which is generally located within or on the perimeter of a planned shopping center or other unified commercial development available for separate lease or sale that is subordinate to the larger parcel for access, parking and drainage purposes. Such lots may not be required to have direct access upon a public street. Off-street parking and loading requirements for the use located on the outparcel lot may be waived.
192. OWNER - The owner of record of a parcel of land.
193. PA DEP - Pennsylvania Department of Environmental Protection.
194. PA PUC - Pennsylvania Public Utility Commission.
195. PARK - A use of land, which may include accessory buildings and structures, for active and/or passive outdoor recreation for the purpose of pleasure, leisure, fellowship or exercise, commonly involving a sporting activity, camping, hiking, jogging, bicycling, swimming, picnicking and other related activities which is open to the public. A park may include amenities such as ball field, tennis courts, trails, playground equipment, restrooms, picnic tables, cooking grills and similar facilities. For purposes of this ordinance, parks shall not include improvements for or permit uses considered commercial recreational uses.
196. PARKING SPACE - An off-street space available for the parking of one (1) motor vehicle and having usable access to a street or alley.
197. PENNDOT - Pennsylvania Department of Transportation.
198. PERIMETER PARKING LOT LANDSCAPING - Landscape located around the outside perimeter of a parking lot, except along the street frontage. Perimeter landscaping includes the area provided in the setback required between the parking spaces and the building.
199. PICNIC AREA - A place equipped with tables, benches, grills and trash receptacles for people to assemble, cook, eat and relax outdoors.

200. PLACE OF WORSHIP - A building, structure, or group of buildings or structures, including accessory uses, designed or intended for public worship. This definition shall include rectories, convents, and church-related educational and/ or day care facilities.
201. PLANNING COMMISSION - The Planning Commission of Newberry Township.
202. PREMISES - The property upon which the activity is conducted as determined by physical facts rather than property lines. It is the land occupied by the buildings or other physical uses that are necessary or customarily incidental to the' activity, including such open spaces as are arranged and designed to be used in connection with such buildings or uses. The following are not considered to be a part of the premises on which the activity is conducted, and any signs located on such land are to be considered off-premise advertising:
- a. Any land which is not used as an integral part of the principal activity, including land which is separated from the activity by a roadway, highway, or other obstruction, and not used by the activity, and extensive undeveloped highway frontage contiguous to the land actually used by a commercial facility, even though it might be under the same ownership.
  - b. Any land which is used for, or devoted to, a separate purpose unrelated to the advertised activity,
  - c. Any land which is in closer proximity to the highway than to the principal activity, and developed or used only in the area of the sign site or between the sign site and the principal activity and whose purpose is for advertising purposes only. In no event shall a sign site be considered part of the premises on which the advertised activity is conducted if the site is located on a narrow strip of land which is nonbuildable land, or is a common or private roadway, or is held by easement or other lesser interest than the premises where the activity is located.
203. PRIME AGRICULTURAL LAND - Land used for agricultural purposes that contains soils of the first, second or third class as defined by the United States Department of Agriculture/Natural Resource and Conservation Services York County Soil Survey.
204. PRIVATE CLUB - An organization catering exclusively to members and their guests, or premises or buildings for social, recreational and administrative purposes which are not conducted for profit, provided there are not conducted any vending stands, merchandising or commercial activities, except as required for the membership of such club. Clubs shall include, but not be limited to, service and political organizations, labor unions, as well as social and athletic clubs. Private clubs shall not include adult-related facilities as defined herein.
205. PROCESS - A function which involves only the cleaning, sorting, sizing, packaging or any combination thereof, of products.

206. PUBLIC HEARING - A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this act.
207. PUBLIC MEETING - A forum held pursuant to notice under 65 Pa. C.S. CH. 7 (Relating to open meetings).
208. PUBLIC NOTICE - Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven days from the date of the hearing.
209. PUBLIC SEWER - A municipal sanitary sewer or a comparable common or package sanitary facility approved and permitted by the PA DEP. Such systems are capable of serving multiple users.
210. PUBLIC USE - A use owned, operated or controlled by a government, government agency or government authority (Federal, State, or County) for valid public health, public safety, recycling collection or similar governmental purpose, and which is not owned by Newberry Township or an authority created by Newberry Township. See Municipal Use.
211. PUBLIC WATER - A municipal water supply system or a comparable common water facility approved and permitted by the Pennsylvania Department of Environmental Protection. Such systems are capable of serving multiple users.
212. RACETRACK/SPEEDWAY – The utilization of any parcel of property within the Township for the purposes of conducting, operating or supervising what is commonly called drag-strip racing, hot-rod racking, automobile racing, motor driven go-cart or quarter midget racing, motorcycle racing, motor-bikes, mini-bikes, trail bikes, motor scooters and all terrain vehicles or any other manner of motorized vehicle or conveyance, for racing or timing contests.
213. RAVINE – A valley with sharply sloping walls created by the action of stream waters.
214. RECREATION, ACTIVE - Leisure time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, pools, courts, tracks, playgrounds or fields.
215. RECREATION, PASSIVE - Activities that involve relatively inactive or less energetic activities such as walking, sitting, picnicking, card games, chess, checkers and similar table games.
216. RECREATIONAL VEHICLE - A portable structure, primarily designed to provide temporary living quarters for recreation, camping or travel purposes. For purposes of Campgrounds, the term shall include a vehicle which is:
  - a. built on a single chassis.

- b. not more than four hundred (400) square feet, measured at the largest horizontal projections.
  - c. designed to be self-propelled or permanently towable by a light duty truck.
  - d. not designed for uses as a permanent dwelling but as temporary living quarters for recreational, camping, travel and seasonal use.
217. REGULATORY FLOOD ELEVATION - The one hundred (100) year flood elevation plus a freeboard safety factor of one (1) foot.
218. RENTAL - A procedure by which services or personal property are temporarily transferred to another person for a specific time period for compensation.
219. REPAIR - A function involved in correcting deficiencies of products that affect their performance, appearance or both.
220. RESTAURANT - A commercial use that primarily prepares food, confections, or beverages served to the customer on non-disposable tableware, but can provide incidental carry-out service so long as the area used for carry-out services does not exceed ten (10%) percent of the total patron seating area or two hundred (200) square feet (whichever is less). A restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary portion of the total trade, the requirements of a "tavern" or nightclub as applicable must be met.
221. RESTAURANT, DRIVE-IN - A commercial use that primarily prepares food, confections, or beverages served to the customer in a ready-to-consume state, and whose method of operation includes a drive-up window so that foods or beverages are served directly to motorist customers or by means which eliminate the need for the customer to exit the motor vehicle.
222. RESTAURANT, FAST-FOOD - A commercial use that primarily prepares food, confections, or beverages served to the customer in a ready-to-consume state, and whose method of operation is such that customers normally order the product at a central location separate from the tables or counters used for consumption.
223. RETAIL - Those businesses whose primary activities involve the display and sales of goods and products to the general public. This term shall not include adult-related uses as defined herein.
224. RIGHT-OF-WAY - A corridor of publicly owned or eased land for purposes of maintaining primary vehicular and pedestrian access to abutting properties, including but not limited to, roads, streets, highways and sidewalks. Abutting property owners are prohibited from encroaching across the right-of-way line. (See also "Street Line")
225. RIDING STABLE - An agricultural use where horses are boarded and cared for, and/or where instruction in riding, jumping, and showing is offered, and where horses may be hired for riding.
226. RURAL OCCUPATION - An accessory use to a principal single-family detached dwelling in which the owners engage in an occupation contained within an accessory building.

227. RURAL RESOURCE AREA - An area described in a municipal or multi-municipal plan within which rural resource uses including, but not limited to, agriculture, timbering, mining, quarrying and other extractive industries, forest and game lands and recreation and tourism are encouraged and enhanced, development that is compatible with or supportive of such uses is permitted, and public infrastructure services are not provided except in villages. For purposes of this definition, the rural resource area within Newberry Township, zoning districts, uses and other regulations are further specified in Article 3 of this Ordinance.
228. SATELLITE DISH ANTENNA - A device incorporating a reflective surface which is solid, open mesh or bar-configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electro-magnetic waves between terrestrially and/or orbitally-based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs, and satellite microwave antennas.
229. SAWMILL OPERATION - An industrial use consisting of a building, structure, or area where timber is cut, sawed or planed, either to finished lumber, or as an intermediary step and may include facilities for the kiln drying of lumber and may include the distribution of such products on a wholesale or retail basis. The processing of timber may be from the property on which it is located, from adjoining property or from other properties removed from the sawmill.
230. SCHOOL - A principal use in which supervised education or instruction is offered according to the following categories:
- a. COMMERCIAL SCHOOL - A school that may offer a wide range of education or instructional activities (excluding vocational-mechanical trade schools, defined below), that may, or may not, be operated as a gainful business by some person or organization other than the public school district.
  - b. PRIVATE SCHOOL - A school that offers elementary, secondary, post-secondary, post graduate, or any combination thereof, education that may or may not be operated as a gainful business.
  - c. PUBLIC SCHOOL - A school licensed by the Commonwealth of Pennsylvania, for the purpose of providing, elementary, secondary, adult education and operated by the West Shore and/or Northeastern School District(s).
  - d. VOCATIONAL-MECHANICAL TRADE SCHOOL - A school that may or may not be operated as a gainful business that principally offers training in any of the following occupations: truck driving, engine repairs, building construction and general contracting, woodworking, masonry, plumbing, electrical contracting and other similar type uses.
231. SCREENING -



- a. The method by which a view of one site from another adjacent site is shielded, concealed or hidden. Screening techniques include fences, walls, hedges, berms or other features.
  - b. A device or materials used to conceal one element of a development from other elements or from adjacent or contiguous development.
  - c. Screening may include one or a combination of the following materials of sufficient mass to be opaque or that shall become opaque after 12 months and which shall be maintained in an opaque condition: walls, berms or plantings.
232. SETBACK - The required horizontal distance between a minimum setback line and a property or street right-of-way line.
- a. FRONT SETBACK - The distance between the street line and the front setback line projected the full width of the lot. Commonly called “required front yard”.
  - b. REAR SETBACK - The distance between the rear lot line and the rear setback line projected the full width of the lot. Commonly called “required rear yard”.
  - c. SIDE SETBACK - The distance between the side lot line and the side setback line projected from the front yard to the rear yard. Commonly called “required side yard”.
233. SETBACK LINE - See Building Setback Line.
234. SHOPPING CENTER - A commercial use in which one store, or a planned center of stores, or stores and offices containing more than forty thousand (40,000) square feet of gross floor area designed for the site on which it is built, functioning as a unit, with off-street parking, which may include shared off-street parking provisions, provided on the property as an integral part of the unit, and which may include one or more separate lots as outparcels that are developed on the site as an integral part of the development.
235. SIGN - A device for visual communication that is used to bring the subject to the attention of the public. A sign shall not include flags or other insignia of any government or fraternal organization.
- a. CENTER SIGN: A business sign that provides identification at the entrance to a center such as a shopping center, planned commercial center, office complex, or industrial park.
  - b. FLAT WALL SIGN: A sign that is displayed, mounted, or both, upon or generally parallel to the same plane as the face of a wall, such that no portion of the sign extends more than twelve (12) inches from said wall.
  - c. FREESTANDING SIGN: A sign erected upon a permanently affixed, independent structure (legs or base).
  - d. HOME OCCUPATION SIGN: A sign providing information about a business activity conducted within a dwelling unit on the premises on which the sign is located.
  - e. OUTPARCEL SIGN: A sign affixed to a freestanding unit of occupancy contained within a planned commercial center.

- f. PERMANENT SIGN: A sign that is expected to be continuously displayed during the presence of a principal land use.
  - g. PORTABLE SIGN: A sign that is intended to easily be moved and not permanently affixed to a structure or the ground.
  - h. TEMPORARY SIGN: A sign that is only permitted for specified periods of time, associated with some temporary event or work, conducted on the site.
  - i. UNDER CANOPY SIGN: A sign that identifies one (1) leaseable unit within a shopping center and is hung from an overhead canopy of the shopping center, or is provided as a wall projecting sign attached to the front wall of the unit where no canopy is provided.
  - j. WALL PROJECTING SIGN: A sign that is mounted to a building wall such that its principal display area is not parallel to the building wall. A wall projecting sign can also be attached to a marquee.
236. SINGLE AND SEPARATE OWNERSHIP - The ownership of a lot by one or more persons, which ownership is separate and distinct from that of any abutting or adjoining lot.
237. SOIL SURVEY - The latest published version of the United States Department of Agriculture's Soil Survey for York County, Pennsylvania.
238. SOLID WASTE - Garbage, refuse and other discarded materials including, but not limited to, solid and liquid waste materials, resulting from municipal, industrial, commercial, agricultural and residential activities. Such wastes shall not include biological excrements or hazardous waste materials as defined in the Municipal Waste Planning, Recycling and Waste Reduction Act, Act 101 of 1988, and 25 PA Code Chapter 273, as amended, supplemented or revised.
239. SOLID WASTE DISPOSAL AND/OR PROCESSING FACILITY - A property or facility, licensed and approved by the Pennsylvania Department of Environmental Protection, for the disposal or storage of solid waste material, including garbage, refuse and other discarded materials including, but not limited to, solid and liquid waste materials, resulting from municipal, industrial, commercial, agricultural and residential activities. Such wastes shall not include biological excrements or hazardous waste materials as defined in the Municipal Waste Planning, Recycling and Waste Reduction Act, Act 101 of 1988, and 25 PA Code Chapter 273, as amended, supplemented or revised. The term Solid Waste Processing Facility includes any appurtenance that supports the operation of the facility, including haul roads, structures or storm water management facilities.
240. SPECIAL EXCEPTION - The granting of the right to use land is generally compatible with the particular zoning district once specified criteria have been met, as authorized by the Zoning Hearing Board under the terms, procedures and conditions prescribed herein.
241. SPECIFIED ANATOMICAL AREAS - Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, female breasts below a

point immediately above the top of areola, and/ or human male genitals in a discernible turgid state even if completely and opaquely covered.

242. SPECIFIED SEXUAL ACTIVITIES - For the Purposes of this Ordinance, this term shall include any of the following:
- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty. or
  - b. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence. or
  - c. Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation. or
  - d. Fondling or touching of nude human genitals, pubic region, buttocks or female breast. or
  - e. Masochism, erotic or sexually oriented torture, beating, or the infliction of pain. or
  - f. Erotic or lewd touching, fondling or other contact with an animal by a human being. or
  - g. Human excretion, urination, menstruation, vaginal or anal irrigation.
243. STORAGE - A function involving the depositing of materials, goods, products or combination thereof, for safekeeping.
244. STOREFRONT - The wall of a building which faces a front yard and has the primary means of pedestrian access.
245. 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 its wall area above grade level. A half-story is a story under a gable, hip or gambrel roof, the wall plate of which on at least two (2) opposite exterior walls is not more than two (2) feet above such story.
246. STREAM - A watercourse with definite bed and banks which confine and convey continuously or intermittently flowing water.
247. STREAM, INTERMITTENT - A natural stream carrying water during the wet seasons and having at least one critical area feature.
248. STREAM, PERENNIAL - A stream that is present at all seasons of the year.
- STREET – A public or private way, excluding driveways, access drives and alleys, which affords the means of access to abutting properties, intended to be used by vehicular traffic or pedestrians. Includes street, avenue, boulevard, road, highway, freeway, lane, viaduct and any other dedicated and accepted public right-of-way or private right-of-way. Streets are further classified as follows:

- a. ARTERIAL - A street or road used primarily for through traffic that maximizes mobility over land access through infrequent driveway intersections. This type of roadway typically connects urban centers with outlying communities and employment or shopping centers, and generally all other roads identified in the Newberry Township Comprehensive Plan as arterial streets.
  - b. COLLECTOR - A street or road used primarily for moving traffic from minor or local streets to the major system of arterial streets and/or linking those streets to community wide activity centers, including but not limited to the large residential developments, commercial and industrial areas, smaller rural settlements as well as all roadways identified in the Newberry Township Comprehensive Plan as collector streets.
  - c. CUL-DE-SAC - A street with a single common ingress and egress with a turnaround at the end. A cul-de-sac street shall be designed as a minor or local street
  - d. MINOR or LOCAL – A street or road used primarily for immediate access to adjoining land uses and are generally separated from through traffic. These roads are generally intended for transportation within a particular neighborhood, serving internally developed areas, while in outlying rural areas, local or minor roads tend to run for great distances and serve more individual properties. Local or minor roads also connect with roadways identified in the Newberry Township Comprehensive Plan as local or minor streets or one of the higher classifications of roadways.
249. STREET CENTERLINE - The horizontal line paralleling the street that bisects the street right-of-way line into two (2) equal widths. In those instances where the street right-of-way cannot be determined, the street centerline shall correspond to the center of the cartway.
250. STREET LINE - (Right-of-Way Line) A line defining the edge of a street right-of-way and separating the street from abutting property or lots. The street line shall be the same as the legal right-of-way line, or the ultimate right-of-way line as required in the Newberry Township Subdivision and Land Development Ordinance.
251. STRUCTURE –
- a. Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land, but excluding patios, driveways, access drives, walkways and parking areas or other at-grade structures. All structures must meet setback requirements. (See Building).
    - 1) ACCESSORY STRUCTURE - A structure closely incidental or subordinate to the principal use of a building or land on the same lot and serving a purpose customarily incidental to the use of the principal building or land use (e.g., swimming pools, patios, antennas, tennis courts, garages, utility sheds, etc).

- 2) PRINCIPAL STRUCTURE - The structure in which the principal use of a lot is conducted. Any structure that is physically attached to a principal structure shall be considered part of that principal structure.
- b. Structures shall not include such things as fences, sandboxes, decorative fountains, swing sets, birdhouses, birdfeeders, mailboxes, and any other similar nonpermanent improvements.
252. SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50% ) percent of the fair market value of the structure either (a) before the improvement or repair is started or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure.
253. SWIMMING POOL, HOUSEHOLD OR PRIVATE - A man-made area with walls of man-made materials intended to enclose water at least thirty (30) inches deep for bathing or swimming and that is intended to serve the residents of only one dwelling unit and their occasional guests.
254. SWIMMING POOL, NON-HOUSEHOLD - A man-made area with walls of man-made materials intended to enclose water at least thirty (30) inches deep for bathing or swimming and that does not meet the definition of a "household" swimming pool.
255. TAVERN - A commercial use which serves primarily alcoholic beverages for mostly on-premises consumption and which is licensed by the Pennsylvania Liquor Control Board. Taverns may also serve food.
256. TESTING - A function involving the examination and assessment of qualities, performances and/or capabilities of a product, good or material.
257. THEATER - A building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use, but not including an outdoor drive-in theater.
258. TOWNSHIP - Newberry Township, York County, Pennsylvania, Board of Supervisors, its agents, or authorized representatives.
259. TWO FAMILY CONVERSION - A principal residential use designed through the creation of not more than two (2) dwelling units for housing not more than two (2) families or housekeeping units, by conversion of an existing single-family detached building.
260. USE - The purpose, activity, occupation, business or operation for which land or a structure is designed, arranged, intended, occupied or maintained. Uses specifically include but are not limited to the following: activity within a structure, activity outside of a structure, any structure, recreational vehicle storage or parking of commercial vehicles on a lot.

- a. ACCESSORY USE - A use closely incidental or subordinate to the principal use of a building or land on the same lot and serving a purpose customarily incidental to the use of the principal building or land use.
  - b. PRINCIPAL USE - A dominant use(s) or main use on a lot, as opposed to an accessory use.
- 261. VARIANCE - A modification of any provision of this Ordinance granted by the Zoning Hearing Board subject to findings specified by the Act.
  - 262. VETERINARIAN'S OFFICE - A commercial use used primarily for the treatment, by a veterinarian, of small domestic animals such as dogs, cats, rabbits, and birds or fowl. No outdoor boarding of animals is permitted.
  - 263. WAREHOUSE - An industrial use of building or group of buildings primarily used for the indoor storage, transfer and distribution of products and materials, but not including retail uses or heavy equipment washing, servicing and/or repair, unless such uses are specifically permitted in that zoning district.
  - 264. WATERCOURSE- A permanent or intermittent stream, river, brook, run, creek, channel, swale, pond, lake, or other body of surface water carrying or holding surface water, whether natural or artificial.
  - 265. WATERSHED - All the land from which water drains into a particular watercourse.
  - 266. WETLAND - Area with the characteristics of a wetland, as defined by the United States Environmental Protection Agency, United States Army Corps of Engineers, PA DEP, and the United States Department of Agriculture/Natural Resources Conservation Service. Wetland areas are not limited to the locations delineated on the wetland maps prepared by the United States Fish and Wildlife Service.
  - 267. WHOLESALE - Any distribution procedure involving persons who, in the normal course of business, do not engage in sales to the general public.
  - 268. WILDLIFE HABITAT - Land set aside for animal habitation.
  - 269. WILDLIFE PRESERVE - An area restricted for the protection and preservation of natural resources and wildlife.
  - 270. WILDLIFE PROPAGATION - Raising of nondomestic wildlife.
  - 271. WIND ENERGY CONVERSION SYSTEM (WECS) - Any device which converts wind energy to mechanical or electrical energy.
  - 272. WINDOW - An opening to the outside, other than a door, which provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a window in regard to provision of natural light.
  - 273. WECS UNIT - Shall include blades, hubs to which blades are attached, and any device, such as a tower, used to support the hub and/or rotary blades, etc.

274. WOODLAND, MATURE - Woodlands consisting of 30% or more canopy trees having a twelve-inch or greater caliper, or any small concentration of trees consisting of eight or more trees having a sixteen-inch or greater caliper.
275. WOODLAND, YOUNG - Woodlands consisting of 70% or more canopy trees having a two-and-one-half-inch caliper or greater.
276. WOODLANDS - Areas covered with stands of trees, the majority of which are greater than twelve-inch caliper, covering an area greater than 1/4 acre, or a small concentration of mature trees without regard to minimum area consisting of substantial numbers of individual specimens.
277. YARD - An area between the permitted structures and the property lines.
- a. FRONT YARD - The area contained between the street right-of-way line and the principal structure. For flag lots, the front yard shall be that area between the principal structure and that property line which is most parallel to the street that provides access and is not part of the flagpole.
  - b. REAR YARD - The area contained between the principal structure and the property line directly opposite the street of address. For flag lots, the rear yard shall be that area between the principal structure and that lot line which is directly opposite the above-described front yard.
  - c. SIDE YARD - The area(s) between a principal structure and any side lot line(s). On corner lots, the side yard shall be considered those areas between the principal structure and the property lines directly opposite the non-address street(s). For flag lots, the side yards shall be the area between the principal structure and that one (1) outermost lot line which forms the flag and pole, plus the area on the opposite side of the principal structure.
278. ZONING - The designation of specified districts within the Township, reserving them for certain uses together with limitations on lot size, heights of structures and other stipulated requirements.
279. ZONING DISTRICT - A portion of the Township or adjacent municipality(s) within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance (or the adjacent municipality's Zoning Ordinance).
280. ZONING OFFICER - The duly constituted municipal official designated to administer and enforce this Ordinance in accordance with its literal terms.
281. ZONING PERMIT - Written authorization from the Zoning Officer to alter, improve, construct and/or make use of an area of land as regulated by this Ordinance.

Article  
DESIGNATED  
GROWTH  
AREA

2

**SECTION 201 OPEN SPACE (OS)**

**201.1 PURPOSE**

The purpose of this zoning district is to ensure that the Valley Green Golf Course continues to be the focal point of Newberry Township's primary growth area. The golf course adds not only to the character of Newberry Township, but also to the local community that surrounds it. The Open Space district ensures the focal point of the local community and Township is protected from development, thereby protecting the character of the neighborhood and protecting the existing open space that is so integral to the Township.

**201.2 USES**

**A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Agriculture, (S. 525.3) (excluding Intensive Farming Operation).
  - b. Forestry (S. 525.23) .
  - c. Nature Preserve and Wildlife Sanctuary.
  - d. Other similar Conservation Uses.

**B. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Bikeways.



- b. Common open space.
- c. Educational or scientific use not involving buildings or structures.
- d. Essential Services provided they are installed underground.
- e. Hiking or nature trails, open space and greenways.
- f. Municipal Uses.
- g. Picnic areas.
- h. Parks and Passive recreational areas not involving structures.

**C. COMMERCIAL USES**

- 1. Permitted by Conditional Use
  - a. Golf courses. (S. 525.25)

**D. ACCESSORY USES**

- 1. Permitted by Right
  - a. Accessory Uses customarily incidental to the above uses.

**201.3 DESIGN STANDARDS**

Except as otherwise noted, all principal uses shall comply with the following:

Design Standard		Use		
		All non-Agricultural & Forestry Uses with Both Utilities (Public Water & Public Sewer), or Only Public Sewer	All non-Agricultural & Forestry Uses with Only Public Water, or No Utilities (No Public Water and No Public Sewer)	Accessory Uses & Structures
Minimum Lot Area		20,000 sq. ft.	65,340 sq. ft.	---
Minimum Lot Width	@ Building Setback Line	70 ft.	100 ft.	---
Maximum Height		35 ft.		25 ft. <sup>1</sup>
Maximum Lot Coverage		25%	15%	---
Minimum Setbacks	Front	35 ft.		50 ft.
	Side	10 ft.	25 ft. for one side & 200 ft. for other side <sup>2</sup>	10 ft.
	Rear	35 ft.		6 ft.
<sup>1</sup> Provided each structure higher than 15' shall be set back from the nearest side and/or rear lot line a distance equal to its height, but in no case be located closer to any side and/or rear lot line than the required side and/or rear minimum setbacks.				
<sup>2</sup> 225 ft. total both sides				

**201.4 ALL USES SUBJECT TO GENERAL PROVISIONS**

All uses permitted within this zoning district shall also comply with all applicable General Provisions contained within Article 5 of this Ordinance.

## SECTION 202 RESIDENTIAL HOLDING (RH)

### 202.1 PURPOSE

The purpose of this zoning district is to compliment the Residential Growth area without allowing the mix of residential dwellings at this time. The area of this district represents the secondary residential growth district in the Township, and until such a time when the Residential Growth and Village Residential areas are completely built out, the single-family detached dwelling will be the only permitted dwelling type in the district. This district represents a significant portion of the proposed growth area to be serviced by public water and public sewerage. The preservation of the Township's natural features is a high priority and these sensitive features should be protected.

### 202.2 USES

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Agriculture, (S. 525.3) (excluding Intensive Farming Operation).
  - b. Forestry (S. 525.23).

#### **B. RESIDENTIAL USES**

1. Permitted by Right
  - a. Group Homes.
  - b. Single-Family Detached Dwellings.

#### **C. INSTITUTIONAL USES**

1. Permitted by Special Exception
  - c. Places of Worship (S. 525.45).

#### **D. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Essential Services (S. 525.20).
  - b. Municipal Uses.
  - c. Parks & Playgrounds.

#### **E. COMMERCIAL USES**

1. Permitted by Special Exception
  - a. Greenhouses & Nurseries (S. 525.26).

#### **F. ACCESSORY USES**

1. Permitted by Right
  - a. Uses customarily incidental to the above permitted uses.
  - b. Day-Care, Accessory.
  - c. Farm Occupations (S. 525.21).

- d. No-Impact Home Occupations.
- 2. Permitted by Special Exception
  - a. Bed & Breakfast Inns (S. 525.8).
  - b. Day-Care, Family (S. 525.17).
  - c. ECHO Housing (S. 525.19).
  - d. Home Occupations (S. 525.30).
  - e. Non-Commercial Keeping of Livestock (S. 525.41).

### 202.3 DESIGN STANDARDS

Except as otherwise noted, all principal uses shall comply with the following:

Design Standard		Use		
		All non-Agricultural & Forestry Uses with Both Utilities (Public Water & Public Sewer), or Only Public Sewer	All non-Agricultural & Forestry Uses with Only Public Water, or No Utilities (No Public Water and No Public Sewer)	Accessory Uses & Structures
Minimum Lot Area		20,000 sq. ft.	65,340 sq. ft.	---
Minimum Lot Width	@ Building Setback Line	70 ft.	---	---
	@ Street Right-of-Way Line	---	300 ft.	---
Maximum Height		35 ft.	35 ft.	25 ft. <sup>1</sup>
Maximum Lot Coverage		35%	15%	---
Minimum Setbacks	Front	35 ft.	35 ft.	100 ft. <sup>4</sup>
	Side	10 ft.	25 ft. for one side & 200 ft. for other side <sup>2 &amp; 3</sup>	10 ft.
	Rear	35 ft.	35 ft.	6 ft.
<sup>1</sup> Provided each structure higher than 15' shall be set back from the nearest side and/or rear lot line a distance equal to its height, but in no case be located closer to any side and/or rear lot line than the required side and/or rear minimum setbacks.				
<sup>2</sup> 225 ft. both sides				
<sup>3</sup> For single-family detached dwellings existing as of December 20, 1992 the minimum side yard setbacks shall be twenty-five (25) feet on each side.				
<sup>4</sup> No accessory building or structure, except for permitted signs, shall be located within the front yard, unless the accessory building or structures is set back at least one hundred (100) feet from the street right-of-way line.				

### 202.4 WATER AND SEWER FACILITIES REQUIRED

All principal, non-agricultural and non-forestry uses or developments within this zoning district shall be served by public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and

developments not meeting the requirements of this Section and Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance, such uses and developments shall be permitted only by conditional use and in accordance with the requirements listed in Section 519 of this Ordinance.

### **202.5 WASTE PRODUCTS**

All trash dumpsters shall be located within a side or rear yard, screened from adjoining roads or properties, and completely enclosed within a masonry or a fenced enclosure equipped with a self-latching door or gate.

### **202.6 VEGETATION SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural purposes.

### **202.7 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

#### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.
3. Section 404 Conservation Subdivision Design Overlay District (Residential development only).

### **202.8 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

#### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 514 Buffering.
6. Section 515 Landscaping.
7. Section 516 Screening.
8. Section 517 Signs.
9. Section 521 Operations and Performance Standards.

## **SECTION 203 SUBURBAN RESIDENTIAL (SR)**

### **203.1 PURPOSE**

The purpose of this zoning district is to account for existing suburban style development that has been identified by the Township's Act 537 Plan to receive public sewerage service within the identified growth area. The only exception is the Conewago Heights Development, which is outside of the proposed growth area; however a sanitary sewage collection system has already been designed for this development. Infill development would be the most common form of new growth in this district. This district is not considered an integral component of the Township's growth management plan as these areas are isolated throughout the Township. The natural features protection theme should be carried through into this district; however, large scale open space areas may be difficult to achieve due to the developed nature of this district.

### **203.2 USES**

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Agriculture (S. 525.3), (excluding Intensive Farming Operation).
  - b. Forestry (S. 525.23).

#### **B. RESIDENTIAL USES**

1. Permitted by Right
  - a. Group Homes.
  - b. Single-Family Detached Dwellings.

#### **C. INSTITUTIONAL USES**

2. Permitted by Special Exception
  - a. Places of Worship (S. 525.45).

#### **D. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Essential Services (S. 525.20).
  - b. Municipal Uses.
  - c. Parks & Playgrounds.
2. Permitted by Special Exception
  - a. Schools (S. 525.56)
    - 1) Public
    - 2) Private

#### **E. ACCESSORY USES**

1. Permitted by Right
  - a. Uses customarily incidental to the above permitted uses.

- b. Day-Care, Accessory.
- c. No-Impact Home Occupations.
- 2. Permitted by Special Exception
  - a. Day-Care, Family (S. 525.17).
  - b. Home Occupations (S. 525.30).

**203.3 DESIGN STANDARDS**

Except as otherwise noted, all principal uses shall comply with the following:

Design Standard		All non-Agricultural & Forestry Uses with Both Utilities (Public Water & Public Sewer), or Only Public Sewer	All non-Agricultural & Forestry Uses with Only Public Water, or No Utilities (No Public Water and No Public Sewer)	Accessory Uses
Minimum Lot Area		20,000 sq. ft.	65,340 sq. ft.	---
Minimum Lot Width	@ Building Setback Line	70 ft.	---	---
	@ Street Right-of-Way Line	---	300 ft.	---
Maximum Height		35 ft.		25 ft. <sup>1</sup>
Maximum Lot Coverage		40%	15%	---
Minimum Setbacks	Front	35 ft.		100 ft. <sup>4</sup>
	Side	10 ft.	25 ft. for one side & 200 ft. for other side <sup>2 &amp; 3</sup>	10 ft.
	Rear	35 ft.		6 ft.
<sup>1</sup> Provided each structure higher than 15' shall be set back from the nearest side and/or rear lot line a distance equal to its height, but in no case be located closer to any side and/or rear lot line than the required side and/or rear minimum setbacks.				
<sup>2</sup> 225 ft. total both sides				
<sup>3</sup> For single-family detached dwellings existing as of December 20, 1992 the minimum side yard setbacks shall be twenty-five (25) feet on each side.				
<sup>4</sup> No accessory building or structure, except for permitted signs, shall be located within the front yard, unless the accessory building or structures is set back at least one hundred (100) feet from the street right-of-way line.				

**203.4 WATER AND SEWER FACILITIES REQUIRED**

All principal, non-agricultural and non-forestry uses or developments within this zoning district shall be served by public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not meeting the requirements of this Section and Sections 611 and 612 of the NEWBERRY TOWNSHIP, YORK COUNTY, PA

Newberry Township Subdivision and Land Development Ordinance, such uses and developments shall be permitted only by conditional use and in accordance with the requirements listed in Section 519 of this Ordinance.

### **203.5 WASTE PRODUCTS**

All trash dumpsters shall be located within a side or rear yard, screened from adjoining roads or properties, and completely enclosed within masonry or fenced enclosure equipped with a self-latching door or gate.

### **203.6 VEGETATION SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural purposes.

### **203.7 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

#### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.
3. Section 404 Conservation Subdivision Design Overlay District (Residential development only).

### **203.8 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

#### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

1. In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:
2. Section 502 Accessory Uses and Structures.
3. Section 503 Unenclosed Storage.
4. Section 509 Required Vehicular Access.
5. Section 512 Parking Requirements.
6. Section 514 Buffering.
7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards.



## **SECTION 204 RESIDENTIAL GROWTH (RG)**

### **204.1 PURPOSE**

The purpose of this zoning district is to encourage residential growth in an area of the Township that is developed with a mix of single-family and multi-family dwellings supported by public water and public sewerage facilities, and represents the primary residential district in the Township. Public water and public sewerage shall service all major development in this district, and open space design should be incorporated into all new development to preserve the existing environmental features. The preservation of the Township's natural features is a high priority and these sensitive features should be protected. The development activity in this classification is unique in that the central feature of this area is the Valley Green Golf Course.

### **204.2 USES**

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Forestry (S. 525.23).

#### **B. RESIDENTIAL USES**

1. Permitted by Right
  - a. Group Homes.
  - b. Single-Family Attached Dwellings.
  - c. Single-Family Detached Dwellings.
  - d. Single-Family Semi-Detached Dwellings.
  - e. Two-Family Dwellings.
2. Permitted by Special Exception
  - a. Multi-Family Dwelling (S. 525.18).

#### **C. INSTITUTIONAL USES**

1. Permitted by Special Exception
  - a. Places of Worship (S. 525.45)

#### **D. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Essential Services (S. 525.20).
  - b. Municipal Uses.
  - c. Parks & Playgrounds.
2. Permitted by Special Exception
  - a. Schools (S. 525.56):
    - 1) Private.
    - 2) Public.

**E. ACCESSORY USES**

1. Permitted by Right
  - a. Uses customarily incidental to the above permitted uses.
  - b. Day-care, Accessory.
  - c. No-Impact Home Occupations.
2. Permitted by Special Exception
  - a. Day-care, Family (S. 525.17).
  - b. Home Occupations (S. 525.30).

**204.3 DESIGN STANDARDS**

Except as otherwise noted, all principal uses shall comply with the following:

	Design Standard	Use				Accessory Uses
		Single-Family Detached Dwelling	Single-Family Semi-Detached Dwelling	Two-Family Dwelling	Single-Family Attached Dwelling	
	Minimum Lot Area	15,000 sq. ft.	7,500 sq. ft.	25,000 sq. ft.	3,200 sq. ft.	---
Minimum Lot Width	@Building Setback Line	80 ft.	50 ft.	100 ft.	20 ft.	--
	Maximum Height	35 ft.			40 ft.	25 ft. <sup>1</sup>
	Maximum Lot Coverage	40%	50%	55%	65%	---
Minimum Setbacks	Front	15 ft.			15 ft.	Not permitted in front yard.
	Side	5 ft.	0 ft. between attached structures, 5 ft. between end units	5 ft.	0 ft. between attached structures, 5 ft. between end units	10 ft.
	Rear	15 ft.				6 ft.

<sup>1</sup> Provided each structure higher than 15' shall be set back from the nearest side and/or rear lot line a distance equal to its height, but in no case be located closer to any side and/or rear lot line than the required side and/or rear minimum setbacks.

**204.4 WATER AND SEWER FACILITIES REQUIRED**

All principal, non-agricultural and non-forestry uses or developments within this zoning district shall be served by public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and

developments not meeting the requirements of this Section and Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance, such uses and developments shall be permitted only by conditional use and in accordance with the requirements listed in Section 519 of this Ordinance.

### **204.5 WASTE PRODUCTS**

All trash dumpsters shall be located within a side or rear yard, screened from adjoining roads or properties, and completely enclosed within masonry or fenced enclosure equipped with a self-latching door or gate.

### **204.6 VEGETATION SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural purposes.

### **204.7 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

#### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.
3. Section 404 Conservation Subdivision Design Overlay District (Residential development only).

### **204.8 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

#### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 514 Buffering.
6. Section 515 Landscaping.
7. Section 516 Screening.
8. Section 517 Signs.
9. Section 521 Operations and Performance Standards.

## SECTION 205 MOBILE HOME PARK (MHP)

### 205.1 PURPOSE

The purpose of this zoning district acknowledges the numerous mobilehome park sites within the Township, and protects their continued existence. Because of complexities of mobilehome park design, they will be regulated via the conditional use process. Should landowners wish to eliminate mobilehome parks on a particular site, single-family residential development would be permitted, based upon the availability of public sewer and public water utilities.

### 205.2 USES

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Forestry (S. 525.23).

#### **B. RESIDENTIAL USES**

1. Permitted by Right
  - a. Group Homes.
  - b. Single-Family Detached Dwellings.
2. Permitted by Conditional Use
  - a. Mobile Home Parks (S. 525.39).

#### **C. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Essential Services (S. 525.20).
  - b. Municipal Uses.
  - c. Parks and Playgrounds.
2. Permitted by Special Exception
  - a. Public Uses.

#### **D. ACCESSORY USES**

1. Permitted by Right
  - a. Uses customarily incidental to the above permitted uses.
  - b. Day-Care, Accessory.
  - c. No-Impact Home Occupations.
2. Permitted by Special Exception
  - a. Day-Care, Family (S. 525.17).
  - b. Home Occupations (S. 525.30).

### 205.3 DESIGN STANDARDS

Except as otherwise noted, all principal uses shall comply with the following:

	<b>Design Standard</b>	<b>All non-Agricultural &amp; Forestry Uses with Both Utilities (Public Water &amp; Public Sewer), or Only Public Sewer</b>	<b>All non-Agricultural &amp; Forestry Uses with Only Public Water, or No Utilities (No Public Water and No Public Sewer)</b>	<b>Accessory Uses</b>
	Minimum Lot Area	15,000 sq. ft.	43,560 sq. ft.	---
Minimum Lot Width	@Building Setback Line	70 ft.	280 ft.	---
	Maximum Height	35 ft.	35 ft.	25 ft. <sup>1</sup>
	Maximum Lot Coverage	50%	20%	---
Minimum Setbacks	Front	40 ft.	40 ft.	Not permitted in front yard.
	Side	15 ft.	25 ft. for one side & 140 ft. for other side <sup>2</sup>	10 ft.
	Rear	35 ft.	50 ft.	6 ft.
<sup>1</sup> Provided each structure higher than 15' shall be set back from the nearest side and/or rear lot line a distance equal to its height, but in no case be located closer to any side and/or rear lot line than the required side and/or rear minimum setbacks.				
<sup>2</sup> 165 ft. both sides				

### 205.4 WATER AND SEWER FACILITIES REQUIRED

All principal, non-agricultural and non-forestry uses or developments within this zoning district shall be served by public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not meeting the requirements of this Section and Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance, such uses and developments shall be permitted only by conditional use and in accordance with the requirements listed in Section 519 of this Ordinance.

## **205.5 WASTE PRODUCTS**

All trash dumpsters shall be located within a side or rear yard, screened from adjoining roads or properties, and completely enclosed within masonry or fenced enclosure equipped with a self-latching door or gate.

## **205.6 VEGETATION SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural purposes.

## **205.7 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.

## **205.8 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 514 Buffering.
6. Section 515 Landscaping.
7. Section 516 Screening.
8. Section 517 Signs.
9. Section 521 Operations and Performance Standards.

## SECTION 206 VILLAGE (V)

### 206.1 PURPOSE

The Municipalities Planning Code defines Village as “an unincorporated settlement that is part of a Township where residential and mixed use densities of one unit to the acre or more exists or are permitted and commercial, industrial or institutional uses exist or are permitted.” The purpose of this classification is to provide basic convenience goods and service to local residents. The geographic region of the Village classification has been increased significantly to provide an opportunity for the area to develop cohesively in a “small town character.” The Village of Newberrytown and the area around Newberry Commons are the focal center point of the Village area. The area adjoining Newberry Commons contains a mixture of developed and undeveloped land. This area will provide an opportunity for high quality Village design, as provided for in the Pennsylvania Municipalities Planning Code as a Traditional Town Neighborhood, which can incorporate senior citizen housing, small scale commercial/office uses, and a mix of residential uses, including multi-family.

### 206.2 USES

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right  
Forestry (S. 525.23).

#### **B. RESIDENTIAL USES (Except as otherwise noted in this Ordinance, all Residential uses in the Village Zoning District shall comply with the Design Standards in Section 204.3 of this Ordinance)**

1. Permitted by Right
  - a. Group Homes.
  - b. Single-Family Attached Dwellings
  - c. Single-Family Detached Dwellings.
  - d. Single-Family Semi-Detached Dwellings.
  - e. Two-Family Dwellings.
2. Permitted by Special Exception
  - a. Multi-Family Dwellings (S. 525.18).
  - b. Two-Family Conversions (S. 525.60).
3. Permitted by Conditional Use
  - a. Single-Family Attached Dwellings with Conservation Subdivision Design (Section 525.58A).
  - b. Single-Family Semi-Detached Dwellings with Conservation Subdivision Design (Section 525.58A).

#### **C. INSTITUTIONAL USES**

1. Permitted by Special Exception
  - a. Hospitals (S. 525.31).

- b. Nursing, Rest or Retirement Homes (S. 525.42).
- c. Place of Worship and Related Uses (S. 525.45).
- d. Private Clubs (S. 525.46).

**D. PUBLIC/SEMI-PUBLIC USES**

- 1. Permitted by Right
  - a. Emergency Services.
  - b. Essential Services (S. 525.20).
  - c. Municipal Uses.
  - d. Parks & Playgrounds.
  - e. Theater and Auditorium.
- 2. Permitted by Special Exception
  - a. Public Uses.
  - b. Schools (S. 525.56):
    - 1) Private.
    - 2) Public.

**E. COMMERCIAL USES**

- 1. Permitted by Right
  - a. Banks and Similar Financial Institutions.
  - b. Convenient Stores.
  - c. Farmers Markets (S. 525.22).
  - d. Flea Markets (S. 525.22).
  - e. Health and Fitness Clubs (S. 525.27).
  - f. Hotels.
  - g. Medical or Dental Clinics (S. 525.37).
  - h. Offices.
  - i. Repair shops for Products Permitted to be Manufactured in the Zone.
  - j. Restaurants (S. 525.50) (excluding Drive-Thru and No Fast Food facilities).
  - k. Retail Sales.
  - l. Retail Services.
  - m. Veterinarian's Offices.
- 2. Permitted by Special Exception
  - a. Automobile Filling Stations (S. 525.6).
  - b. Automobile Service (S. 525.7).
  - c. Boarding Houses (S. 525.10).
  - d. Car Washes (S. 525.13).
  - e. Commercial Day-Care.
  - f. Funeral Homes (S. 525.24).
  - g. Indoor Commercial Recreation Facilities (S. 525.32).
- 3. Permitted by Conditional Use
  - a. Shopping Centers (S. 525.58).
  - b. Taverns (S. 525.40).



**F. ACCESSORY USES**

1. Permitted by Right
  - a. Accessory Uses customarily incidental to the above uses.
  - b. Cafés.
  - c. Day-Care, Accessory.
  - d. No-Impact Home Occupations.
2. Permitted by Special Exception
  - a. Bed and Breakfast Inns (S. 525.8).
  - b. Day-Care, Family (S. 525.17).
  - c. Home Occupations (S. 525.30).

**206.3 NUMBER OF USES PERMITTED**

In this district there may be any number of the uses permitted in this zoning district permitted within each existing building on December 20, 1992, provided that building size and floor area remain the same as it was, on December 20, 1992. For new buildings, only one principal use is permitted. For existing buildings that are enlarged, the number of uses permitted per building shall be the same number (at least one) that occupied the building on December 20, 1992. Except in the case of new buildings, one conversion apartment shall be permitted in addition to the other uses provided on the site.

**206.4 DESIGN STANDARDS**

Except as otherwise noted, all principal uses shall comply with the following:

**A. NONRESIDENTIAL DIMENSIONAL REQUIREMENTS**

	<b>Design Standard</b>	<b>Both Utilities (Public Water &amp; Public Sewer), or Only Public Sewer</b>
	Minimum Lot Area	10,000 sq. ft.
Minimum Lot Width	@Building Setback Line	70 ft.
	Maximum Height	35 ft.
	Maximum Lot Coverage	60%
Minimum Setbacks	Front	35 ft.
	Side	15 ft.
	Rear	20 ft.

**B. NONRESIDENTIAL USES**

The gross floor area for any new detached building shall not exceed 5,000 square feet of gross floor area of a one-story building, or a total aggregate gross floor area of 9,000 square feet for a two-story or three-story building. The floor area of a building, existing at the effective date of adoption of this chapter, may be used for the following uses, provided that the character of the building is maintained, there are not exterior modifications to the building, and if eligible for the National Register, any improvements shall meet the secretary of Interior Standards for

Rehabilitation. Additions to existing buildings shall be permitted, provided that the gross floor area does not exceed 5,000 square feet for a one-story building or a total aggregate gross floor area of 9,000 square feet for a two- or three-story building.

### **206.5 WATER AND SEWER FACILITIES REQUIRED**

All principal, non-agricultural and non-forestry uses or developments within this zoning district shall be served by public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not meeting the requirements of this Section and Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance, such uses and developments shall be permitted only by conditional use and in accordance with the requirements listed in Section 519 of this Ordinance.

### **206.6 WASTE PRODUCTS**

Dumpsters used for domestic garbage may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads and/or properties. All dumpsters shall be set back at least twenty-five (25) feet from any adjoining property used for an existing residential use or in a residential zoning district, and be completely enclosed within a masonry or framed enclosure with a self-latching door or gate. All dumpsters shall comply with Section 503.5 of this Ordinance.

### **206.7 OUTDOOR STORAGE**

Within this zoning district, no outdoor storage or display shall be permitted.

### **206.8 VEGETATION SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural purposes.

### **206.9 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

#### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.

### **206.10 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

#### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.

3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 513 Off-Street Loading Facilities.
6. Section 514 Buffering.
7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards.

### **206.11 DESIGN FEATURES/BONUS INCENTIVES**

Because of this zoning district's intended purpose, the following bonus incentives are applied to individual uses when prescribed design features are provided. These bonus incentives are tied to compliance with specified design features, as follows:

<b>Design Features</b>	<b>Bonus Incentive</b>
1. Coordinated vehicular access between two (2) or more adjoining land uses that make use of only one shared access drive onto adjoining roads.	A ten (10%) percent increase in the maximum lot coverage for each use.
2. Coordinated off-street parking between two (2) or more adjoining land uses that share a single access drive. Such parking lots shall be arranged to provide ready access to all properties.	Waiver of one side yard setback requirement as it applies to the off-street parking lot, and fifteen (15%) percent reduction in the number for parking spaces required for all uses.
3. Coordinated off-street loading between two (2) adjoining land uses sharing a single access drive that provides ready access to one or more loading spaces serving both uses.	Waiver of the off-street loading space requirement for that use that would otherwise require the least number of loading spaces, provided a cross property use easement is recorded that assures both uses may use the shared loading space(s). In addition, one side yard setback may also be waived, as it applies to off-street loading.
4. Coordinated signage with two (2) or more uses sharing only one freestanding sign.	A five (5%) percent increase in the maximum permitted lot coverage and a fifteen (15%) percent increase in the maximum permitted size of any attached signs.

## SECTION 207 MIXED USE COMMERCE (MU)

### 207.1 PURPOSE

The Mixed Use Commerce Zoning District is designed to promote a compatible combination of light industrial, professional and commercial uses in an environment where such uses can complement each other and the surrounding environs. It is also the intent of this district to limit the adverse effect of the permitted and conditional uses on the existing transportation network and ensure compatibility with the surrounding zoning districts. Attractive buildings and inoffensive processes characterize such uses. The Mixed Use Commerce District is intended to discourage and minimize air and water pollution, noise, glare, heat, vibration, fire and safety hazards and other detriments to the human and natural environment. Public water and public sewerage is required to serve the development.

### 207.2 USES

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Forestry (S. 525.23).

#### **B. INSTITUTIONAL USES**

1. Permitted by Right
  - a. Hospital (S. 525.31).
  - b. Nursing, Rest or Retirement Homes (S. 525.42).
  - c. Place of worship and Related Uses (S. 525.45).
  - d. Private Clubs (S. 525.46).

#### **C. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Emergency Services.
  - b. Essential Services (S. 525.20).
  - c. Municipal Uses.
  - d. Parks & Playgrounds.
  - e. Public Uses.
  - f. Vocational/Mechanical Trade School (S. 525.57).
  - g. Theater and Auditorium.

#### **D. COMMERCIAL USES**

1. Permitted by Right
  - a. Agricultural Support Businesses.
  - b. Animal Hospitals (S. 525.5).
  - c. Automobile Filling Stations (S. 525.6).
  - d. Automobile Sales.
  - e. Automobile Services S. 525.7).
  - f. Banks and Similar Financial Institutions.

- g. Car Wash S. 525.13).
  - h. Convenience Stores.
  - i. Commercial Day-Care (S. 525.16).
  - j. Farmers Markets (S. 525.22).
  - k. Flea Markets S. 525.22).
  - l. Funeral Homes (S. 525.24).
  - m. Greenhouses and Nurseries(S. 525.26).
  - n. Health and Fitness Clubs (S. 525.27).
  - o. Hotels.
  - p. Indoor Commercial Recreation Facilities (S. 525.32).
  - q. Laboratories for Medical, Scientific, or Industrial Research and Development (S. 525.36).
  - r. Medical or Dental Clinics (S. 525.37)
  - s. Mini-Warehouses (S. 525.38).
  - t. Motels.
  - u. Offices.
  - v. Repair Shops for Products Permitted to be Manufactured in this Zone.
  - w. Restaurants (S. 525.50):
    - 1) Drive-Thru facilities (525.51).
    - 2) Fast Food facilities (S. 525.52).
  - x. Retail Sales.
  - y. Retail Services.
  - z. Schools:
    - 1) Commercial.
  - aa. Veterinarian Offices.
2. Permitted by Conditional Use
- a. Billboards (S. 525.9).
  - b. Communication Antennas, Towers, and Equipment (S. 525.15).
  - c. Night Clubs (S. 525.40).
  - d. Outdoor Commercial Recreation Facilities (S. 525.44).
  - e. Shopping Centers (S. 525.58).
  - f. Tavern (S. 525.40).

**E. INDUSTRIAL USES**

1. Permitted by Right
- a. Light industrial uses including the manufacturing, assembling, converting, finishing, processing, packaging, storage, wholesaling and repair (where applicable) of the following:
    - 1) Agricultural, food and kindred products but excluding:
      - a) Breweries and distilleries.
      - b) Pickling processes.
      - c) Rendering or slaughtering operations.
      - d) Sugar refineries.
    - 2) Furniture & Fixtures.
    - 3) Printing, publishing and allied industries.

- 4) Pharmaceuticals, toiletries, medicinal, drug and biological products.
  - 5) Textile mill and apparel products.
  - 6) Professional, scientific and controlling instruments and equipment.
  - 7) Photographic & optical goods.
  - 8) Fabricated metal products and metal working.
  - 9) Woodworking, cabinets and handicraft products.
  - 10) Electronic and small parts assembly and repair, including small household appliances.
  - 11) Machinery and Equipment.
  - 12) Beverage Bottling, packaging products in the form of a powder or other dry state.
  - 13) Plastics molding.
  - 14) Tool and die.
  - 15) Sales, storage and/or wholesaling of the following:
    - a) Home and auto-related fuels.
    - b) Nursery and garden materials and stock.
    - c) Contractor supplies.
    - d) Home Improvement .
    - e) Plumbing, heating, air conditioning, electrical and other structural components of buildings.
2. Permitted by Conditional Use
    - a. Warehousing and wholesale trade establishments (S. 525.61).

## **F. ACCESSORY USES**

1. Permitted by Right
  - a. Accessory Uses customarily incidental to the above uses.
  - b. Cafés.
  - c. No-Impact Home Occupations.
2. Permitted by Special Exception
  - a. Home Occupations (S. 525.30).
3. Permitted by Conditional Use
  - a. Helicopter Pads (S. 525.4).

### 207.3 DESIGN STANDARDS

Except as otherwise noted, all principal uses shall comply with the following:

	<b>Design Standard</b>	<b>Both Utilities (Public Water &amp; Public Sewer), or Only Public Sewer</b>
	Minimum Lot Area	43,560 sq. ft.
Minimum Lot Width	@ Building Setback Line	200 ft.
	Maximum Height	35 ft. <sup>1 &amp; 2</sup>
	Maximum Lot Coverage	65%
Minimum Setbacks	Front	35 ft.
	Side	25 ft.
	Rear	25 ft.
<sup>1</sup> Except that chimneys, flagpoles, water tanks, and other mechanical appurtenances may be built to a height not exceeding seventy-five (75) feet above the finished grade when erected upon or as an integral part of a building.		
<sup>2</sup> Maximum building height may be increased to sixty (65) feet as long as for every additional one (1) foot of height increase that the setback from the property lines is increased by two (2) feet for all setback lines		

### 207.4 WATER AND SEWER FACILITIES REQUIRED

All principal, non-agricultural and non-forestry uses or developments within this zoning district shall be served by public water and public sewer in pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not meeting the requirements of this Section and Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance, such uses and developments shall be permitted only by conditional use and in accordance with the requirements listed in Section 519 of this Ordinance.

### 207.5 WASTE PRODUCTS

Dumpsters used for domestic garbage may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads and/or properties. All dumpsters shall be set back at least twenty-five (25) feet from any adjoining property used for an existing residential use or in a residential zoning district, and be completely enclosed within a masonry or framed enclosure with a self-latching door or gate. All dumpsters shall comply with Section 503.5 of this Ordinance.

## **207.6 OUTDOOR STORAGE**

Within this zoning district, outdoor storage shall be permitted, provided all outdoor storage areas comply with all of those setbacks and buffering requirements specifically imposed thereon, listed in this Ordinance.

## **207.7 VEGETATION SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural purposes.

## **207.8 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.

## **207.9 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 513 Off-Street Loading Facilities.
6. Section 514 Buffering.
7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards.



## SECTION 208 COMMERCE CENTER (CC)

### 208.1 PURPOSE

The purpose of this zoning district is to account for existing development patterns, and encourage commerce activity that is centrally located in the Township. This unique zoning district will increase the accessibility of commercial services to residents of the Township located on the west side of Interstate 83, and will help reduce the need to navigate the Newberrytown interchange area for basic services. Activity within this district would consist of the full range of commercial uses and limited industrial uses. Extension of public water and public sewerage would be encouraged to maximize the development potential of the district; therefore, the Commerce Center is considered part of the primary growth area. In addition, the Commerce Center area will increase the amount of land available for non-residential development; thereby, increasing the Township's tax revenue and local employment opportunities.

### 208.2 USES

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Forestry (S. 525.23).

#### **B. INSTITUTIONAL USES**

1. Permitted by Right
  - a. Nursing, Rest or Retirement Homes (S. 525.42).
  - b. Place of worship and Related Uses (S. 525.45).
  - c. Private Clubs (S. 525.46).

#### **C. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Emergency Services.
  - b. Essential Services (S. 525.20).
  - c. Municipal Uses.
  - d. Parks & Playgrounds.
  - e. Public Uses.
  - f. Vocational/Mechanical Trade School (S. 525.57).
  - g. Theater and Auditorium.

#### **D. COMMERCIAL USES**

1. Permitted by Right
  - a. Agricultural Support Businesses.
  - b. Animal Hospitals (S. 525.5).
  - c. Automobile Filling Stations (S. 525.6).
  - d. Automobile Services (S. 525.7).
  - e. Banks and Similar Financial Institutions.

- f. Car Wash (S. 525.13).
  - g. Convenience Stores.
  - h. Commercial Day-Care (S. 525.16).
  - i. Farmers Markets (S. 525.22).
  - j. Greenhouses and Nurseries (S. 525.26).
  - k. Health and Fitness Clubs (S. 525.27).
  - l. Laboratories for Medical, Scientific, or Industrial Research and Development (S. 525.36).
  - m. Medical or Dental Clinics (S. 525.37).
  - n. Mini-Warehouses (S. 525.38)
  - o. Offices.
  - p. Repair Shops for Products Permitted to be Manufactured in this Zone.
  - q. Restaurants (S. 525.50):
    - 1) Drive-Thru Facilities (S. 525.51).
    - 2) Fast Food Facilities (S. 525.52).
  - r. Retail Sales.
  - s. Retail Services.
  - t. Veterinarian Offices.
2. Permitted by Conditional Use
- a. Communication Antennas, Towers, and Equipment (S. 525.15).

**E. INDUSTRIAL USES**

- 1. Permitted by Right
  - a. Light industrial uses including the manufacturing, assembling, converting, finishing, processing, packaging, storage, wholesaling and repair (where applicable) of the following:
    - 1) Agricultural, food and kindred products but excluding:
      - a) Breweries and distilleries.
      - b) Pickling processes.
      - c) Rendering or slaughtering operations.
      - d) Sugar refineries.
    - 2) Furniture & Fixtures
    - 3) Printing, publishing and allied industries.
    - 4) Pharmaceuticals, toiletries, medicinal, drug and biological products
    - 5) Textile mill and apparel products.
    - 6) Professional, scientific and controlling instruments and equipment.
    - 7) Photographic & optical goods.
    - 8) Fabricated metal products and metal working.
    - 9) Woodworking, cabinets and handicraft products.
    - 10) Electronic and small parts assembly and repair, including small household appliances.
    - 11) Machinery and Equipment.
    - 12) Beverage Bottling, packaging products in the form of a powder or other dry state.
    - 13) Plastics molding.

- 14) Tool and die.
- 15) Sales, storage and/or wholesaling of the following:
  - a) Home and auto-related fuels.
  - b) Nursery and garden materials and stock.
  - c) Contractor supplies.
  - d) Home Improvement.
  - e) Plumbing, heating, air conditioning, electrical and other structural components of buildings.

**F. ACCESSORY USES**

- 1. Permitted by Right
  - a. Accessory Uses customarily incidental to the above uses.
  - b. Cafés.

**208.3 DESIGN STANDARDS**

Except as otherwise noted, all principal uses shall comply with the following:

	<b>Design Standard</b>	<b>Both Utilities (Public Water &amp; Public Sewer), or Only Public Sewer</b>
	Minimum Lot Area	43,560 sq. ft.
Minimum Lot Width	@Building Setback Line	200 ft.
	Maximum Height	35 ft. <sup>1 &amp; 2</sup>
	Maximum Lot Coverage	65%
Minimum Setbacks	Front	35 ft.
	Side	25 ft.
	Rear	25 ft.
<sup>1</sup> Except that chimneys, flagpoles, water tanks, and other mechanical appurtenances may be built to a height not exceeding seventy-five (75) feet above the finished grade when erected upon or as an integral part of a building.		
<sup>2</sup> Maximum building height may be increased to sixty (65) feet as long as for every additional one (1) foot of height increase that the setback from the property lines is increased by two (2) feet for all setback lines		

**208.4 WATER AND SEWER FACILITIES REQUIRED**

All principal, non-agricultural and non-forestry uses or developments within this zoning district shall be served by public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not meeting the requirements of this Section and Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance, such uses and developments shall be permitted only by conditional use and in accordance with the requirements listed in Section 519 of this Ordinance.

## **208.5 WASTE PRODUCTS**

Dumpsters used for domestic garbage may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads and/or properties. All dumpsters shall be set back at least twenty-five (25) feet from any adjoining property used for an existing residential use or in a residential zoning district, and be completely enclosed within a masonry or framed enclosure with a self-latching door or gate. All dumpsters shall comply with Section 503.5 of this Ordinance.

## **208.6 OUTDOOR STORAGE**

Within this zoning district, outdoor storage shall be permitted, provided all outdoor storage areas comply with all of those setbacks and buffering requirements specifically imposed thereon, listed in this Ordinance.

## **208.7 VEGETATION SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural purposes.

## **208.8 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.

## **208.9 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 513 Off-Street Loading Facilities.
6. Section 514 Buffering.
7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards.

## **SECTION 209 REGIONAL COMMERCIAL/OFFICE (RCO)**

### **SECTION 209.1 PURPOSE**

The purpose of this classification is to provide a suitable location for businesses that rely on a regional market for customers. Uses that would be permitted include a wide range of retail, light industrial and office uses. The area designated for this classification has premium vehicular access and exposure from Interstate 83.

### **SECTION 209.2 USES**

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Forestry (S. 525.23).

#### **B. INSTITUTIONAL USES**

1. Permitted by Right
  - a. Hospital (S. 525.31).
  - b. Nursing, Rest or Retirement Homes (S. 525.42).
  - c. Place of Worship and Related Uses (S. 525.45).
  - d. Private Clubs (S. 525.46).

#### **C. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Emergency Services.
  - b. Essential Services (S. 525.20).
  - c. Municipal Uses.
  - d. Public Uses.
  - e. School:
    - 1) Vocational/Mechanical Trade (S. 525.57).
  - f. Theater and Auditorium

#### **D. COMMERCIAL USES**

1. Permitted by Right
  - a. Agricultural Support Businesses.
  - b. Animal Hospitals (S. 525.5).
  - c. Automobile Filling Stations (S. 525.6).
  - d. Automobile Sales.
  - e. Automobile Services (S. 525.7).

- f. Banks and Similar Financial Institutions.
- g. Cafés.
- h. Car Wash (S. 525.13).
- i. Convenience Stores.
- j. Commercial Day-Care (S. 525.16).
- k. Farmers Markets (S. 525.22).
- l. Flea Markets (S. 525.22).
- m. Funeral Homes (S. 525.24).
- n. Greenhouses and Nurseries (S. 525.26).
- o. Health and Fitness Clubs (S. 525.27).
- p. Hotels.
- q. Indoor Commercial Recreational Facilities (S. 525.32).
- r. Laboratories for Medical, Scientific, or Industrial Research and Development (S. 525.36).
- s. Medical or Dental Clinics (S. 525.37).
- t. Motels.
- u. Offices.
- v. Repair Shops for Products Permitted to be Manufactured in this Zone.
- w. Restaurants (S. 525.50).
  - 1) Drive-Thru Facilities (S. 525.51).
  - 2) Fast Food Facilities (S. 525.52).
- x. Retail Sales.
- y. Retail Services.
- z. School:
  - 1) Commerical.
- aa. Veterinarian Offices.

2. Permitted by Conditional Use

- a. Billboards (S. 525.9).
- b. Business Park (S. 525.11).
- c. Communication Antennas, Towers, and Equipment (S. 525.15).
- d. Night Clubs (S. 525.40).
- e. Off-Track Betting Parlors (S. 525.43).
- f. Outdoor Commercial Recreational Facilities (S. 525.44).
- g. Shopping Centers (S. 525.58).
- h. Taverns (S. 525.40).

**E. INDUSTRIAL USES**

1. Permitted by Right

- a. Laboratories for medical, scientific, or industrial research and development.

- b. Light industrial uses including manufacturing, assembling, converting, finishing, processing, packaging, storage, wholesaling and repair (where applicable) of the following:
  - 1) Agricultural, food and kindred products but excluding:
    - a) Breweries and distilleries.
    - b) Pickling processes.
    - c) Rendering or slaughtering operations.
    - d) Sugar refineries.
  - 2) Furniture & Fixtures.
  - 3) Printing, publishing and allied industries.
  - 4) Pharmaceuticals, toiletries, medicinal, drug and biological products.
  - 5) Professional, scientific and controlling instruments and equipment.
  - 6) Photographic & optical goods.
  - 7) Fabricated metal products and metal working.
  - 8) Woodworking, cabinets and handicraft products.
  - 9) Electronic and small parts assembly and repair, including small household appliances.
  - 10) Machinery and Equipment.
  - 11) Plastics molding.
  - 12) Tool and die.
  - 13) Sales, storage and/or wholesaling of the following:
    - a) Nursery and garden materials and stock.
    - b) Contractor supplies.
    - c) Home Improvement.
    - d) Plumbing, heating, air conditioning, electrical and other structural components of buildings.
  - 14) Waste Handling Facilities.

**F. ACCESSORY USES**

- 1. Permitted by Right
  - a. Accessory uses customarily incidental to the above uses.
- 2. Permitted by Conditional Use
  - a. Helicopter Pads (S. 525.4).

**209.3 DESIGN STANDARDS**

Except as otherwise notes, all principal uses shall comply with the following:

	<b>Design Standard</b>	<b>Both Utilities (Public Water &amp; Public Sewer), or Only Public Sewer</b>
	Minimum Lot Area	15,000 sq. ft.
Minimum Lot Width	@ Building Setback Line	150 ft.
	Maximum Height	35 ft. <sup>1&amp;2</sup>
	Maximum Lot Coverage	60% <sup>3</sup>
Minimum Setbacks	Front	35 ft.
	Side	15 ft.
	Rear	20 ft.
<sup>1</sup> Except that chimneys, flagpoles, water tanks, and other mechanical appurtenances may be built to a height not exceeding seventy-five (75) feet above the finished grade when erected upon or as an integral part of a building.		
<sup>2</sup> Maximum building height may be increased to sixty-five (65) feet as long as for every additional one (1) foot to height increases that the setback from the property lines is increased by two (2) feet for all setback lines.		
<sup>3</sup> Lot coverage can be increased subject to the requirements of Section 525.63.		

#### **209.4 WATER AND SEWER FACILITIES REQUIRED**

All Principal, non-agricultural and non-forestry uses or developments within this zoning district shall be served by public water and public sewer in pursuant to Section 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not meeting the requirements of this Section and Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance, such uses and developments shall be permitted only by conditional use and in accordance with the requirements listed in Section 519 of this Ordinance.

#### **209.5 WASTE PRODUCTS**

Dumpsters used for domestic garbage may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining road and/or properties. All dumpsters shall be set back at least twenty-five (25) feet from any adjoining property used for an existing residential use or in a residential zoning district, and be completely enclosed within a split-faced masonry enclosure with a self-latching door or gate. All dumpsters shall comply with Section 503.5 of this Ordinance.

#### **209.6 OUTDOOR STORAGE**

Within this zoning district, outdoor storage shall be permitted, provided all outdoor storage areas comply with all of those setbacks and buffering requirements specifically imposed thereon, listed in this Ordinance. The outdoor storage of areas for automobile, boat, motorcycles, farm machinery and recreational vehicle sales need not be screened from adjoining roads.



**209.7 VEGETATION SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, or shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural purposes.

**209.8 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

**A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 403 Floodplain Protection Overlay District.

**209.9 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTAL PROVISIONS**

**A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 513 Off-Street Loading Facilities.
6. Section 514 Buffering.
7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards.”

## **SECTION 210 LIGHT INDUSTRIAL (LI)**

### **210.1 PURPOSE**

The purpose of the Light Industrial area is to provide a location for the introduction of small-scale and light industries and/or professional offices to provide local employment. The future development pattern of this classification is intended for the continuation, modification, and infill of small scale, non-obtrusive industrial operations, services, and professional offices. Generally, these uses should create and sustain a distinct light industrial character that differs from the heavier industries and high traffic generating commercial areas.

### **210.2 USES**

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Forestry (S. 525.23).

#### **B. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Emergency Services.
  - b. Essential Services (S. 525.20).
  - c. Municipal Uses.
  - d. Public Uses.
  - e. School:
    - 1) Vocational/Mechanical Trade School (S. 525.57).

#### **C. COMMERCIAL USES**

1. Permitted by Right
  - a. Agricultural Support Businesses.
  - b. Laboratories for Medical, Scientific, or Industrial Research and Development (S. 525.36).
  - c. Mini-Warehouses (S. 525.38).
  - d. Offices.
  - e. Repair Shops for Products Permitted to be manufactured in this Zone.
  - f. School:
    - 1) Commercial.
2. Permitted by Special Exception
  - a. Business Park (S. 525.11).
3. Permitted by Conditional Use
  - a. Airport, Heliport (S. 525.4).
  - b. Billboards (S. 525.9).
  - c. Communication Antennas, Towers, and Equipment (S. 525.15).

## **D. INDUSTRIAL USES**

1. Permitted by Right
  - a. Laboratories for medical, scientific, or industrial research and development.
  - b. Light industrial uses including the manufacturing, assembling, converting, finishing, processing, packaging, storage, wholesaling and repair (where applicable) of the following:
    - 1) Agricultural, food and kindred products but excluding:
      - a) Breweries and distilleries.
      - b) Pickling processes.
      - c) Rendering or slaughtering operations.
      - d) Sugar refineries.
    - 2) Furniture & Fixtures.
    - 3) Printing, publishing and allied industries.
    - 4) Pharmaceuticals, toiletries, medicinal, drug and biological products.
    - 5) Textile mill and apparel products.
    - 6) Professional, scientific and controlling instruments and equipment.
    - 7) Photographic & optical goods.
    - 8) Fabricated metal products and metal working.
    - 9) Woodworking, cabinets and handicraft products.
    - 10) Electronic and small parts assembly and repair, including small household appliances.
    - 11) Machinery and Equipment.
    - 12) Beverage Bottling, packaging products in the form of a powder or other dry state.
    - 13) Plastics molding.
    - 14) Tool and die.
    - 15) Sales, storage and/or wholesaling of the following:
      - a) Home and auto-related fuels.
      - b) Nursery and garden materials and stock.
      - c) Contractor supplies.
      - d) Home Improvement.
      - e) Plumbing, heating, air conditioning, electrical and other structural components of buildings.
    - 16) Waste Handling Facilities.

## **E. ACCESSORY USES**

1. Permitted by Right
  - a. Uses customarily incidental to the above permitted uses.

### **210.3 DESIGN STANDARDS**

Except as otherwise noted, all principal uses shall comply with the following:

	<b>Design Standard</b>	<b>Buildings/Structures</b>
	Minimum Lot Area	15,000 sq. ft.
Minimum Lot Width	@Building Setback Line	100 ft.
	Maximum Height	35 ft. <sup>1 &amp; 2</sup>
	Maximum Lot Coverage	70%
Minimum Set-backs	Front	35 ft.
	Side	25 ft.
	Rear	25 ft.
<sup>1</sup> Except that chimneys, flagpoles, water tanks, and other mechanical appurtenances may be built to a height not exceeding seventy-five (75) feet above the finished grade when erected upon or as an integral part of a building.		
<sup>2</sup> Maximum building height may be increased to sixty (65) feet as long as for every additional one (1) foot of height increase that the setback from the property lines is increased by two (2) feet for all setback lines		

### **210.4 WATER AND SEWER FACILITIES REQUIRED**

All principal, non-agricultural and non-forestry uses or developments within this zoning district shall be served by public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not meeting the requirements of this Section and Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance, such uses and developments shall be permitted only by conditional use and in accordance with the requirements listed in Section 519 of this Ordinance.

### **210.5 WASTE PRODUCTS**

Dumpsters used for domestic garbage may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads and/or properties. All dumpsters shall be set back at least twenty-five (25) feet from any adjoining property used for an existing residential use or in a residential zoning district, and be completely enclosed within a masonry or framed enclosure with a self-latching door or gate. All dumpsters shall comply with Section 503.5 of this Ordinance.

### **210.6 OUTDOOR STORAGE**

Within this zoning district, outdoor storage shall be permitted, provided all outdoor storage areas are screened from adjoining roads and properties, and they comply with all of those setbacks specifically imposed thereon, listed in this section. The outdoor storage of areas for automobile, boat, motorcycles, farm machinery and recreational vehicle sales need not be screened from adjoining roads.

## **210.7 VEGETATION SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural purposes.

## **210.8 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.

## **210.9 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 513 Off-Street Loading Facilities.
6. Section 514 Buffering.
7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards.

## **SECTION 211 GENERAL INDUSTRIAL (I)**

### **211.1 PURPOSE**

The purpose of the classification is to concentrate large-scale industrial operations in one area that will have the least amount of impact on the community's quality of life and highway infrastructure. The area has convenient access to major arterial roadways and expressways which is vitally important to the success of industrial operations.

## 211.2 USES

### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Agriculture, (S. 525.3) (excluding Intensive Farming Operation)
  - b. Forestry (S. 525.23).

### **B. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Emergency Services.
  - b. Essential Services (S. 525.20).
  - c. Municipal Uses.
  - d. Public Uses.
  - e. School:
    - 1) Vocational/Mechanical Trade School.

### **C. COMMERCIAL USES**

1. Permitted by Right
  - a. Agricultural Support Businesses.
  - b. Mini-Warehouses (S. 525.38).
  - c. Offices.
  - d. Repair Shops for Products Permitted to be manufactured in this Zone.
2. Permitted by Special Exception
  - a. Business Park (S. 525.11).
3. Permitted by Conditional Use
  - a. Airport, Heliport (S. 525.4).
  - b. Billboards (S. 525.9).
  - c. Communication Antennas, Towers, and Equipment (S. 525.15).
  - d. Adult Related Uses (S. 525.2)

### **D. INDUSTRIAL USES**

1. Permitted by Right
  - a. Laboratories for medical, scientific, or industrial research and development.
  - b. Heavy equipment sales, washing, service and repair, such as excavation machinery, commercial trucks, buses, farm equipment, mobile homes, trailers, and other similar machinery. (S. 525.28)
  - c. Light industrial uses including the manufacturing, assembling, converting, finishing, processing, packaging, storage, wholesaling and/or repair of the following:
    - 1) Agricultural, food and kindred products but excluding:
      - a) Breweries and distilleries.
      - b) Pickling processes.
      - c) Rendering or slaughtering operations.

- d) Sugar refineries.
- d. Furniture & Fixtures.
- e. Printing, publishing and allied industries.
- f. Pharmaceuticals, toiletries, medicinal, drug and biological products.
- g. Textile mill and apparel products.
- h. Professional, scientific and controlling instruments and equipment.
- i. Photographic & optical goods.
- j. Fabricated metal products and metal working.
- k. Woodworking, cabinets and handicraft products.
- l. Electronic and small parts assembly and repair, including small household appliances.
- m. Machinery and Equipment.
- n. Beverage Bottling, packaging products in the form of a powder or other dry state.
- o. Plastics molding.
- p. Tool and die.
- q. Sales, storage and/or wholesaling of the following:
  - 1) Automobiles, trucks, buses and other heavy equipment.
  - 2) Home and auto-related fuels.
  - 3) Nursery and garden materials and stock.
  - 4) Contractor supplies.
  - 5) Plumbing, heating, air conditioning, electrical and other structural components of buildings.
- r. Heavy industrial uses including the primary production of the following products from raw materials (S. 525.29):
  - 1) Asphalt, Cement, Charcoal and Fuel Briquettes.
  - 2) Chemicals, Aniline Dyes, Ammonia, Carbide, Caustic Soda, Cellulose, Chlorine, Carbon Black and Bone Black, Creosote, Hydrogen and Oxygen, Industrial Alcohol, Nitrates (manufactured and natural of an explosive nature), Potash, Plastic Materials and Synthetic Resins, Pyroxylin, Rayon, and Hydrochloric, Nitric, Phosphoric, Picric and Sulfuric Acids.
  - 3) Coal, Coke, and Tar products, including gas manufacturing.
  - 4) Explosives, Fertilizers, Gelatin, Glue and Animal size.
  - 5) Linoleum and Oil Cloth.
  - 6) Matches, Paint, Varnishes and Turpentine.
  - 7) Rubber (natural or synthetic), Soaps (including fat rendering).
  - 8) Starch.
- s. And the following processes:
  - 1) Magnesium foundry.
  - 2) Reduction, refinishing.
  - 3) Smelting and alloying of metal or metal ores.
  - 4) Refining secondary aluminum.
  - 5) Refining petroleum products, such as gasoline, kerosene, naphtha, lubricating oil, distillation of wood or bones.

- t. Automobile wrecking.
- u. Junkyard (S. 525.34).
- v. Mini-Warehouse (S. 525.38).
- w. Recycling facilities for paper, plastic, glass and metal products (S. 525.49).
- x. Sawmills and Lumberyards (S. 525.55).
- y. Solid waste processing, transfer or disposal facilities (S. 525.59).
- z. Warehousing and wholesale trade establishments (S. 525.61).
- aa. Wholesale sales and auctions of automobiles, trucks, buses, and other heavy equipment (S. 525.62).

**E. ACCESSORY USES**

Retail sales of products produced on-site so long as the sales area is no more than ten (10%) percent of the total building area or three thousand (3,000) square feet, whichever is less.

**211.3 DESIGN STANDARDS**

Except as otherwise noted, all principal uses shall comply with the following:

	<b>Design Standard</b>	<b>Buildings/Structures</b>
	Minimum Lot Area	43,560 sq. ft.
Minimum Lot Width	@ Building Setback Line	200 ft.
	@Building Setback Line	200 ft.
	Maximum Height	35 ft. <sup>1&amp; 2</sup>
	Maximum Lot Coverage	70%
Minimum Setbacks	Front	50 ft.
	Side	30 ft.
	Rear	35 ft.
<sup>1</sup> Except that chimneys, flagpoles, water tanks, and other mechanical appurtenances may be built to a height not exceeding seventy-five (75) feet above the finished grade when erected upon or as an integral part of a building.		
<sup>2</sup> Maximum building height may be increased to sixty (65) feet as long as for every additional one (1) foot of height increase that the setback from the property lines is increased by two (2) feet for all setback lines.		

**211.4 WATER AND SEWER FACILITIES REQUIRED**

All principal, non-agricultural and non-forestry uses or developments within this zoning district shall be served by public water and public sewer in pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not meeting the requirements of this Section and Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance, such uses and developments shall be permitted only by conditional use and in accordance with the requirements listed in Section 519 of this Ordinance.



## **211.5 WASTE PRODUCTS**

Dumpsters used for domestic garbage may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads and/or properties. Such dumpsters shall not be used for industrial wastes. All dumpsters shall be set back at least twenty-five (25) feet from all lot lines and seventy-five (75) feet from any adjoining property used for an existing residential use or in a residential zoning district, and be completely enclosed within a masonry or framed enclosure with a self-latching door or gate. All dumpsters shall comply with Section 503.5 of this Ordinance.

## **211.6 OUTDOOR STORAGE**

Within this zoning district, outdoor storage shall be permitted, provided all outdoor storage areas are screened from adjoining roads and properties, and they comply with all of those setbacks specifically imposed thereon, listed in this section. The outdoor storage of areas for automobile, boat, motorcycles, farm machinery and recreational vehicle sales need not be screened from adjoining roads.

## **211.7 VEGETATION SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural purposes.

## **211.8 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.

## **211.9 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 513 Off-Street Loading Facilities.

6. Section 514 Buffering.
7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards.

Article  
RURAL  
RESOURCE  
AREA

3

**SECTION 301 AGRICULTURE (A)**

**301.1 PURPOSE**

The purpose of this zoning district is to promote a continuation of the Township's rural character, promote agricultural activity, including Intensive Farming Operations. The location of this classification is naturally buffered from the Suburban Residential areas by the Industrial and Rural Resource classifications. The general location of the Agricultural Zoning District reflects the Township's recognition of the need for space for farming, including Intensive Farming Operations, and is well buffered from conflicts associated with new residential development targeted in the growth areas. The area could develop in a similar fashion to the Rural Resource Zoning District, but because of its agricultural purpose includes on-farm occupations to allow the farming community viable options to maintain an active farm.

**301.2 PERMITTED USES**

**A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Agriculture (S. 525.3).
  - b. Forestry (S. 525.23).
  - c. Intensive Farming Operation (S. 525.33).
  - d. Riding Stables (S. 525.53).

**B. RESIDENTIAL USES**

1. Permitted by Right
  - a. Group Homes.
  - b. Single-Family Detached Dwellings.

**C. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Municipal Uses.
2. Permitted by Special Exception
  - a. Essential Services (S. 525.20).

**D. COMMERCIAL USES**

1. Permitted by Right
  - a. Agricultural Support Business.
  - b. Kennel (S. 525.35).
  - c. Veterinarian's Offices.
2. Permitted by Special Exception
  - a. Animal Hospitals (S. 525.5).
  - b. Farmers Market (S. 525.22).
  - c. Greenhouses & Nurseries (S. 525.26).

**E. ACCESSORY USES**

1. Permitted by Right
  - a. Uses customarily incidental to the above permitted uses.
  - b. Day-Care, Accessory.
  - c. Farm Occupations (S. 525.21).
  - d. Manure Storage Facilities.
  - e. No-Impact Home Occupations.
  - f. Non-Commercial Keeping of Livestock (S. 525.41).
2. Permitted by Special Exception
  - a. Bed and Breakfast Inns (S. 525.8).
  - b. Day-Care, Family (S. 525.17).
  - c. ECHO Housing (S. 525.19).
  - d. Home Occupations (S. 525.30).
  - e. Rural Occupations (S. 525.54).

### 301.3 DESIGN STANDARDS

Design Standard		Use	
		Non-Agricultural & Non-Forestry Uses	Non-Agricultural & Non-Forestry Accessory Uses & Structures
Lot Area	Minimum	43,560 sq. ft.	---
	Maximum	87,120 sq. ft. <sup>1</sup>	
Minimum Lot Width	@ Building Setback Line	150 ft.	--_
Maximum Height		35 ft.	25 ft. <sup>2</sup>
Maximum Lot Coverage		15%	---
Minimum Setbacks	Front	50 ft.	100 ft. <sup>3</sup>
	Side	30 ft.	10 ft.
	Rear	50 ft.	6 ft.
<sup>1</sup> The maximum required lot area may be required to be increased to accommodate an on-lot sewage disposal site as determined b the PA DEP.			
<sup>2</sup> Provided each structure higher than 15' shall be set back from the nearest side and/or rear lot line a distance equal to its height, but in no case be located closer to any side and/or rear lot line than the required side and/or rear minimum setbacks.			
<sup>3</sup> No accessory building or structure, except for permitted signs, shall be located within the front yard, unless the accessory building or structures is set back at least one hundred (100) feet from the street right-of-way line.			

### 301.4 LIMITATIONS ON SUBDIVISION AND/OR LAND DEVELOPMENT

1. The permissible number of lots that may be subdivided, or the number of new permitted non-agricultural or non-forestry principal uses that may be established, shall be based on the parent tract acreage. For each five (5) acres of undeveloped contiguous land in single and separate ownership, that was held by the landowner or his predecessor(s) in title on December 20, 1992 there may be one (1) lot sold or utilized for establishing of any permitted non-agricultural or non-forestry principal use. If such land was not classified within either the Agriculture or Conservation zoning districts on December 20, 1992, the parent tract shall be held in single and separate ownership on the date such land was first rezoned to the Agriculture zoning district classification. For the purposes of this section, land held in single and separate ownership shall be considered contiguous regardless of whether:
  - a. such land is divided into one or more lots, parcels or purports, or tracts;
  - b. such land was acquired by the landowner at different times or by different deeds or other means; and,
  - c. such land is separated by public or private streets or rights-of-way.

2. A subdivision, the sole purpose of which is to provide for a lot add-on, where both the tract from the land is taken, and the tract to which the land is added, comply with lot area requirements in the following sections, shall not be included when computing the permissible number of lots that may be subdivided from a tract as set forth in the preceding paragraph.
3. Any subdivision or land development plan hereafter filed with the Township for subdivision or land development of a parent tract shall specify which lot or lots shall carry with it the right to further subdivision or establishment of principal uses, if any such right remains from the quota allocated to the parent tract on December 20, 1992, the effective date of this provision, or the date when such land was first included within the Agriculture or Conservation zoning districts. Although this Ordinance adopted per the effective date does not include a Conservation Zoning District, development restrictions established by the December 20, 1992 Zoning Ordinance shall apply to all properties located in the Conservation Zoning District per the December 20, 1992 or any subsequent amendments adopted prior to the effective date of this Ordinance which are located in the Agriculture Zoning District as per the effective date of this Ordinance. The right to further subdivision or establishment of principal uses shall also be included in the deed for the newly created lot. If the designation of the right of further subdivision or establishment of principal uses was not included on the subdivision or land development plan of a parent tract, it shall be conclusively presumed that the largest lot remaining after the subdivision shall carry the right of further subdivision or establishment of principal uses.
4. The number of lots may be created or principal uses that may be established shall be fixed according to the size of the parent tract. This number shall not be increased by the subdivision or such parent tract. Any subsequent owner shall be bound by the actions of his/her predecessor.

### **301.5 LOT DESIGN AND ACCESS REQUIREMENTS**

In addition to all other requirements of this Section, any lot created within the Agriculture Zoning District shall meet all of the following requirements:

1. Each non-agricultural lot shall be located so that the remainder of the tract from which such lot is subdivided shall be configured in a manner to best facilitate agricultural operations on the remainder and, to the maximum extent feasible, contain the soils of the highest agricultural land capability.
2. To the maximum extent feasible, each non-agricultural lot shall be located so that the remainder of the tract from which such lot is subdivided shall be configured in a manner to best facilitate agricultural operations on the remainder and, to the maximum extent feasible, contain the soils of the highest agricultural land capability.
3. Each non-agricultural lot shall be located in a manner to cluster the lots and minimize division of, or barriers within the agricultural or open space lands.

### **301.6 WATER AND SEWER FACILITIES REQUIRED**

Unless otherwise specified, all principal, non-agricultural and non-forestry uses or developments within this zoning district shall not be required to connect to public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not required to be provided with public water and public sewer, adequate on-lot well and on-lot sewage disposal facilities in accordance with Section 519 of this Ordinance, Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance and the PA DEP shall be provided.

### **301.7 MAXIMUM LOT AREA REQUIREMENTS**

Unless otherwise specified, all uses within this zoning district shall meet all required lot area requirements set forth in Section 301.3 herein above. However, the maximum lot size may be required to be increased to accommodate an on-lot sewage disposal site as determined by the PA DEP, as well as an alternate site as required by Section 519 of this ordinance.

### **301.8 WASTE PRODUCTS**

All trash dumpsters shall be located within a side or rear yard, screened from adjoining roads or properties, and completely enclosed within masonry or fenced enclosure equipped with a self-latching door or gate.

### **301.9 AGRICULTURAL AND FORESTRY SETBACK REQUIREMENT**

1. On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural or forestry purposes.
2. Additionally, for all new residential uses permitted in S. 301.2 of this Ordinance which proposed to be sited adjacent to an Intensive Farming Operation and share a common property line and in which on-lot wells are proposed for the new residential uses, the new wells shall not be located closer than one hundred (100) ft. from the shared property line of those lots which the existing Intensive Farming Operation is located.

### **301.10 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

#### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.
3. Section 404 Conservation Subdivision Design Overlay District (Residential development only).

## **301.11 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 513 Off-Street Loading Facilities.
6. Section 514 Buffering.
7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards.

## **301.12 AGRICULTURAL NUISANCE DISCLAIMER**

All lands within or abutting the Agriculture Zoning District are located in an area where land is used for commercial agricultural production. Owners, residents, and other users of this property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from the normal and accepted agricultural practices and operations including but not limited to noise, odors, dust, the operation of machinery of any kind including, aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants, and users of this property should be prepared to accept such inconveniences, discomfort and possibility of injury from normal agricultural operations, and are hereby put on official notice that Section 4 of Pennsylvania Act 133 of 1982, the Right to Farm Law, may bar them from obtaining a legal judgment against such normal agricultural operations.



## **SECTION 302 RURAL RESOURCE (RR)**

### **302.1 PURPOSE**

The Comprehensive Plan recognizes residential development and rural occupations outside of the growth area as desirable development options. The purpose of this zoning district is to recognize areas of the Township that have rural resources, such as rural occupations, agriculture and timbering, and encourages development that is compatible with the natural environment and rural character of the Township. Public water and public sewerage have not been extended into these areas and there is no pending need to extend the utilities. This district is not considered an integral component of the Township's growth management plan. However, sensitive natural features should be protected.

### **302.2 PERMITTED USES**

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Agriculture (S. 525.3) (excluding Intensive Farming Operation).
  - b. Forestry (S. 525.23).
  - c. Riding Stables (S. 525.53).

#### **B. RESIDENTIAL USES**

1. Permitted by Right
  - a. Group Homes.
  - b. Single-Family Detached Dwellings.

#### **C. INSTITUTIONAL USES**

1. Permitted by Special Exception
  - a. Places of Worship (S. 525.45).
  - b. Private Clubs (S. 525.46).

#### **D. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Cemeteries (S. 525.14).
  - b. Municipal Uses.
2. Permitted by Special Exception
  - a. Emergency Services.
  - b. Essential Services (S. 525.20).

#### **E. COMMERCIAL USES**

1. Permitted by Right
  - a. Agricultural Support Businesses.
  - b. Veterinarian's Offices.
2. Permitted by Special Exception

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- a. Animal Hospitals (S. 525.5).
  - b. Farmers Markets (S. 525.22).
  - c. Greenhouses and Nurseries (S. 525.26).
  - d. Kennels (S. 525.35).
3. Permitted by Conditional Use
- a. Campgrounds (S. 525.12).
  - b. Communication Antennas, Towers, and Equipment (S. 525.15).

**F. INDUSTRIAL USES**

- 1. Permitted by Special Exception
  - a. Sawmills and Lumberyards (S. 525.55).
- 2. Permitted by Conditional Use
  - a. Mineral Extraction or Recovery Operations (S. 525.47).

**G. ACCESSORY USES**

- 1. Permitted by Right
  - a. Uses customarily incidental to the above permitted uses.
  - b. Day-Care, Accessory.
  - c. Farm Occupations(S. 525.21).
  - d. Manure Storage Facilities.
  - e. No-Impact Home Occupations.
  - f. Non-Commercial Keeping of Livestock (S. 525.41).
- 2. Permitted by Special Exception
  - a. Bed and Breakfast Inns (S. 525.8).
  - b. Day-Care, Family (S. 525.17).
  - c. ECHO Housing (S. 525.19).
  - d. Home Occupations (S. 525.30).
  - e. Rural Occupations (S. 525.54).
- 3. Permitted by Conditional Use
  - a. Airstrip, Helipad (S. 525.4)

### 302.3 DESIGN STANDARDS

Except as otherwise noted, all principal uses shall comply with the following:

Design Standard		Use	
		Non-Agricultural & Forestry Uses	Non-Agricultural & Forestry Accessory Uses & Structures
Minimum Lot Area		87,120 sq. ft.	---
Minimum Lot Width	@ Building Setback Line	150 ft.	---
Maximum Height		35 ft.	25 ft. <sup>1</sup>
Maximum Lot Coverage		20%	---
Minimum Setbacks	Front	50 ft.	100 ft. <sup>2</sup>
	Side	30 ft.	10 ft.
	Rear	50 ft.	6 ft.
<sup>1</sup> Provided each structure higher than 15' shall be set back from the nearest side and/or rear lot line a distance equal to its height, but in no case be located closer to any side and/or rear lot line than the required side and/or rear minimum setbacks.			
<sup>2</sup> No accessory building or structure, except for permitted signs, shall be located within the front yard, unless the accessory building or structures is set back at least one hundred (100) feet from the street right-of-way line.			

### 302.4 WATER AND SEWER FACILITIES REQUIRED

Unless otherwise specified, all principal, non-agricultural and non-forestry uses or developments within this zoning district shall not be required to connect to public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not required to be provided with public water and public sewer, adequate on-lot well and on-lot sewage disposal facilities in accordance with Section 519 of this Ordinance, Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance and the PA DEP shall be provided.

### 302.5 WASTE PRODUCTS

All trash dumpsters shall be located within a side or rear yard, screened from adjoining roads or properties, and completely enclosed within masonry or fenced enclosure equipped with a self-latching door or gate.

### 302.6 AGRICULTURAL AND FORESTRY SETBACK REQUIREMENT

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural or forestry purposes.

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## **302.7 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.
3. Section 404 Conservation Subdivision Design Overlay District (Residential development only).

## **302.8 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 513 Off-Street Loading Facilities.
6. Section 514 Buffering.
7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards.

## **302.9 AGRICULTURAL NUISANCE DISCLAIMER**

All lands within or abutting the Rural Resource Zoning District are located in an area where land is used for commercial agricultural production. Owners, residents, and other users of this property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from the normal and accepted agricultural practices and operations including but not limited to noise, odors, dust, the operation of machinery of any kind including, aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants, and users of this property should be prepared to accept such inconveniences, discomfort and possibility of injury from normal agricultural operations, and are hereby put on official notice that Section 4 of Pennsylvania Act 133 of 1982, the Right to Farm Law, may bar them from obtaining a legal judgment against such normal agricultural operations.

## SECTION 303 RURAL RESIDENTIAL (R)

### 303.1 PURPOSE

The purpose of this zoning district is to account for existing rural-style development that has been identified by the Township's Act 537 Plan to receive public sewerage outside of the identified growth area, and is very similar to the Suburban Residential land classification. The development pattern of this district consists of larger lots and is closely related with rural-style development, which is the defining difference between the Rural Residential and Suburban Residential zoning districts. Infill development would be the most common form of new growth in this district. This district is not considered an integral component of the Township's growth management plan as these areas are isolated throughout the Township. Similar to the Suburban Residential district, the natural features protection theme should be carried through into this district. However, large scale open space areas may be difficult to achieve due to the developed nature of this district.

### 303.2 PERMITTED USES

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Agriculture (S. 525.3) (excluding Intensive Farming Operation).
  - b. Forestry (S. 525.23).
2. Permitted by Special Exception
  - a. Riding Stables (S. 525.53).

#### **B. RESIDENTIAL USES**

1. Permitted by Right
  - a. Group Homes.
  - b. Single-Family Detached Dwellings.

#### **C. INSTITUTIONAL USES**

1. Permitted by Special Exception
  - a. Private Clubs (S. 525.46).
  - b. Places of Worship (S. 525.45).

#### **D. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
  - a. Municipal Uses.
  - b. Parks and Playgrounds.
2. Permitted by Special Exception
  - a. Essential Services (S. 525.20).

#### **E. COMMERCIAL USES**

1. Permitted by Conditional Use

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- a. Campgrounds (S. 525.12).

**F. ACCESSORY USES**

- 1. Permitted by Right
  - a. Uses customarily incidental to the above permitted uses.
  - b. Day-Care, Accessory.
  - c. Farm Occupations (S. 525.21).
  - d. No-Impact Home Occupations.
- 2. Permitted by Special Exception
  - a. Bed and Breakfast Inns (S. 525.8).
  - b. Day-Care, Family (S. 525.17).
  - c. ECHO Housing (S. 525.19).
  - d. Home Occupations (S. 525.30).
  - e. Non-Commercial Keeping of Livestock (S. 525.41).

**303.3 DESIGN STANDARDS**

Except as otherwise noted, all principal uses shall comply with the following:

		<b>Both Utilities (Public Water &amp; Public Sewer), or Only Public Sewer</b>	<b>Only Public Water, or No Utilities (No Public Water and No Public Sewer)</b>	<b>Accessory Uses &amp; Structures</b>
	Minimum Lot Area	20,000 sq. ft.	65,340 sq. ft.	---
	Minimum Lot Width @ Building Setback Line	100 ft.	300 ft.	---
	Maximum Height	35 ft.		25 ft. <sup>1</sup>
	Maximum Lot Coverage	40%	15%	---
Minimum Setbacks	Front	40 ft.		100 ft. <sup>4</sup>
	Side	10 ft.	25 ft. for one side & 200 ft. for other side <sup>2&amp;3</sup>	10 ft.
	Rear	35 ft.	35 ft.	6 ft.
<sup>1</sup> Provided each structure higher than 15' shall be set back from the nearest side and/or rear lot line a distance equal to its height, but in no case be located closer to any side and/or rear lot line than the required side and/or rear minimum setbacks.				
<sup>2</sup> 225 ft. total both sides				
<sup>3</sup> For single-family detached dwellings existing as of December 20, 1992 the minimum side yard setbacks shall be twenty-five (25) feet on each side.				
<sup>4</sup> No accessory building or structure, except for permitted signs, shall be located within the front yard, unless the accessory building or structures is set back at least one hundred (100) feet from the street right-of-way line.				

### **303.4 WATER AND SEWER FACILITIES REQUIRED**

Unless otherwise specified by the Newberry Township Act 537 Plan, all principal, non-agricultural and non-forestry uses or developments within this zoning district shall not be required to connect to public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not required to be provided with public water and public sewer, adequate on-lot well and on-lot sewage disposal facilities in accordance with Section 519 of this Ordinance, Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance and the PA DEP shall be provided.

### **303.5 WASTE PRODUCTS**

All trash dumpsters shall be located within a side or rear yard, screened from adjoining roads or properties, and completely enclosed within masonry or fenced enclosure equipped with a self-latching door or gate.

### **303.6 AGRICULTURAL AND FORESTRY SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural or forestry purposes.

### **303.7 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

#### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.
3. Section 404 Conservation Subdivision Design Overlay District (Residential development only).

### **303.8 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

#### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 513 Off-Street Loading Facilities.
6. Section 514 Buffering.

7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards.



## SECTION 304 RURAL INDUSTRIAL (RI)

### 304.1 PURPOSE

The purpose of the Rural Industrial classification is to identify an area for light industrial uses that does not typically require large volumes of water, nor generate large volumes of sewage. Lot sizes should be kept deliberately small to accommodate small start-up businesses. Generally, these uses should create and sustain a distinct character that differs from the other industrial classifications and high traffic generating commercial areas.

### 304.2 PERMITTED USES

#### **A. AGRICULTURAL & FORESTRY USES**

1. Permitted by Right
  - a. Agriculture, (S. 525.3) (excluding Intensive Farming Operation).
  - b. Forestry (S. 525.23).

#### **B. COMMERCIAL USES**

1. Permitted by Right
  - a. Agricultural Support Businesses.
  - b. Mini-Warehouses (S. 525.38).
  - c. Offices.
  - d. Repair Shops for Products Permitted to be manufactured in the Zone.
2. Permitted by Conditional Use
  - a. Billboards (S. 525.9).
  - b. Communication Antennas and Towers (S. 525.15).

#### **C. INDUSTRIAL USES**

1. Permitted by Right
  - a. Manufacturing, packaging, storage and/or wholesaling of the following:
    - 1) Brushes, brooms and combs.
    - 2) Hardware and software for audio-visual components, computers, vending machines and video games.
    - 3) Hot tubs, spas, saunas and swimming pools.
    - 4) Musical instruments and sporting equipment.
    - 5) Scientific, specialized and technical instruments and equipment.
    - 6) Small household appliance, excluding major appliances.
  - b. Sales, storage and/or wholesaling of the following:
    - 1) Contractor supplies.
    - 2) Home and auto-related fuels.
    - 3) Nursery and garden materials and stock.
    - 4) Plumbing, heating, air conditioning, electrical and other structural components of buildings.
  - c. Sawmill and Lumberyards (S. 525.55).

- d. Sign makers.
  - e. Small engine repair shops.
  - f. Welding shops.
2. Permitted by Conditional Use
- a. Automobile Wrecking.
  - b. Junkyards (S. 525.34).
  - c. Warehousing and wholesale trade establishments (S. 525.61).
  - d. Wholesale sales and auctions of automobiles, trucks, buses, and other heavy equipment (S. 525.62).

**D. PUBLIC/SEMI-PUBLIC USES**

1. Permitted by Right
- a. Emergency Services.
  - b. Municipal Uses.
2. Permitted by Special Exception.
- a. Essential Services (S. 525.20).

**E. ACCESSORY USES**

1. Uses customarily incidental to the above permitted uses.
- a. Manure Storage Facilities.
  - b. Non-Commercial Keeping of Livestock (S. 525.41).
  - c. Recycling collection facilities provided such facilities are enclosed to prevent the scattering of debris, the materials collected are removed at regular intervals, the facility is posted to prohibit the disposal of any material, goods or furnishings that cannot be placed within the actual recycling bin, and the total size of the facility is less than three hundred (300) square feet (S. 525.49).
  - d. Retail sales of products produced on site so long as the sales area is no more than ten (10%) of the total building area or three thousand (3,000) square feet, whichever is less
  - e. Rural Occupations (S. 525.54).

### **304.3 DESIGN STANDARDS**

Except as otherwise noted, all principal uses shall comply with the following:

	<b>Design Standard</b>	<b>Buildings/Structures</b>
	Minimum Lot Area	43,560 sq. ft.
Minimum Lot Width	@ Building Setback Line	150 ft.
	Maximum Height	35 ft.
	Maximum Lot Coverage	60%
Minimum Setbacks	Front	50 ft.
	Side	30 ft.
	Rear	25 ft.
<sup>1</sup> Side, or the rear yard setbacks can be waived solely for joint parking and/or loading spaces where two (2) or more adjoining uses share such parking and/or loading spaces.		

### **304.4 WATER AND SEWER FACILITIES REQUIRED**

Unless otherwise specified, all principal, non-agricultural and non-forestry uses or developments within this zoning district shall not be required to connect to public water and public sewer pursuant to Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance. For those uses and developments not required to be provided with public water and public sewer, adequate on-lot well and on-lot sewage disposal facilities in accordance with Section 519 of this Ordinance, Sections 611 and 612 of the Newberry Township Subdivision and Land Development Ordinance and the PA DEP shall be provided.

### **304.5 WASTE PRODUCTS**

Storage of industrial waste materials shall not be permitted except in an enclosed building. Dumpsters used for domestic garbage may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads or properties in accordance with Section 516 of this Ordinance. Such dumpsters shall not be used for industrial wastes, and shall be set back at least twenty-five (25) feet from all property lines, and fifty (50) feet from any adjoining property used for an existing residential use or in a residential zoning district. All dumpsters shall comply with Section 503.5 of this Ordinance.

### **304.6 OUTDOOR STORAGE**

Within this zoning district, outdoor storage shall be permitted, provided all outdoor storage areas are screened from adjoining roads and properties in accordance with Section 516 of this Ordinance, and they comply with all of those setbacks specifically imposed thereon, listed in this section.

### **304.7 AGRICULTURAL AND FORESTRY SETBACK REQUIREMENT**

On any separate non-agricultural or non-forestry parcel, no shrub shall be planted within ten (10) feet, nor shall any tree be planted within thirty (30) feet, respectively, of any land used for agricultural or forestry purposes.

### **304.8 ALL USES SUBJECT TO OVERLAY ZONING DISTRICTS**

#### **A. OVERLAY DISTRICTS**

If located within or affected by the following overlay districts, development or uses shall meet the requirements of Article IV in accordance with:

1. Section 402 Sensitive Environmental Features Overlay District.
2. Section 403 Floodplain Protection Overlay District.

### **304.9 ALL USES SUBJECT TO GENERAL AND SUPPLEMENTARY PROVISIONS**

#### **A. GENERAL AND SUPPLEMENTARY PROVISIONS**

In addition to other applicable sections of Article V General and Supplementary Provisions, all development or uses permitted within this zoning district shall also comply with:

1. Section 502 Accessory Uses and Structures.
2. Section 503 Unenclosed Storage.
3. Section 509 Required Vehicular Access.
4. Section 512 Parking Requirements.
5. Section 513 Off-Street Loading Facilities.
6. Section 514 Buffering.
7. Section 515 Landscaping.
8. Section 516 Screening.
9. Section 517 Signs.
10. Section 521 Operations and Performance Standards

Article  
OVERLAY  
ZONING  
DISTRICTS

4

**SECTION 401 RURAL COMMERCIAL OVERLAY**

**401.1 PURPOSE**

The purpose of the Rural Commercial Overlay is very similar to the Rural Industrial Zoning District in that it is an area for light commercial uses that does not require large volumes of water, nor generate large volumes of sewage. This overlay is not part of the Township's growth area; therefore, public sewer or public water should not be extended into areas covered by this overlay unless to address a public health issue. Generally, uses in this overlay district sustain a distinctly low impact character that differs from the other high traffic generating commercial classifications. The designation of this overlay zoning district from the underlying Rural Resource Zoning District in the area of the Susquehanna Speedway will prevent existing residential uses from being classified as non-conforming uses.

**401.2 PERMITTED USES**

All legally established uses allowed in the Rural Resource Zoning District, whether by right, by special exception or by conditional use shall be permitted to be legally established as uses by right, by special exception or by conditional use subject to the provisions stated in Section 302 of this Ordinance, so as not to create nonconformities. In addition to the uses permitted in the underlying zoning district, the following shall also be permitted uses in the Rural Commercial Overlay, provided that they are in compliance with the Design Standards and Use provisions of Section 302 (Rural Resource Zoning District), General and Supplementary Use Provisions of Article 5, and are not prohibited by another ordinance.

**A. USES**

1. Flea Markets (S. 525.22).
2. Indoor Commercial Recreation Facilities (S. 525.32).
3. Mini-Warehouses (S. 525.38).
4. Public Uses.
5. Outdoor Commercial Recreation Facilities (S. 525.44).
6. Racetracks/Speedways (S. 525.48).
7. Repair shops, including small engine as well as those products permitted to be manufactured in the underlying zoning district.
8. Sign makers.
9. Welding shops.

**B. ACCESSORY USES**

1. Uses customarily incidental to the above permitted uses.

**401.3 ESTABLISHMENT OF RURAL COMMERCIAL OVERLAY BOUNDARIES**

The Rural Commercial Overlay Zoning District shall consist of all land identified on the Official Zoning Map as Rural Commercial Overlay.

**401.4 MAXIMUM LOT COVERAGE**

Except as otherwise noted in this Ordinance, the maximum lot coverage shall be sixty (60%) percent.

**SECTION 402 SENSITIVE ENVIRONMENTAL FEATURES OVERLAY**

**402.1 PURPOSE**

The purpose of the Sensitive Environmental Features Overlay District is to ensure the public health, safety and welfare through the protection of slopes, streams, wetlands, and surface water, which are considered some of the Township's most important natural resources. The Sensitive Environmental Features Overlay includes the following:

1. Steep Slope Protection Overlay Zoning District
2. Stream Protection Overlay Zoning District
3. Surface Water Protection Overlay Zoning District
4. Wetland Protection Overlay Zoning District

## **402.2 CONFLICT**

1. In the event that the provisions of this Section and the provisions of other applicable Township ordinance standards are in conflict, the more restrictive provisions shall apply.
2. In the event that two (2) or more natural resource areas identified in this Section overlap, the resources with the most restrictive standard (the least amount of permitted alteration, regarding, clearing, or building) shall apply to the area of overlap.

## **402.3 STEEP SLOPE PROTECTION OVERLAY ZONING DISTRICT**

Steep slopes and hillsides are unique areas. Slope areas are fragile and susceptible to erosion, landslides, mudslides, degradation of their natural vegetation and increased flooding using conventional development practices. By protecting this asset the Township intends to:

1. Guide development away from steep areas.
2. Minimize grading and other site preparation in steep area.
3. Provide safe means for ingress and egress while minimizing scarring from hillside construction.
4. Preserve the natural conditions in steep areas.
5. Prevent flooding and the deteriorating effects of erosion to streams and drainage areas.

### **A. ESTABLISHMENT OF SLOPE PROTECTION OVERLAY BOUNDARIES**

The Slope Protection Overlay Zoning District shall consist of all land which has twenty-five (25%) percent slope or more (which are considered very steep slopes). The Slope Protection Overlay Zoning District boundary shall be based on a topographic investigation of critical sloped areas. The average natural slope of an area shall be determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the resulting figure into a percentage value. The sloped area shall be measured at right angles to the natural contours.

### **B. PERMITTED USES**

The following shall be permitted uses in the Slope Protection Overlay Zoning District, provided they are in compliance with the provisions of the underlying zoning district and are not prohibited by another ordinance, and provided that they do not require structures, grading, fill or storage of materials and equipment:

1. Agriculture, including general farming, pasture grazing, outdoor plant nurseries, horticulture, truck farming, no-till planting and wild crop harvesting, excluding Intensive Farming Operation.
2. Common open space.
3. Educational or scientific use not involving buildings or structures.
4. Trails and Open Space and Greenways.

5. Parks and passive recreational areas not involving structures.
6. Accessory residential uses such as gardens, play areas or fences.
7. Accessory commercial uses such as picnic areas or fences.
8. Essential Services provided they are installed underground.

**C. STANDARDS**

1. The Slope Protection Overlay Zoning District shall be established at the time of subdivision or land development or the application for a zoning permit if there is no subdivision or land development proposed.
2. In all subdivision and land development applications, the Steep Slope Protection Overlay Zoning District shall be described by metes and bounds. A conservation easement covering the Steep Slope Protection Overlay Zoning District shall be provided in accordance with the Newberry Township Subdivision and Land Development Ordinance; provided, however, no designation or identification of the Steep Slope Protection Overlay Zoning District shall be required on individual lots exceeding ten (10) acres and not involving any new streets, easements of access or any proposed development.
3. In all zoning permit applications, the Slope Protection Overlay Zoning District shall be shown on a drawing indicating the location and measurements of the district in accordance with the above standards.

**D. LAND MAY BE REMOVED OR ALTERED**

Up to one-quarter (1/4) of the land with slopes greater than twenty-five (25%) percent, may be removed or altered only when such slopes are isolated, small or otherwise occur as knolls which do not adversely affect the design of the plan or subdivisions or land developments.

**402.4 STREAM PROTECTION OVERLAY ZONING DISTRICT**

Streams and the natural areas around them are important hydrological and environmental assets. It is the intent of this plan to preserve natural and man-made waterways. By protecting this asset, the Township intends to:

**A. ESTABLISH THE STREAM PROTECTION OVERLAY BOUNDARIES**

The Stream Protection Overlay shall consist of a land strip on each side of a perennial stream. The Stream Protection Overlay boundary shall be based on an investigation of critical environmental features that are related to the waterway. The total extent of the critical areas adjacent to the perennial stream shall be considered in determining the boundaries of the Stream Protection Overlay. Where critical areas do not exist, a minimum buffer of at least twenty-five (25) feet on each side of the waterway shall be established.



## **B. DETERMINE THE CRITICAL AREAS**

The total extent of the critical areas adjacent to the perennial stream shall be considered in determining the boundaries of the Stream Protection Overlay. Critical areas include the following:

1. Alluvial Soils - All alluvial soils adjacent to the perennial stream. For the purpose of this section, these areas are considered hydrologically related to the waterway.
2. Wet Soils - All wet soils immediately adjacent to or bordering within fifty (50) feet of the perennial stream. For the purpose of this chapter, these areas are considered hydrologically related to the waterway. Wet soils include springs and other intermittent drainage areas.
3. Steep Slopes - Where the base of a steep slope is fifty (50) feet or less from the stream or drainageway or if the stream or drainageway is in a ravine, the critical area shall extend to the top of the steep slope(s) or ravine plus an additional twenty (20) feet of moderate or lesser slope. (Steep slope equals 25% or greater.)
4. Wooded Areas - Where forested land having a predominance of trees of four-inch caliper or greater exists within fifty (50) feet of the stream or drainageway. The Stream Protection Overlay boundary will include wooded areas within one hundred (100) feet from the stream bank.

## **C. PERMITTED USES**

The following shall be permitted uses in the Stream Protection Overlay, provided that they are in compliance with the provisions of the underlying district and are not prohibited by another ordinance, and provided that they do not require building(s), fill or storage of materials and equipment.

1. Agriculture, including general farming, pasture grazing, outdoor plant nurseries, horticulture, truck farming, no-till planting and wild crop harvesting, excluding Intensive Farming Operation.
2. Common open space.
3. Educational or scientific use, not involving buildings or structures.
4. Fishing, swimming, boating and hunting.
5. Trail access to the stream or drainageway and trails in linear parks.
6. Parks and passive recreational areas not involving structures.
7. Accessory residential uses such as gardens, play areas or fences.
8. Accessory commercial uses such as picnic areas or fences.
9. Essential Services provided they are installed underground.

**D. STANDARDS**

1. The Stream Protection Overlay shall be established at the time of subdivision or land development or the application for a zoning permit if there is no subdivision or land development proposed.
2. In all subdivision and land development applications, the Stream Protection Overlay Zoning District shall be described by metes and bounds. A conservation easement covering the Stream Protection Overlay Zoning District shall be provided in accordance with the Newberry Township Subdivision and Land Development Ordinance; provided, however, no designation or identification of the Stream Protection Overlay Zoning District shall be required on individual lots exceeding ten (10) acres and not involving any new streets, easements of access or any proposed development.
3. In all zoning permit applications, the Stream Protection Overlay shall be shown on a drawing indicating the location and measurements of the district in accordance with the above standards.

**402.5 SURFACE WATER PROTECTION OVERLAY ZONING DISTRICT**

Lakes and ponds and the natural areas around them are important hydrological and environmental assets. It is the intent of this Overlay District to preserve these natural and man-made assets. By protecting this asset, the Township intends to:

1. Protect wildlife.
2. Preserve existing vegetation along lakes or ponds.
3. Minimize the negative effects on lakes or ponds from agriculture and development related erosion.
4. Minimize scenic degradation.
5. Protect the integrity of ponds and lakes as functioning wetland areas.

**A. ESTABLISHMENT OF SURFACE WATER PROTECTION OVERLAY BOUNDARIES**

The Surface Water Protection Overlay Zoning District shall be established as the area in or within twenty-five (25) feet of a lake or pond. All natural and man-made lakes, ponds and established easement areas shall remain in permanent open space. Because these areas may relate to other hydrologic features, no development or diverting of these water bodies shall be permitted without proper approval from PA DEP.

**B. PERMITTED USES**

Permitted uses are as follows:

1. Common open space.
2. Educational or scientific use not involving buildings or structures.
3. Fishing, swimming, boating or hunting.

4. Passive recreational areas not involving structures.
5. Trail access to adjacent open space.
6. Wildlife preserves.

**C. STANDARDS**

1. This buffer shall contain no more than fifteen (15%) percent impervious surface.
2. At least seventy (70%) percent of the shoreline buffer area shall remain in its natural state as open space.
3. The Surface Water Protection Overlay Zoning District shall be established at the time of subdivision or land development or the application for a zoning permit if there is no subdivision or land development proposed.
4. In all subdivision and land development applications, the Surface Water Protection Overlay Zoning District shall be described by metes and bounds. A conservation easement covering the Surface Water Protection Overlay Zoning District shall be provided in accordance with the Newberry Township Subdivision and Land Development Ordinance; provided, however, no designation or identification of the Surface Water Protection Overlay Zoning District shall be required on individual lots exceeding ten (10) acres and not involving any new streets, easements of access or any proposed development.
5. In all zoning permit applications, the Surface Water Protection Overlay Zoning District shall be shown on a drawing indicating the location and measurements of the district in accordance with the above standards.

**402.6 WETLAND PROTECTION OVERLAY ZONING DISTRICT**

1. Wetland areas are indispensable and fragile hydrological natural resources that provide:
  - a. Habitat for fish, wildlife and vegetation.
  - b. Water-quality maintenance and pollution control.
  - c. Flood control.
  - d. Erosion control.
  - e. Open space.
  - f. Scientific study opportunities.
  - g. Recreational opportunities.
2. Damaging or destroying wetlands threatens public safety and the general welfare. Because of their importance, wetlands are to be protected from negative impacts of development and other activities. It is the intent of this Overlay District to:
  - a. Require planning to avoid and minimize damage of wetlands whenever prudent or feasible.
  - b. Require that activities not dependent upon wetlands be located to other upland sites.

- c. Allow wetland losses only where all practical or legal measures have been applied to reduce these losses that are unavoidable and in the public interest.

**A. ESTABLISHMENT OF WETLAND PROTECTION OVERLAY BOUNDARIES**

The Wetland Protection Overlay shall apply to all lands in or within twenty-five (25) feet of a nontidal wetland located within Newberry Township. The Wetland Protection Overlay shall be based on a wetland investigation by the applicant. The Natural Features Map and/or Environmental Protection Overlay Map of the Newberry Township Comprehensive Plan may be used as a guide for determining the general location of wetlands. Wetland delineations shall be performed in accordance with the procedures of the PA DEP as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands and any subsequent amendments thereto. Wetland mitigation shall be permitted. Wetland mitigation shall be approved by the PA DEP. Wetlands proposed to be mitigated shall not be considered part of the Wetland Protection Overlay.

**B. VERIFICATION OF WETLAND DELINEATION**

Where the applicant has provided a determination of the Wetland Protection Overlay, the Township Engineer or hydrologist shall verify the accuracy of, and may render adjustments to, the boundary delineation. In the event that the adjusted boundary delineation is contested, the applicant may appeal to the Zoning Hearing Board for a variance.

**C. PERMITTED USES**

The following uses shall be allowed within the Wetland Protection Overlay to the extent that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance, provided that they do not require structures, fill or storage of materials and equipment, and provided that a permit is obtained from the PA DEP and the United States Army Corps of Engineers, if applicable.

1. Agriculture, including general farming, pasture grazing, outdoor plant nurseries, horticulture, truck farming, no-till planting and wild crop harvesting, excluding Intensive Farming Operation.
2. Common open space.
3. Educational or scientific use not involving buildings or structures.
4. Fishing, swimming, boating and hunting.
5. Trail access to the stream or drainageway and trails in linear parks.
6. Passive recreational areas not involving structures.
7. Accessory residential uses such as gardens, play areas, fences or stormwater/drainage facilities.
8. Accessory commercial uses such as picnic areas, fences or stormwater/drainage facilities.
9. Wildlife preserves.
10. Underground utilities.

## **D. STANDARDS**

1. The Wetland Protection Overlay District shall be established at the time of subdivision or land development or the application for a zoning permit if there is no subdivision or land development involved. The wetland delineations shall be performed in accordance with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands and any subsequent amendments thereto.
2. In all subdivision and land development applications, a wetland investigation shall be required in accordance with the Newberry Township Subdivision and Land Development Ordinance. A conservation easement covering the Wetland Protection Overlay District shall be provided in accordance with the Newberry Township Subdivision and Land Development Ordinance. The Wetland Protection District and conservation easement shall be described by metes and bounds, indicating the location and measurements of the District; provided, however, no designation or identification of the Wetland Protection Overlay District shall be required on individual lots exceeding ten (10) acres and not involving any new streets, easements of access or any proposed development.
3. In all zoning permit applications, the Wetland Protection Overlay District shall be shown on a drawing indicating the location and measurements of the district. (Wetland delineations shall be performed in accordance with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands and any subsequent amendments thereto.)

## **SECTION 403 FLOODPLAIN PROTECTION OVERLAY**

### **403.1 PURPOSE**

The purpose of this Zone is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commercial and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

1. Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.
2. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
3. Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
4. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

## **403.2 WARNING AND DISCLAIMER OF LIABILITY**

1. The degree of flood protection sought by the provisions of this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside the floodplain zones, or that land uses permitted within such zones, will be free from flooding or flood damages.
2. This section shall not create liability on the part of Newberry Township or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

## **403.3 ESTABLISHMENT OF FLOODPLAIN ZONE**

### **A. BASIS OF ZONE**

The various floodplain zones shall include areas subject to inundation by waters of the one hundred (100) year flood. The basis for the delineation of these zones shall be the Flood Insurance Study prepared by the Susquehanna River Basin Commission for the Federal Insurance Administration (FIA), dated December, 1976.

1. The floodway (FW) is delineated for purposes of this section using the criteria that a certain area within the floodplain must be capable of carrying the waters of the one hundred (100) year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this zone are specifically defined in Table 1 of the above-referenced Flood Insurance Study and show on the accompanying Flood Boundary and Floodway Map.
2. The Flood-Fringe (FF) shall be that area of the one hundred (100) year floodplain not included in the Floodway Zone. The basis for the outermost boundary of this zone shall be the one hundred (100) year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study (FIS) and as shown on the accompanying Flood Boundary and Floodway Map.
3. The General Floodplain (FA) shall be that floodplain area for which no detailed flood profiles or elevations have been provided. Such areas are shown on the Flood Boundary and floodway Map accompanying the FIS prepared for the FIA. Where the specific one hundred (100) year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Flood Plain Information Reports, U. S. Geological Survey Flood Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analysis shall be undertaken only by Professional Engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall

be submitted in sufficient detail to allow a thorough technical review by the Township.

**B. OVERLAY CONCEPT:**

1. The aforementioned Floodplain Zone shall be overlays to the existing underlying zones, as shown on the Official Zoning Map, and as such, the provisions for the Floodplain Zone shall serve as a supplement to the underlying zone provisions.
2. Where there happens to be any conflict between the provisions or requirements of the Floodplain Zone and those of any underlying zone, the more restrictive provisions and/or those pertaining to the Floodplain Zone shall apply.
3. In the event any provision concerning a Floodplain Zone is declared inapplicable as a result of any legislative or administrative actions of judicial discretion, the basic underlying zone provisions shall remain applicable.

**403.4 INCLUSION IN ZONING MAP**

The boundaries of the Floodplain Zone are established, as shown on the Flood Boundary and Floodway Map, dated May 11, 1979, prepared by the Susquehanna River Basin Commission for the Federal Insurance Administration. The said map is hereby incorporated into and made a part of the Official Zoning Map of Newberry Township. A copy of said map shall be kept on file at the Township Office and be available for inspection during regular office hours. [Ord. 181]

**403.5 ZONE BOUNDARY CHANGES**

The delineation of the Floodplain Zone may be revised by the Board of Supervisors where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U. S. Army Corps of Engineers, or other qualified agency or individual documents the advisability for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA) or its successor agency. [Ord. 181]

**403.6 INTERPRETATION OF ZONE BOUNDARIES**

Initial interpretations of the boundaries of the Floodplain Zone shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of the Zone, the person questioning or contesting the location of the zone boundary shall be given a reasonable opportunity to present his case to the Township Zoning Hearing Board and to submit his own technical evidence if he so desires. Should the person choose to seek a variance to the zoning regulations to accommodate his development, he must follow the procedures to present his case to the Zoning Hearing Board. Should the person choose to have the zone boundary changed to reflect more accurate flooding data, he must follow the procedures to present his case to the Board of Supervisors for a zoning amendment.

**403.7 ZONE PROVISIONS**

1. All uses, activities, land filling and development occurring within any floodplain zone shall be undertaken, only in strict compliance with the provisions of this section and with all other applicable codes and ordinances, such as the Township Building Permit Ordinance and the Township Land Use Control Ordinance.

2. Under no circumstances shall any use, activity, land filling and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system. Prior to any proposed alteration or relocation of any stream, watercourse, etc. within Newberry Township, a permit shall be obtained from the PA DEP, Dams and Encroachment Division. Further, notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration or its successor agency and the Pennsylvania Department of Community and Economic Development.

**A. FLOODWAY ZONE (FW)**

In the Floodway Zone, no development shall be permitted except where the effect of such development of flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities as required.

1. Permitted uses - In the Floodway Zone, the following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance, and provided that they do not require structures, fill, or storage of materials and equipment.
  - a. Agricultural and farm uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
  - b. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking, bicycling, and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
  - c. Floating dock property anchored and secured when either in the water or when stored on shore.
  - d. Accessory residential uses, such as yard areas, gardens, play areas, and parking areas.
  - e. Accessory industrial and commercial uses, such as yard areas, parking and loading areas, helicopter landing areas.
2. Uses permitted by special exception - The following uses and activities may be permitted by special exception, provided that they are in compliance with the provisions of the underlying zone and are not prohibited by any other ordinance:
  - a. Structures, except for dwellings, accessory to the uses and activities in subsection 1. above.
  - b. Utilities and public facilities and improvements, such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants, and other similar or related-uses.
  - c. Water-related structures, such as marinas, docks, wharves, piers.
  - d. Extraction of sand, gravel and other materials.
  - e. Temporary uses, such as circuses, carnivals and similar activities.



- f. Storage of materials and equipment, provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, and/or can be readily removed from the area within the time available after flood warning.

#### **B. FLOOD-FRIDGE ZONE (FF)**

In the Flood-Fridge Zone, the development and/or use of land shall be permitted in accordance with the regulations of the underlying zone, provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in all other applicable codes and ordinances.

#### **C. GENERAL FLOODPLAIN ZONE (FA)**

In the General Floodplain Zone, no development, use or activity (including fill, grading and/or substantial improvements to structures, etc.) permitted in the underlying zone shall be permitted, unless the applicant for the proposed development, use or activity has demonstrated that the proposed undertaking, when combined with all other existing and anticipated development, uses and activities, will not increase the water surface elevation of the one hundred (100) year flood more than one (1) foot at any point. Increases in flood heights shall be calculated by means of current, generally accepted, engineering methods.

### **403.8 SPECIAL EXCEPTIONS AND VARIANCES**

1. Factors to Be Considered - In passing upon applications for special exceptions and variances, the Zoning Hearing Board shall consider all relevant factors and procedures specified in other sections of the Zoning Ordinance.
2. The danger to life and property due to increased flood heights or velocities caused by encroachments. No special exception or variance shall be granted for any proposed use, development, or activity that will cause any increase in flood levels during the one hundred (100) year flood:
  - a. The danger that materials may be swept onto other lands or downstream to the injury of others.
  - b. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - d. The importance of the services provided by the proposed facility to the community.
  - e. The requirements of the facility for a waterfront location.
  - f. The availability of alternative locations not subject to flooding for the proposed use.
  - g. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - h. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.

- i. The access to the property in times of flood of ordinary and emergency vehicles.
  - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - k. Such other factors which are relevant to the purposes of this chapter.
3. The Zoning Hearing Board, with approval of the Board of Supervisors, may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.
  4. Special exceptions and/or variances shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in:
    - a. unacceptable or prohibited increases in flood heights,
    - b. additional threats to public safety,
    - c. extraordinary public expense,
    - d. nuisances,
    - e. fraud or victimization of the public, or
    - f. conflict with local laws or ordinances.

#### **403.9. EXISTING STRUCTURES IN FLOODPLAIN ZONES**

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions may be continued, subject to the following conditions:

1. Existing structures and/or uses located in any floodway zone shall not be expanded or enlarged, unless such expansion or enlargement meets the requirements of all applicable Township ordinances and the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.
2. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain zone to an extent or amount of less than fifty (50%) percent of its market value, shall be elevated and/or shall incorporate flood-proofing measures, regardless of its location in the Floodplain Zone. However, minor repairs shall be exempt from this provision, provided that no structural changes or modifications are involved. Minor repairs shall include the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep; but shall not include any addition, change or modification in construction, exit facilities, or permanent fixtures or equipment.
3. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in a Floodplain Zone to an extent or amount of fifty (50%) percent or more of its market value shall be undertaken only in full compliance with the provisions of this and any other applicable ordinance.

4. Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

## **SECTION 404 CONSERVATION SUBDIVISION DESIGN OVERLAY**

### **404.1 PURPOSE**

In addition to the community development objectives set forth in Article 1 of this Ordinance and in conformance with the MPC, the purposes of this overlay district, among others, are as follows:

1. To conserve and protect environmentally sensitive areas and open land within Newberry Township, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development.
2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development.
3. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
4. To implement adopted Newberry Township policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Newberry Township Comprehensive Plan, including provisions for reasonable incentives to create an open space and greenway system for the benefit of present and future residents.
5. To implement adopted land use, transportation, and community policies, as identified in the Newberry Township Comprehensive Plan.
6. To protect areas of Newberry Township with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations.
7. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
8. To provide for the conservation and maintenance of open land within Newberry Township to achieve the above-mentioned goals and for active or passive recreational use by residents.
9. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, floodplain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls).
10. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties.

11. To conserve scenic views and elements of Newberry Township's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.

#### **404.2 ESTABLISHMENT OF CONSERVATION SUBDIVISION DESIGN OVERLAY**

1. The Conservation Subdivision Design Overlay Zoning District shall apply to (is required upon) all tracts of land upon which new major residential subdivisions of six (6) or more lots/units are created (single or cumulative on a parent tract after the effective date of this Ordinance in the following underlying zoning districts:
  - a. Residential Holding (RH).
  - b. Suburban Residential (SR).
  - c. Residential Growth (RG).
  - d. Agriculture (A).
  - e. Rural Resource (RR). and
  - f. Rural Residential (R).
2. For all tracts of land upon which new minor residential subdivisions, in which five (5) or less lots/units are created (single or cumulative on a parent tract after the effective date of this Ordinance, the conservation subdivision design shall be optional.
3. With the Village Zoning District, Single-Family Attached Dwellings and Single-Family Semi-Detached Dwellings designed according to the Conservation Subdivision Design Overlay Zoning District are permitted as conditional use, subject to Section 525.58A.

#### **404.3 FOUR-STEP DESIGN PROCESS FOR SUBDIVISIONS IN THE CONSERVATION DESIGN OVERLAY**

For all subdivisions subject to Section 404.2 above, Preliminary Plans shall include documentation of a four (4) step conservation subdivision design process in determining the layout of proposed open space and greenway lands, house sites, infrastructure and lot lines, as described below.

1. Step 1: Delineation of Open Space and Greenway Lands and Developed Areas shall be in accordance with Section 614.03.2.a of the Newberry Township Subdivision and Land Development Ordinance.
2. Step 2: Location of House Sites shall be in accordance with Section 614.03.2.b of the Newberry Township Subdivision and Land Development Ordinance.
3. Step 3: Location of Infrastructure shall be in accordance with Section 614.03.2.c of the Newberry Township Subdivision and Land Development Ordinance.
4. Step 4: Drawing in the Lot Lines shall be in accordance with Section 614.03.2.d of the Newberry Township Subdivision and Land Development Ordinance.

#### **404.4 PERMITTED USES**

The following shall be uses generally consistent with the purposes of the Conservation Subdivision Design Overlay District, which shall be permitted on tracts of land in the Conservation Subdivision Design Overlay District.

##### **A. AGRICULTURAL & FORESTRY USES**

1. Agriculture, excluding Intensive Farming Operation.
2. Forestry.
3. Nature preserve and wildlife sanctuary.
4. Other similar conservation uses.

##### **B. RESIDENTIAL USES**

1. Group Homes.
2. Multi-Family Dwellings (RG Zoning District).
3. Single-Family Attached Dwellings (RG Zoning District):
4. Single-Family Detached Dwellings.
5. Single-Family Semi-Detached Dwellings (RG Zoning District).
6. Two-Family Dwellings (RG Zoning District).

##### **C. PUBLIC/SEMI-PUBLIC USES**

1. Essential Services (S. 525.20).
2. Park and Playgrounds.
3. Open Space and greenway land comprising a portion of residential development, as specified herein this Section, Section 522 of this Ordinance and Sections 614 of the Newberry Township Subdivision and Land Development Ordinance.

#### **404.5 CONSERVATION SUBDIVISION DESIGN OPTIONS**

In order to achieve these purposes, this Article provides for flexibility in designing new residential subdivisions by allowing three (3) forms of "by-right" development referred to as "options", as summarized below:

1. Option One (1): Neutral Density and Basic Conservation, providing for residential uses at the density permitted in the underlying zoning district and reductions in lot area and dimensional standards, in exchange for a given percentage of the tract to remain in open space and greenway land.
2. Option Two (2): Enhanced Density with Greater Conservation, providing for higher density residential uses and further reductions in lot area and dimensional standards, in exchange for a larger open space and greenway percentage than in Option 1.

3. Option Three (3): Estate Lots, providing for rural-suburban residential uses at lower densities in conventional layouts of standard dwelling lots, where homes and streets are located carefully to minimize impacts on resource lands.

The following table identifies the underlying zoning districts and applicable options for residential subdivisions using the Conservation Subdivision Design.

Zoning District	Option 1	Option 2	Option 3
Residential Holding (RH)	x	x	
Suburban Residential (SR)	x	x	
Residential Growth (RG)	x		
Agriculture (A)	x		x
Rural Resource (RR)	x		x
Rural Residential (R)	x		

#### **404.6 DENSITY DETERMINATION AND DIMENSIONAL STANDARDS**

Densities for Options 1 and 2 may be determined by either one of the two (2) following methods:

1. By calculation as set forth in Sections 404.6.A and 404.6.B respectively, herein below; or
2. By a yield plan as set forth in Section 404.6.C.2, herein below.

#### **A. DENSITY REQUIREMENTS FOR OPTION 1: NEUTRAL DENSITY AND BASIC CONSERVATION**

1. Density Factors - One dwelling unit per the required area for the underlying zoning district (density factor) as determined through the Adjusted Tract Area approach or yield plan is described in Section 404.6.C, herein below. This is "density-neutral" with the pre-existing underlying zoning district provisions. The density factors (listed in square feet and acres) for single-family detached dwellings are as follows:

Density Requirements for Single-Family Detached Dwellings	Option 1: Neutral Density And Basic Conservation	
Zoning District	Density Factor (Required Area of Adjusted Tract Area per Dwelling Unit)	
Residential Holding (RH)	Square Feet	Acres
Only Public Water &/or No Utilities (No Public Water and No Public Sewer)	65,340	1.5

Both Utilities (Public Water & Public Sewer) or Only Public Sewer	20,000	0.459
<b>Suburban Residential (SR)</b>		
Only Public Water &/or No Utilities (No Public Water and No Public Sewer)	65,340	1.5
Both Utilities (Public Water & Public Sewer) or Only Public Sewer	20,000	0.459
<b>Residential Growth (RG)</b>		
Both Utilities (Public Water & Public Sewer)	15,000	0.344
<b>Agriculture (A)</b>	217,800	5.0
<b>Rural Resource (RR)</b>	217,800	5.0
<b>Rural Residential (R)</b>		
Only Public Water &/or No Utilities (No Public Water and No Public Sewer)	65,340	1.5
Both Utilities (Public Water & Public Sewer) or Only Public Sewer	20,000	0.459

2. The density factors in square feet and acres for other types of dwellings are as follows:

Density Requirements for Other Types of Dwellings	Option 1: Neutral Density and Basic Conservation	
	Density Factor (Required Area of Adjusted Tract Area per Dwelling Unit)	
Zoning District	Square Feet	Acres
<b>Residential Growth (RG)</b>		
w/ Both Utilities (Public Water & Public Sewer)		
Single-Family Semi-Detached Dwellings	7,500	0.172
Single-Family Attached Dwellings	3,200	0.073
Two-Family Dwellings	25,000	0.574

3. Minimum Required Open Space and Greenway Land - The subdivision must include at least fifty (50%) percent of the Adjusted Tract Area plus all of the constrained land calculated in Section 404.6.C.1 herein below, as open space and greenway land; except in the Residential Growth (RG) zoning district where the minimum required open space and greenway land shall be twenty-five (25%) percent of the Adjusted Tract Area plus all of the constrained land calculated in Section 404.6.C.1 herein below. In the Residential Holding (RH) zoning district where both public water and public sewer are utilized, the minimum required open space and greenway may be thirty (30%) percent of the Adjusted Tract Area plus all of the constrained land in Section 404.6.C.1 herein below, provided that park and recreation land is dedicated to and accepted by the Township. Open

space and greenway land shall not be used for residential lots, except as provided in Section 522 herein this Ordinance.

4. Dimensional Standards: The dimensional standards for single-family detached dwellings are as follows:

<b>Option 1: Neutral Density and Basic Conservation for Single-Family Detached Dwellings</b>									
Utilities	Minimum Lot Size <sup>1</sup>		Minimum Lot Width		Adjusted Tract Acreage required for Open Space and Greenway	Minimum Yard Setbacks <sup>2</sup>			Impervious Coverage
	Square Feet	Acres	@ Building Setback Line	@ Street Right-of-Way Line		Front	Side <sup>3</sup>	Rear <sup>4</sup>	
<b>Residential Holding (RH)</b>									
Only Public Water &/or No Utilities (No Public Water and No Public Sewer)	12,000	0.275	80	20	50	20	30	40	30
Both Utilities (Public Water & Public Sewer) or Only Public Sewer	5,000	0.115	40	20	50	20	25	35	40
Both Utilities (Public Water and Public Sewer)	12,000	0.275	80	20	30 <sup>5</sup>	20	25	35	40
<b>Suburban Residential (SR)</b>									
Only Public Water &/or No Utilities (No Public Water and No Public Sewer)	12,000	0.275	80	20	50	20	30	40	30
Both Utilities (Public Water & Public Sewer) or Only Public Sewer	5,000	0.115	40	20	50	20	25	35	40
<b>Residential Growth (RG)</b>									
Both Utilities (Public Water & Public Sewer)	4,500	0.103	40	20	50	20	25	35	45
<b>Agriculture (A)</b>									
No Utilities Required	10,000	0.223	60	20	50	20	25	35	35



**Option 1: Neutral Density and Basic Conservation for Single-Family Detached Dwellings**

**Rural Resource (RR)**

No Utilities Required	20,000	0.459	80	20	50	20	30	40	25
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**Rural Residential (R)**

Only Public Water &/or No Utilities (No Public Water and No Public Sewer)	12,000	0.275	80	20	50	20	30	40	30
Both Utilities (Public Water & Public Sewer) or Only Public Sewer	5,000	0.115	40	20	50	20	25	35	40

<sup>1</sup> Up to 20% of the total number of lots within a subdivision may have the minimum required lot area reduced by 33%

<sup>2</sup> Builders or developers are urged to consider variations in the position and orientation of dwellings, but shall observe the minimum required setbacks herein.

<sup>3</sup> For purposes of this provision, the minimum side yard setbacks are intended to be the minimum required distance between principal buildings on adjacent properties, but in no case shall any principal structure be located closer than 5 feet to any side property line.

<sup>4</sup> 20 ft. were adjoining open space and greenway

<sup>5</sup> Part of the Open Space shall include land to be dedicated to the Township as park and recreation land. The amount to be dedicated shall be double the amount required by section 613 of the Subdivision and Land Development Ordinance

5. The dimensional standards for other types of dwellings are as follows:

<b>Option 1: Neutral Density and Basic Conservation Other Types of Dwellings</b>								
	<b>Minimum Lot Size<sup>1</sup></b>		<b>Minimum Lot Width</b>		<b>Minimum Yard Setbacks<sup>2</sup></b>			<b>Impervious Coverage</b>
	<b>Square Feet</b>	<b>Acres</b>	<b>@ Building Setback Line</b>	<b>@ Street Right-of-Way Line</b>	<b>Front</b>	<b>Side<sup>3</sup></b>	<b>Rear<sup>4</sup></b>	
<b>Residential Growth (RG)</b>								
w/ Both Utilities (Public Water & Public Sewer)								
Single-Family Semi-Detached Dwellings	4,250	0.098	30	20	20	0 ft. between attached structures, 5 ft. between buildings	15	50
Single-Family Attached Dwellings	1,800	0.069	20	20	0	0 ft. between attached structures, 5 ft. end units	10	60
Two-Family Dwellings	9,000	0.207	50	20	15	5	15	55

**B. DENSITY REQUIREMENTS FOR OPTION 2: ENHANCED DENSITY WITH GREATER CONSERVATION**

1. Density Factor: - One dwelling unit per the required area for the zoning district (density factor) as determined through the Adjusted Tract Area approach or yield plan described in Section 404.6.C, herein below. The density factor in square feet and acres for single-family detached dwellings is as follows:

Density Requirements for Single-Family Detached Dwellings, Adjusted Tract Area		Option 2: Enhanced Density with Greater Conservation	
Zoning District		Density Factor (Required Area of Adjusted Tract Area per Dwelling Unit)	
Residential Holding (RH)		Square Feet	Acres
Only Public Water &/or No Utilities (No Public Water and No Public Sewer)		40,000	0.918
Both Utilities (Public Water & Public Sewer) or Only Public Sewer		14,000	0.321
Suburban Residential (SR)			
Only Public Water &/or No Utilities (No Public Water and No Public Sewer)		40,000	0.918
Both Utilities (Public Water & Public Sewer) or Only Public Sewer		14,000	0.321

2. Minimum Required Open Space and Greenway Land - The subdivision must include at least sixty (60%) percent of the Adjusted Tract Area plus all of the constrained land calculated in Section 404.6.C.1, herein below, as open space and greenway land. Open space and greenway land shall not be used for residential lots, except as provided in Section 522 herein this ordinance.
3. Dimensional Standards - The dimensional standards for single-family detached dwellings are as follows:

Option 2: Enhanced Density with Greater Conservation									
	Minimum Lot Size <sup>1</sup>		Minimum Lot Width		Adjusted Tract Acreage required for Open Space and Greenway	Minimum Yard Setbacks <sup>2</sup>			Impervious Coverage
	Square Feet	Acres	@ Building Setback Line	@ Street Right-of-Way Line		Front	Side <sup>3</sup>	Rear <sup>4</sup>	
Residential Holding (RH)									
Only Public Water &/or No Utilities (No Public Water and No Public Sewer)	12,000	0.275	80	20	50	20	30	40	30
Both Utilities (Public Water & Public Sewer) or Only Public Sewer	5,000	0.115	40	20	50	20	25	35	40

Suburban Residential (SR)									
Only Public Water &/or No Utilities (No Public Water and No Public Sewer)	12,000	0.275	80	20	50	20	30	40	30
Both Utilities (Public Water & Public Sewer) or Only Public Sewer	5,000	0.115	40	20	50	20	25	35	40
<sup>1</sup> Up to 20% of the total number of lots within a subdivision may have the minimum required lot area reduced by 33%									
<sup>2</sup> Builders or developers are urged to consider variations in the position and orientation of dwellings, but shall observe the minimum required setbacks herein.									
<sup>3</sup> For purposes of this provision, the minimum side yard setbacks are intended to be the minimum required distance between principal buildings on adjacent properties, but in no case shall any principal structure be located closer than 5 feet to any side property line.									
<sup>4</sup> 20 ft. were adjoining open space and greenway									

**C. DENSITY DETERMINATION FOR OPTION 1 AND 2 SUBDIVISIONS**

Applicants shall have the choice of two (2) methods of determining the maximum permitted residential building density on their properties. They are as follows:

1. Adjusted Tract Area Approach

Determination of the maximum number of permitted dwelling units on any given property shall be based upon the Adjusted Tract Area of the site. The Adjusted Tract Acreage shall be determined by multiplying the acreage classified as being in the categories of natural resource elements (described below) by the numerical protection factor for that category of natural resource land, summing all factored constrained land areas, and then deducting the total from the gross tract area.

- a. Constrained Lands consist of natural resources listed below. The area of the natural resource is multiplied by a protection factor to arrive at the Constrained Land. The constrained natural resource elements and protection factors are as follows:

	<b>Natural Resource Element</b>	<b>Protection Factor</b>	<b>Land Area of Natural Resource</b>	<b>Constrained Land</b>
1.	Total land area within the rights-of-way of existing public streets or highways, or within the rights-of-way for existing or proposed overhead rights-of-way of utility lines	100% (1.0)	X _____Acres	= _____Acres
2.	Total land area under existing private streets	100% (1.0)	X _____Acres	= _____Acres
3.	Wetlands: Total land area of designated wetlands	95% (0.95)	X _____Acres	= _____Acres
4.	Floodway: Total land area within the floodway	100% (1.0)	X _____Acres	= _____Acres
5.	Floodplains: Total land area non-wetland portion of the 100-year floodplain	50% (0.5)	X _____Acres	= _____Acres
6.	Steep Slopes: Total land area with natural ground slopes exceeding twenty-five (25%) percent	80% (0.8)	X _____Acres	= _____Acres
7.	Extensive Rock Outcroppings: Total land area of rock outcrops and boulder-fields more than 1,000 square feet	90% (0.9)	X _____Acres	= _____Acres
8.	Moderately Steep Slopes: Total land area with natural ground slopes of between fifteen and twenty-five (15 – 25%) percent	60% (0.6)	X _____Acres	= _____Acres
9.	Ponds, lakes and streams: Total area of ponds, lakes and streams.	100% (1.0)	X _____Acres	= _____Acres
10.	Total Area of Natural Resource Elements		= _____Acres	
<b>11.</b>	<b>Total Constrained Lands</b>			= _____Acres

Formula: (Adjusted Tract Area) = (Gross Tract Area) – (Constrained Lands)

- b. If a portion of the tract is underlain by more than one natural feature subject to a protection factor, that acreage shall be subject to the most restrictive protection factor.
- c. Since acreage that is contained within the public or private rights-of-way, access easements or access strips is excluded from developable lot area, any portion of these items that also contains a natural feature subject to a deduction from the total tract acreage should not be included when calculating the adjusted tract area.

d. Permitted Dwelling Units

The maximum number of permitted dwelling units equals the Adjusted Tract Area divided by the density factor.

2. Yield Plan Approach

Determination of density, or maximum number of permitted dwelling units, shall be based upon density factor of the chosen option (i.e. Option 1 or 2) applied to the gross tract acreage, as demonstrated by an actual Yield Plan. The density factor shall be based on the zoning district, location of the proposed development, and the type of water supply and sewage disposal proposed in Section 404.6.A for Option 1 and Section 404.6.B for Option 2. Yield Plans shall meet the following requirements:

a. SALDO Requirements

Yield Plans must be prepared as conceptual layout plans in accordance with the standards of the Newberry Township Subdivision and Land Development Ordinance, containing proposed lots, streets, rights-of-way, and other pertinent features. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal.

b. Resource Identification

The Yield Plan must identify the site's primary and secondary resources, as identified in the Existing Resources/Site Analysis Plan, and demonstrate that the primary resources could be successfully absorbed in the development process without disturbance, by allocating this area to proposed residential dwelling lots which conform to the density factor of the chosen option. The Yield Plan shall be based upon accurate mapping of wetlands, one hundred (100) year floodplains and land with slopes greater than fifteen (15%) percent.

c. Individual On-Lot Sewage Disposal Systems

On sites not served by central or public sewage disposal, density shall be further determined by evaluating the number of homes that could be supported by individual on-lot septic systems on conventional lots. Based on the primary and secondary resources, identified as part of the inventory and analysis, and observations made during an on-site visit of the property, the Township Planning Commission shall select a ten (10%) percent sample of the lots considered to be marginal for on-lot sewage disposal. The applicant is required to provide evidence that these lots meet the standards for an individual on-lot septic system. The applicant shall be granted the full

density determined by the Yield Plan. Should any of the lots in a sample fail to meet the standard for individual on-lot septic system, those lots shall be deducted from the yield plan and a second ten (10%) percent sample shall be selected by the Township Planning Commission and tested for compliance. This process shall be repeated until all lots in a given sample meet the standard for an individual on-lot septic system.

d. Yield Plan Dimensional Standards

The following dimensional standards shall be used in the development of Yield Plans for Option 1 and 2 subdivisions. The minimum lot sizes are derived from the density factor for the zoning district location of the proposed development and the type of water supply and sewage disposal proposed in Section 404.6.A for Option 1 and Section 404.6.B for Option 2. These minimum dimensions are exclusive of all wetlands, slopes greater than twenty-five (25%) percent, and land under high-tension electrical transmission lines (69kV or greater). No more than twenty-five (25%) percent of the minimum required lot area may consist of land within the one hundred (100) year floodplain, and only then if it is free of wetlands.

**D. DENSITY REQUIREMENTS AND DIMENSIONAL STANDARDS FOR OPTION 3 SUBDIVISIONS: ESTATE LOTS**

1. Maximum Density

The maximum density, based on gross lot area, is as follows:

Density Requirements for Dwellings (Gross Lot Area)	Option 3: Estate Lots	
	Square Feet	Acres
Zoning District		
Agriculture (A) and Rural Resource (RR)	435,600	10

2. Dimensional Standards

The dimensional standards are as follows:

<b>Standards</b>		<b>Option 3: Estate Lots</b>
	<b>Minimum Lot Size<sup>2</sup></b>	3 acres
<b>Minimum Lot Width</b>	<b>@ Building Setback Line</b>	N/A
	<b>@ Street Right-of-Way Line</b>	150 ft.
	<b>Adjusted Tract Acreage required for Open Space and Greenway</b>	0%
	<b>Maximum Lot Coverage</b>	4% entire subdivision
<b>Minimum Setbacks<sup>1</sup></b>	<b>Front</b>	150 ft from the street right-of-way of existing municipal roads, but 40 feet from the right-of-way of new subdivision streets, country lanes, or common driveways (where applicable).
	<b>Side</b>	50 ft.
	<b>Rear</b>	50 ft minimum for principal buildings and 10 ft for accessory buildings (except that accessory buildings with a ground floor area exceeding 500 square ft shall conform to the setback requirements for principal structures).
<sup>1</sup> Builders or developers are urged to consider variations in the position and orientation of dwellings, but shall observe the minimum required setbacks herein.		
<sup>2</sup> All lots created under Option 3 that are less than ten (10) acres shall be permanently restricted through a conservation easement from the development of more than one dwelling.		

#### **404.7 DESIGN STANDARDS FOR OPTION 1: NEUTRAL DENSITY AND BASIC CONSERVATION AND OPTION 2: ENHANCED DENSITY WITH GREATER CONSERVATION**

In addition to the design standards set forth in Article 6 of the Newberry Township Subdivision and Land Development Ordinance, conservation subdivisions using Option 1: Neutral Density and Basic Conservation and/or Option 2: Enhanced Density with Greater Conservation shall conform with the following design standards:

##### **A. DWELLING LOTS**

Dwelling lots shall not encroach upon Primary Conservation Areas as identified in Section 614.03.2.a.1) of the Subdivision and Land Development Ordinance, and their layout shall respect Secondary Conservation Areas as described in Section 614.04 Subdivision and Land Development Ordinance.



**B. DWELLING SETBACKS**

All new dwellings shall meet the following setback requirements:

<b>Dwelling Setbacks</b>	<b>Distance in Feet</b>
External Street Rights-of-Way	100
Other Tract Boundaries	50
Crop Land or Pasture Land	100
Agricultural Buildings or Barnyards Housing Livestock	300
Active Recreation areas such as Courts or Playing fields (not including tot-lots)	150

**C. EXTERIOR VIEWS OF DWELLING LOTS**

Exterior views of dwelling lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the Section 515 of this Ordinance.

**D. DWELLING LOT ACCESS**

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

**E. DWELLING LOTS ABUTTING OPEN SPACE AND GREENWAY**

At least fifty (50%) percent of the lots shall directly abut or face open space greenway land across a street, unless park and recreation land within the development is dedicated to and accepted by the Township.

**F. OPEN SPACE AND GREENWAY STANDARDS**

Standards pertaining to the quantity, quality, configuration, ownership, and maintenance of the open space greenway land created under this Article are contained in Section 522 herein of this Ordinance.

**SECTION 405 TRADITIONAL VILLAGE OVERLAY**

**405.1 PURPOSE AND INTENT**

The Traditional Village Overlay is consistent with the purpose and intent of the village land use classification and preservation of natural resources, as described in the Newberry Township Comprehensive Plan. Design objectives that create the village environment are:

1. Integration of age and income groups through a mix of diverse housing types.
2. Establishment of a pedestrian-oriented community that provides safe, efficient, and compatible linkages.
3. Harmonization of distinctive resources of the property (e.g., woodlands, wetlands, stream corridors, historical and cultural resources, steep slopes, and scenic views).

4. Provision of convenient, and easily accessible, open space, such as natural areas, tot-lots, athletic fields, parks, squares, and greens.

#### **405.2 RELATIONSHIP TO OTHER ORDINANCES AND SECTIONS OF THE ZONING ORDINANCE**

The Traditional Village Overlay establishes different land use and design requirements from those contained in this and other ordinances of the Township. To the extent the regulations within this Section differ (are more or less restrictive) from others, those within this Section shall govern. However, all other provisions of this and other ordinances of the Township shall remain in full force.

#### **405.3 MINIMUM TRADITIONAL VILLAGE AREA**

A traditional village proposal must contain a minimum of five (5) acres.

#### **405.4 GENERAL DESIGN REQUIREMENTS**

1. The design shall establish a prominent focal point, which is a special feature that distinguishes the focal point from other areas of the development. The focal point may be a natural feature (large trees/groves, ponds and lakes, scenic views, open space, etc.) or a man-made feature with impressive architectural style (neighborhood center, historic sites, etc.).
2. To the extent the regulations within this Overlay differ (are more or less restrictive) from other Township regulations, those within this Overlay shall govern.
3. Public water service and public sewer service shall be provided.
4. The Traditional Village Overlay shall provide open space in accordance with Section 405.11.

#### **405.5 MODIFICATION OF STANDARDS**

It is the intention of the Board of Supervisors to encourage innovation, and to promote flexibility, economy, and ingenuity in development. To that end, the Zoning Hearing Board may, by Special Exception, modify the minimum requirements of the Traditional Village Overlay.

#### **405.6 APPLICATION REQUIREMENTS**

Applications under the Traditional Village Overlay shall be submitted in accordance with the Township Subdivision and Land Development Ordinance (SLDO). In addition to the requirements of the SLDO, all submissions shall include all of the following:

1. Open Space Plan narrative that describes the proposed future ownership and maintenance of the open space.
2. Landscape Plan for the plantings along streets and within open space areas.
3. Lighting Plan for streets and access drives.
4. Statement identifying all modifications of standards according to Section 405.5.

## **405.7 PERMITTED USES**

### **A. RESIDENTIAL**

At least three (3) of the following permitted residential uses shall be provided:

1. Single-family detached.
2. Single-family, semi-detached or duplex.
3. Single-family attached.
4. Multi-family (S. 525.18).

The maximum amount of any single permitted residential use shall not exceed fifty (50%) percent.

### **B. NEIGHBORHOOD CONVENIENCE CENTER**

1. The center shall be composed of retail sales and personal service establishments, including, but not limited to, newsstand, coffee shop, apothecary, restaurant, hair and/or nail salon, gift shop, bakery, specialty food store, drycleaner (drop-off only), bike sales/rental, copy center, convenience store, family day-care, barber shop, real estate office, places of worship and related uses, neighborhood postal facility, municipal services, or another use which the Board of Supervisors determines to be substantially similar to the listed uses.
2. The center may include meeting rooms, multi-purpose space, library, nonprofit organizations, and similar uses available for use of the residents.
3. The center shall not exceed a total of seventy-five (75) square foot of gross floor area per dwelling unit.

### **C. PUBLIC USES**

Including, but not limited to, public and nonprofit parks and playgrounds, public utilities, public schools.

### **D. ACCESSORY USES**

1. Permitted by Right:
  - a. Accessory Uses customarily incidental to the above uses.
  - b. Day-Care, Accessory.
  - c. Domestic Pets.
  - d. No-Impact Home Occupations.
2. Permitted by Special Exception:
  - a. Bed and Breakfast Inns (S. 525.8).
  - b. Day-Care, Family (S. 525.17).
  - c. Home Occupations (S. 525.30).

## **405.8 RESIDENTIAL DESIGN REQUIREMENTS**

### **A. DENSITY**

The maximum residential density is as follows:

1. Three (3) dwelling units per gross acre, without the density bonus provided in Section 405.8.A.3.
2. Three and three quarter (3¾) additional dwelling units per gross acre, with density bonus provided in Section 405.8.A.3.
3. Density bonus allows an additional three (3) dwelling units for every one (1) acre of open space above the required twenty-five (25%) percent of open space (see Section 405.11).

The gross acres for calculating residential density and open space include the area defined in Section 402 Sensitive Environmental Features Overlay of the Zoning Ordinance, and Section 614 Natural Resource Conservation, Open Space, and Greenway Delineation Standards of the Subdivision and Land Development Ordinance, and excludes right-of-way for existing public and private streets

The following example is provided for illustration purpose only:

<i><b>Project Description</b></i>		<i><b>Maximum Dwelling Unit Calculation</b></i>	
<i>Total Property</i>	<i>50 acres</i>	<i>Base Density</i>	<i>150 Dwellings @ 3 dwelling units per gross acre</i>
<i>Required Open Space</i>	<i>12.5 acres (25%)</i>	<i>Bonus Dwellings</i>	<i>+ 36 Dwellings @ 3 dwelling units per acre of bonus open space</i>
<i>Provided Open Space</i>	<i>24.5 acres</i>	<i>Total</i>	<i>186 Dwellings, or 3.72 dwelling units per gross acre</i>
<i>(additional 12 acres or 49% open space)</i>			

### **B. LOT SIZE**

No minimum or maximum lot area is required for each individual dwelling.

### **C. LOT WIDTH, COVERAGE, AND YARD**

Use	Minimum Width	Maximum Building Coverage	Minimum Yard Setbacks			
			Front	One Side	Both Sides	Rear
Single-family detached	60 ft.	65%	10 ft.	6 ft.	12 ft.	20 ft.
Single-family, semi detached or duplex	36 ft. per unit	65%	10ft.	6 ft.	N/A	20 ft.
Single-family attached	20 ft. per unit	65%	10 ft.	6 ft.	N/A	20 ft.
Multi-family	100 ft.	65%	22 ft.	20 ft.	40 ft.	50 ft.

### **D. ACCESSORY BUILDING**

Accessory buildings shall be located behind the front wall of the principal building. Accessory buildings shall be set back six feet (6') from the side and rear lot lines.

### **E. VIEW**

Not less than fifty (50%) percent of the dwelling units shall be situated so as to retain a view of some portion of the open space, and located within five hundred feet (500') of the open space.

**F. SINGLE-FAMILY ATTACHED AND MULTI-FAMILY**

1. No more than three (3) contiguous dwelling units shall have the same continuous roof ridge-line.
2. No more than three (3) contiguous dwelling units in any one building shall have a substantial portion of their front façade on the same vertical plane as any other dwelling unit in the same building. Offsets must be staggered. Front yard fencing must be designed to complement the theme of the development.

**G. OUTDOOR WASTE RECEPTACLES**

1. Outdoor waste receptacles for residential lots (not including multi-family dwellings) shall be completely enclosed within a masonry or “sight-tight” fenced enclosure equipped with a self-latching door or gate.
2. All dumpsters shall be set back at least twenty-five (25) feet from any adjoining property used for an existing residential use or in a residential zoning district, and be completely enclosed within a masonry or framed enclosure with a self-latching door or gate. All dumpsters shall comply with Section 503.5 of this Ordinance.

**H. APPLICATION**

Section 525.18 Dwelling, Multi-family, of this Ordinance, does not apply in Traditional Village Overlay.

**405.9 NEIGHBORHOOD CONVENIENCE CENTER DESIGN REQUIREMENTS**

1. The neighborhood convenience center shall be located within one area.
2. The neighborhood convenience center shall also be integrated with a system of sidewalks and/or pedestrian pathways, such that all inhabitants of the development and adjoining neighborhoods to be served will have safe and convenient pedestrian access.
3. Vehicular access and off-street parking shall be located in the commercial use's front yard, between the building and a public street.
4. Off-street parking for commercial uses shall be set back no less than fifteen feet (15') from any adjoining property line. Such parking shall be screened from pedestrian paths, adjoining roads, and adjoining residential areas.
5. Street access to off-street parking spaces must be set back at least forty feet (40') from the right-of-way lines of any intersecting street, and five feet (5') from a fire hydrant.
6. No individual business shall comprise more than ten thousand (10,000) square feet of gross floor area.
7. The neighborhood commercial center shall not exceed the maximum lot coverage of eighty (80%) percent.

8. Minimum Required Setbacks. See following table:

Use	Front Yard	Side Yards Abutting Other Commercial Uses	Side Yards Abutting Street or Residential Uses	Rear Yard
Building	25 ft.	None	25 ft.	50 ft.
Off-Street Loading	15 ft.	None	25 ft.	25 ft.

9. No outdoor storage is permitted, except for outdoor waste receptacles.
10. All dumpsters shall be set back at least twenty-five (25) feet from any adjoining property used for an existing residential use or in a residential zoning district, and be completely enclosed within a masonry or framed enclosure with a self-latching door or gate. All dumpsters shall comply with Section 503.5 of this Ordinance.
11. Any portion of the site not used for buildings, structures, parking lots, loading areas, outdoor storage areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings.

#### **405.10 BUILDING HEIGHT**

All principal buildings shall be between one (1) and three (3) stories in height. In no case shall any principal building exceed forty feet (40') in height. Accessory buildings shall be no more than twenty-five feet (25') high.

#### **405.11 OPEN SPACE**

1. A minimum of twenty-five (25%) percent of the Traditional Village Overlay shall be devoted to open space. Open space includes the area specified in Section 402 Sensitive Environmental Features Overlay of the Zoning Ordinance, and Section 614 Natural Resource Conservation, Open Space, and Greenway Delineation Standards of the Subdivision and Land Development Ordinance.
2. Improvements to active recreational areas, such as equipment, fields, spectator facilities, or jogging/stretching/fitness stations, may, by Conditional Use, qualify for a decrease in the required open space at a similar ratio to the value of land, not to exceed five (5%) percent.
  - a. Provision of improvements to passive recreational areas, such as fountains, benches, trail surfacing, or educational signage related to the presence of unique species of plants or animals, or the background of historical resources, may, by Conditional Use, qualify for a decrease in the required open space at a similar ratio to the value of land, not to exceed five (5%) percent.
  - b. Calculation of the open space area for purpose of the density bonus (Section 405.8.A.3) shall include the area that was replaced by the improvement.

3. Open space shall be designed and arranged to achieve as many of the following objectives as possible:
  - a. Protection of important natural, historical, and cultural resources.
  - b. Preservation of scenic views from public roads and neighboring residential properties.
  - c. Creation of focal points.
  - d. Connection with existing trails, greenways, linear parks, or open space on adjoining parcels.
  - e. Convenient access for residents.
4. The Open Space Plan shall identify:
  - a. The location and size of the proposed open space.
  - b. Improvements, including surface covers, to be located within the open space.
5. The configuration of open space shall avoid narrow strips at the perimeter of the property or between lots, unless such land is integrated and integral to the overall open space design, or improved with walking trails, fitness stations, or other improvements acceptable to the Board of Supervisors.
6. A Village Cluster containing one hundred fifty (150) or more dwelling units shall be provided with at least one (1) open space area that functions as a focal point, containing not less than twenty thousand (20,000) square feet. Other open space areas, not less than one thousand (1,000) square feet, shall be dispersed throughout the Village Cluster.
7. If all or a portion of the open space conforms to the standards of Section 613 of the Subdivision and Land Development Ordinance, the applicant is entitled to apply the open space to the mandated park and recreation reservation.
8. Hard or soft-surfaced pedestrian and bicycle network links shall be provided to connect various open space areas to the residents. Access to all such areas shall be provided from public streets. Where necessary, easements shall be provided to accommodate pedestrian access, as well as access for maintenance equipment and bicycles.
9. Open space areas shall be appropriately landscaped with a combination of various types of shrubs, trees (both evergreen and deciduous), and ground covers.
  - a. To ensure the proper placement of suitable materials, the applicant shall provide a Landscape Plan, prepared by a registered landscape architect, which specifies the type and size of proposed vegetation, as well as identifying the location of existing vegetation to be retained. The Landscape Plan shall include all portions of the proposed open space, and shall identify any proposed lighting of common areas and pathways.
  - b. The applicant shall provide a maintenance guarantee, to ensure the health and vitality of all plant material for a period of eighteen (18) months from planting. Any of the landscaping which dies, or is removed within this time frame, shall be replaced with vegetation of the same size and species. The

applicant shall also be responsible to assure the proper care and maintenance of all plant material for the duration of these eighteen (18) months, and until such time as the open space is transferred to the Township, a homeowners association, or other entity, as authorized by this Overlay.

10. Ownership and maintenance of open space shall be in accordance with Section 522.

#### **405.12 OFF-STREET PARKING**

The parking lot requirements, as set forth in Section 512 of the Zoning Ordinance, apply for non-residential uses. The following regulations shall apply to residential uses in the Traditional Village Overlay.

1. Off-street parking shall be a paved area large enough to accommodate two (2) off-street parking spaces (9'x18') per dwelling unit, unless the public street on which the driveway connects is 20 feet wide or less of paved surface (excluding curb and gutter). In such cases, three (3) paved off-street parking spaces (9'x18') per dwelling unit shall be provided. The driveway and garage/carport may serve as these spaces.
2. Off-street parking areas shall be designed so that vehicles do not encroach upon, or extend onto, a public right-of-way or sidewalk.
3. Driveways shall be designed to provide at least one off-street parking space for each lot.
4. Off-street parking surfaces outside of structures may cover no more than fifty (50%) percent of the front yard or eight hundred (800) square feet, whichever is smaller. For the purposes of this Section the front yard shall be the area between the right-of-way and the portion of the house frontage that is farthest from the right-of-way. The width of the front yard shall extend to each side property line. For the purposes of this Section, a parking area includes any portion of a driveway or access road used for parking.
5. On properties facing on two (2) or more public rights-of-way, the total off-street parking surfaces for all front yards shall not be greater than eight hundred (800) square feet. All remaining areas of the front yards not used for off-street parking or driving surfaces shall be landscaped.

#### **405.13 STREETS AND ACCESS DRIVES**

1. Streets and access drives within the Village Cluster shall provide safe and convenient access and circulation patterns. Streets shall be designed to:
  - a. Avoid alteration of cultural or historical resources.
  - b. Minimize alteration of significant natural resources.
  - c. Provide a view to prominent natural vistas.
  - d. Promote pedestrian movement and calm traffic speeds.
  - e. Provide for on-street parking.



2. Streets and access drives must be oriented to the pedestrian. Streetscapes should be safe, functional, and attractive. Front-to-front building setbacks should be kept small, so as to provide for intimacy and neighborly interaction.
  - a. Front porches and stoops should be frequently incorporated into the front yards.
  - b. Streets and access drives shall generally include sidewalks on both sides of the cartway.
  - c. Parallel on-street parking lanes should be used to keep lot coverage low and street widths narrow.
  - d. Trees are required along the cartway of streets and access drives (see Section 405.16).
  - e. Street furniture is encouraged, to complement the intimate scale of the streetscape and the character of the neighborhood.
3. Street and access drive patterns shall form a network, with variations as needed for topographic, environmental, and other design considerations.
4. Collector streets in the Village Cluster shall have a minimum centerline turning radius of one hundred fifty feet (150').
  - a. All other streets and access drives within the Village Cluster shall be designed with a minimum centerline turning radius of eighty feet (80').
5. Street intersections and access drive intersections shall maintain a clear-sight triangle. The minimum clear-sight triangle side length shall be sixty feet (60') for intersections of access drives and streets, and for intersections of streets with streets other than existing collector or arterial streets or proposed collector streets.
  - a. Intersections of streets with existing streets, proposed collector streets, and arterial streets shall have a minimum clear-sight triangle side length of one hundred feet (100').
6. Street width and design standards shall be as set forth in the table below:

Type	Number of Travel Lanes	Parking	Sidewalk	Cartway Width	ROW Width (streets only)	Curb
Collector	2	No	Yes	28 ft.	50 ft.	Yes
Local #1	2	No	Yes	20 ft.	40 ft.	Yes
Local #2	2	1 side	Yes	26 ft.	40 ft.	Yes
Local #3	2	2 sides	Yes	32 ft.	50 ft.	Yes
Local #4	1	No	No	9 ft.	12 ft.	No

**Local #1** Street or access drive with neither homes nor parking on either side of the street.

**Local #2** Street or access drive with homes and parking on just one side of the street. Parking must be on the same side of the street as the homes.

**Local #3** Street or access drive with homes and parking on both sides of the street.

**Local #4** Street or access drive with one-way traffic only when design objectives are shown to warrant such travel.

7. The applicant shall provide street and access drive lights within the Village Cluster, in a manner consistent with the architectural guidelines and acceptable to the Township.
  - a. Lighting shall be used to increase the safety of pedestrians, as well as vehicles, while contributing to the character of the overall Village Cluster.
  - b. Smaller lights, as opposed to fewer, high-intensity lights, are preferred. Light poles six feet (6') to eight feet (8') in height, located at the driveways, can replace the need for additional street lighting.

#### **405.14 DRIVEWAYS**

1. No more than two (2) driveway connections per lot shall be permitted, and only one (1) driveway connection per one hundred feet (100') of lot frontage is permitted.
2. Driveway connections with a street, when located on the same lot, shall be separated by a minimum of twenty-five feet (25').
3. No dwelling units shall have direct access to existing Township or State streets that surround the Village Cluster. All access shall be from an internal street system designed to service the Village Cluster.
4. Driveways shall not connect with a street within twenty-five feet (25') of the curb line of any intersecting streets, nor within five feet (5') of a fire hydrant.
  - a. Driveways for dwellings shall be set back at least one foot (1') from any side lot line, unless a common or joint driveway location is proposed.
5. Plans which propose common or joint driveways shall be accompanied by a right-of-way agreement that establishes the conditions under which the driveways will be maintained.
  - a. The right-of-way agreement shall be submitted for review by the Township, and recorded with the York County Recorder of Deeds on the same date as the recording of the Final Plan. This agreement shall establish the conditions under which the driveways will be maintained.
6. Driveway access shall be provided to the street of lesser classification when there is more than one street classification involved.
7. No individual driveway shall provide a curb cut exceeding twenty-four feet (24') in width.
8. Driveways shall be paved and constructed in a manner that does not interfere with design, maintenance, and drainage of the street.

## **405.15 SIDEWALKS**

Sidewalks are to be provided according to Section 604 of the Subdivision and Land Development Ordinance.

## **405.16 STREET PLANTINGS**

1. Street trees shall be provided along each side of all proposed streets. Street trees shall be located no closer than four feet (4') and no farther than ten feet (10') from the rear of the curb.
  - a. A minimum of one (1) tree shall be provided for every sixty feet (60') of street right-of-way on each side of the street.
2. Street trees, when planted, shall be at least two to two and one-half inches (2 to 2½") in diameter, measured at six inches (6") above the ground.
  - a. In locations where healthy and mature trees currently exist, they may be counted toward the fulfillment of these standards.
3. The type of plant material provided shall be consistent with the standards of Section 610.02 of the Subdivision and Land Development Ordinance.
4. Plantings may be used to complement the street trees. If permanent containers are used to accommodate such plantings, they shall contain vegetation, which is hardy in all seasons, or shall be replanted according to the change in seasons.
  - a. The perpetual care and maintenance of such plantings shall be the responsibility of the entity responsible for the open space.
5. Alleys are not required to provide street trees.

## **SECTION 406 AIRPORT DISTRICT OVERLAY**

The Airport District Overlay shall consist of all land identified on the Official Zoning Map as Airport District Overlay.

### **406.1 PURPOSE**

The purpose of this Airport District Overlay is to ensure safety around the Harrisburg International Airport, regulate and restrict the heights of constructed structures and objects of natural growth, create appropriate zones, establishing the boundaries thereof and providing for changes in the restrictions and boundaries of such zones, create the permitting process for use within said zones and provides for enforcement, assessment of violation penalties, an appeals process, and judicial review.

## 406.2 RELATION TO OTHER ZONE DISTRICTS

The Airport District Overlay shall not modify the boundaries of any underlying zoning district. Where identified, the Airport District Overlay shall impose certain requirements on land use and construction in addition to those contained in the underlying zoning district.

## 406.3 DEFINITIONS

The following words and phrases when used in this ordinance shall have the meaning given to them in this section unless the context clearly indicates otherwise.

**Airport Elevation:** The highest point of an airport's useable landing area measured in feet above sea level. The airport elevation of the Harrisburg International Airport is 310 feet mean sea level (MSL).

**Airport Hazard:** Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §5102.

**Airport Hazard Area:** Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Section 406 and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

**Conical Surface (Zone):** An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on the Newberry Township Zoning Map, is based on the conical surface.

**Department:** Pennsylvania Department of Transportation.

**FAA:** Federal Aviation Administration of the United States Department of Transportation.

**Height:** For the purpose of determining the height limits in all zones set forth in this Section 406 and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**Horizontal Surface (Zone):** An imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone is derived from the horizontal surface.

**Nonconforming Use:** Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Section 406 or an amendment thereto.

**Obstruction:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Section 406.

**Structure:** An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

**Tree:** Any object of natural growth.

#### **406.4 ESTABLISHMENT OF AIRPORT ZONES**

There are hereby created and established certain zones within the Airport District Overlay, defined in 406.3 and depicted on the Newberry Township Zoning Map:

1. **Conical Surface Zone**
2. **Horizontal Surface Zone**

#### **406.5 PERMIT APPLICATIONS**

As regulated by Act 164 and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), any person who plans to erect a new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade), of any height, in the area depicted as Area A in the Newberry Township Airport Hazard Area Overlay Detail Map, attached, or who plans to erect a new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade), in excess of 35 feet, in the area depicted as Area B in the Newberry Township Airport Hazard Area Overlay Detail Map , *shall first notify the Department's Bureau of Aviation (BOA) by submitting PENNDOT Form AV-57 to obtain an obstruction review of the proposal at least 30 days prior to commencement thereof.* The Department's BOA response must be included with the permit application for it to be considered complete. If the Department's BOA returns a determination of no penetration of airspace, the permit request shall be considered in compliance with the intent of this Section 406. If the Department's BOA returns a determination of a penetration of airspace, the permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in 406.6.

No permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.

#### **406.6 VARIANCE**

Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced). Determinations of

whether to grant a variance will depend on the determinations made by the FAA and the Department's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed construction in:

1. No Objection - The subject construction is determined not exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.
2. Conditional Determination - The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures as described in 406.9 - Obstruction Marking and Lighting.
3. Objectionable - The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant.

Such requests for variances shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the intent of this Section 406.

#### **406.7 USE RESTRICTIONS**

Notwithstanding any other provisions of Section 406, no use shall be made of land or water within the Airport District Overlay in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the Harrisburg International Airport.

#### **406.8 PRE-EXISTING NON-CONFORMING USES**

The regulations prescribed by this Section 406 shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance or otherwise interfere with the continuance of a non-conforming use. No non-conforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a non-conforming use, once substantially abated (subject to the underlying zoning ordinance,) may only be reestablished consistent with the provisions herein.

## 406.9 OBSTRUCTION MARKING AND LIGHTING

Any permit or variance granted pursuant to the provisions of this ordinance may be conditioned according to the process described in 406.6 to require the owner of the structure or object of natural growth in question to permit the municipality, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

Article  
GENERAL/  
SUPPLEMENTARY  
PROVISIONS

5

**SECTION 501 GENERAL PROVISIONS**

The regulations contained within Article 5 shall apply to all uses within the Township.

**SECTION 502 ACCESSORY USES AND STRUCTURES**

**502.1 FENCES AND WALLS**

No fence or wall (except livestock, required junk yard or tennis court walls or fences, or a retainer wall of a building permitted under the terms of this Ordinance) shall be erected to a height of more than three (3) feet in a front yard and more than six (6) feet in any other yard within the (OS, RH, SR, RG, MHP, V, and R) Zoning Districts. Within the (A and RR) Zoning Districts, no fence or wall shall be erected to a height more than eight (8) feet in any yard. Within any (MU, CC, RCO, LI, I, and RI) Zoning Districts, no fence nor wall (except a retainer wall) shall be erected to a height of more than ten (10) feet in any yard. No fence shall block motorist view of vehicles entering or exiting the property nor be located within the street right-of-way.

**502.2 SWIMMING POOLS**

No permanent swimming pool structure shall be permitted without an operable filtration system utilizing chlorine, bromine or some other antibacterial agent. All permanent swimming pool structures shall be completely enclosed by a minimum four (4) foot high fence or wall with a self-closing and lockable gate. However, this does not apply to above-ground pools having a wall measuring four (4) feet in height and having a retractable ladder. Such fence or wall shall be



erected before any pool is filled with water. All pools must be set back (from the water's edge) at least ten (10) feet from all lot lines. No water from a pool shall be discharged onto any public street or alley or adjacent property without the owner's consent. These requirements shall not apply to man-made ponds, lakes or other impoundments, unless the primary purpose for their construction is swimming.

### **502.3 TENNIS COURTS**

All tennis courts shall include an open mesh permanent fence ten (10) feet in height behind each baseline. Such fence shall extend parallel to said baseline at least ten (10) feet beyond the court's playing surface unless the entire court is enclosed. Any lighting fixtures shall be arranged in accordance with Section 502.9 of this Ordinance.

### **502.4 SATELLITE DISH ANTENNAS**

Satellite dish antennas are subject to all accessory use standards. Furthermore, any satellite dish antenna located within the (OS, RH, SR, RG, MHP, V, A, RR, and R) Zoning Districts shall be used only to receive signals, not transmit them. All ground-mounted satellite dish antennas located within the (MU, CC, RCO, LI, I, and RI) Zoning Districts that are used to transmit video format data shall be completely enclosed by an eight (8) foot high non-climbable fence that includes signage warning of dangerous radiation levels. Any gates within the fence shall be locked when unattended. Satellite dish antennas within the (MU, CC, RCO, LI, I, and RI) Zoning Districts shall comply with all principal use standards.

### **502.5 ALTERNATIVE ENERGY SOURCES**

Except for those contained on farms, Wind Energy Conversion Systems (WECS) shall not be permitted in the front yard area of any property. Height regulations do not apply to WECS units, provided that the height of the WECS unit shall not be greater than the shortest distance measured along a horizontal plane from the unit to any lot line. WECS units may be placed on the roof of any structure, provided that the perimeter of the unit does not cover twenty-five (25%) percent of the roof area of the structure on which the WECS unit is placed. The additional height extension shall be so positioned that the height of the WECS unit above the roof is less than the distance measured along a horizontal plane from such unit to any lot line. All transmission lines to and from any freestanding WECS unit or any supporting building or structure shall be buried underground. Solar energy units shall be permitted in any zone and subject to the requirements of that zone.

### **502.6 ORNAMENTAL PONDS AND WADING POOLS**

Ornamental ponds and wading pools may be permitted in any zoning district, subject to the following:

1. Such impoundments shall comply with all accessory use setbacks.
2. No such impoundment shall contain more than two hundred (200) gallons. All other impoundments exceeding the requirements of this section shall be considered as "Man-made Lakes, Dams and Impoundments," and are subject to the criteria listed in Section 502.7. of this Ordinance.

3. No such impoundment shall have a length or diameter exceeding fifteen (15) feet nor a maximum depth exceeding two (2) feet.
4. All such impoundments shall be maintained so as to not pose a nuisance by reason of odor, or the harboring of insects.
5. No such pond(s) shall be used for the commercial hatching of fish or other species.

### **502.7 MAN-MADE LAKES, DAMS, AND IMPOUNDMENTS**

All lakes, dams, ponds and impoundments designed to contain water on a permanent basis may be permitted in any zoning district, subject to the following:

1. All dams, ponds, lakes and impoundments located along and connected to a stream, that involve any of the following, shall require the obtainment of a permit from the PA DEP Bureau of Dams and Waterways, Division of Dam Safety or appropriate agency, or a letter indicating that the proposed use does not require a PA DEP or appropriate agency permit:
  - a. The dam, pond or impoundment contains a volume of at least fifty (50) acre feet.
  - b. The dam reaches a height of fifteen (15) feet. and,
  - c. The dam, pond or impoundment impounds the water from a watershed of at least one hundred (100) acres.
2. All dams, ponds and impoundments not contiguous to a stream that have an intake, outlet, or both, and/or have an embankment within fifty (50) feet of a stream shall require the obtainment of a permit from the PA DEP Bureau of Dams and Waterways Division of Waterways and Storm Water Management or other appropriate agency.
3. All dams, ponds and impoundments shall be located at least seventy-five (75) feet from adjoining lot lines, and any subsurface on-lot sewage disposal system or on-lot well.
4. All other dams, ponds and impoundments require the submission of a statement by a qualified engineer that the proposed use is properly constructed and will not pose a threat to the public safety nor the environment during normal flow conditions and those associated with the base flood. All dams shall be constructed to a height of one (1) foot above the water surface elevation occurring during the base flood.
5. Maintenance: All ponds shall be regularly maintained and floating debris shall be removed from all pipes and spillways. All ground cover shall be trimmed. Weeds, brush and trees shall not be permitted to grow on the dam or spillway.

### **502.8 GARAGE/YARD SALES**

Within any zoning district, an owner and/or occupant may conduct up to two (2) garage/yard sales per year. No garage or yard sale shall be conducted for a period longer than three (3) consecutive days. Such sales may offer for sale personal possessions; no import or stocking of

inventory shall be permitted. Only one, four (4) square foot sign shall be permitted advertising the garage/yard sale located upon the premises where the sale occurs, and shall be removed promptly upon the completion of the sale. In no case shall any aspect of the garage/yard sale be conducted in a street right-of-way, except that parking may occur where permitted. The conduct of garage sales beyond the extent described herein represents a commercial business and requires appropriate zoning authorization.

## **502.9 ACCESSORY REPAIR OF MOTOR VEHICLES**

This section shall not apply to farm equipment and vehicles when performed as part of normal farming and/or agricultural operations.

### **A. PERSONAL MOTOR VEHICLES**

The routine maintenance, repair and servicing of personal motor vehicles, owned and/or leased by the person performing such services when performed outside of a completely enclosed building, is permitted, subject to the following:

1. All vehicles shall be maintained with proper licensure.
2. All work shall be performed on the vehicle owner's (leasee's) property of residence.
3. All by-product or waste fuels, lubricants, chemicals, and other products shall be properly disposed of.
4. All such activities shall be conducted during daylight hours and so as not to disturb adjoining properties.
5. All such activities including repair, maintenance, and servicing activities shall be completed within seventy-two (72) hours.

### **B. OTHER NON-PERSONAL NON-DAILY USE MOTOR VEHICLES**

The maintenance, repair and servicing of other motor vehicles not used for daily personal use including vehicles not necessarily requiring licensure and/or including but not limited to the following: boats, snowmobiles, recreation vehicles and any vehicles listed under Racetrack/Speedway definition in Article 2 of this Ordinance, owned and/or leased by the person performing such services when performed outside of a completely enclosed building, is prohibited. Any maintenance, repair and servicing must be performed inside of a completely enclosed building and shall be subject to the following:

1. All work shall be performed on the vehicle owner's (leasee's) property of residence.
2. The maintenance, repair and servicing shall be compatible with the residential use of the property and surrounding residential uses.
3. All maintenance, repair and servicing operations shall not constitute a nuisance due to noise outside the building and any equipment or process which creates noise, vibration, glare, fumes, odors or electrical interference, shall be completely undetectable from adjacent properties through soundproofing the building.

4. All by-product or waste fuels, lubricants, chemicals, and other products shall be properly disposed of in compliance with all applicable state and federal requirements.

## **502.10 LIGHTING**

### **A. APPLICABILITY**

1. All uses within the Township where there is lighting that creates a nuisance or hazard as viewed from outside, including, but not limited to, residential, commercial, industrial, public/semi-public and institutional uses, and sign, billboard, architectural and landscape lighting.
2. Temporary seasonal decorative lighting and emergency lighting are exempt from all but the glare-control requirements of Section 502.10.
3. Emergency lighting, as may be required by any public agency while engaged in the performance of their duties, is exempt from the requirements of Section 502.10.
4. Agricultural and forestry uses, except for 502.10.B.2.d below are exempt from the requirements of Section 502.10.

### **B. CRITERIA**

1. Illumination Levels  
Lighting, where required by Section 502.10, or otherwise required or allowed by the Township, shall have intensities, uniformities and glare control in accordance with the recommended practices of the Illuminating Engineering Society of North America (IESNA), unless otherwise directed by the Township.
2. Lighting Fixture Design
  - a. Fixtures shall be of a type and design appropriate to the lighting application.
  - b. For the lighting of predominantly horizontal surfaces such as, but not limited to parking areas, roadways, vehicular and pedestrian passage areas, merchandising and storage areas, automotive-fuel dispensing facilities, automotive sales areas, loading docks, cul-de-sacs, active and passive recreational areas, building entrances, sidewalks, bicycle and pedestrian paths, and site entrances, fixtures shall be aimed straight down and shall meet IESNA full-cutoff criteria. Fixtures, except those containing directional lamps, with an aggregate rated lamp output not exceeding one thousand (1,000) lumens, e.g., the rated output of a standard non-directional sixty (60) watt incandescent lamp, are exempt from the requirements of this Section.
  - c. For the lighting of predominantly non-horizontal surfaces such as, but not limited to, facades, landscaping, signs, billboards, fountains, displays and statuary, fixtures shall be fully shielded and shall be installed and aimed so as to not project their output into the windows of structures on adjacent lots, past the object being illuminated, skyward or onto a public roadway.

Fixtures, except those containing directional lamps, with an aggregate rated lamp output not exceeding one thousand (1,000) lumens, e.g., the rated output of a standard non-directional sixty (60) watt incandescent lamp, are exempt from the requirements of this Section.

- d. "Barn lights," aka "dusk-to-dawn lights," where visible from another property, shall not be permitted unless fully shielded as viewed from that property.
3. Control of Glare
- a. All lighting shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto an adjacent use or property.
  - b. Directional fixtures such as floodlights and spotlights shall be so shielded, installed and aimed that they do not project their output into the windows of structures on adjacent lots, past the object being illuminated, skyward or onto a public roadway or pedestrian way.
  - c. Parking facility and vehicular and pedestrian-way lighting (except for safety and security applications and all-night business operations), for commercial, industrial and institutional uses shall be automatically extinguished no later than one-half hour after the close of business or facility operation. When safety or security lighting is proposed for after-hours illumination, it shall not be in excess of twenty-five (25%) percent of the number of fixtures or illumination level required or permitted for illumination during regular business hours.
  - d. Illumination for signs, billboards, building facades and/or surrounding landscapes for decorative, advertising or aesthetic purposes is prohibited between 11:00 p.m. and dawn, except that such lighting situated on the premises for a commercial establishment may remain illuminated while the establishment is actually open for business, and until one-half hour after closing.
  - e. Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.
  - f. The illumination projected from any use onto a residential use shall at no time exceed 0.1 footcandle, measured line-of-sight from any point on the receiving residential property.
  - g. The illumination projected from any property onto a non-residential use shall at no time exceed 1.0 footcandle, measured line-of-sight from any point on the receiving property.
  - h. Externally illuminated billboards and signs shall be lighted by fixtures mounted at the top of the billboard or sign and aimed downward. The fixtures shall be designed, fitted and aimed to shield the source from off-site view and to place the light output onto and not beyond the sign or billboard.

At no point on the face of the sign or billboard and at no time shall the illumination exceed thirty (30) vertical footcandles.

- i. Except as permitted for certain recreational lighting, fixtures not meeting IESNA full-cutoff criteria shall not be mounted in excess of sixteen (16) feet above finished grade. Fixtures meeting IESNA full-cutoff criteria shall not be mounted in excess of twenty (20) feet above finished grade.
  - j. Only the United States flag and the state flag shall be permitted to be illuminated from dusk till dawn. All other flags shall not be illuminated past 11:00 p.m. Flag lighting sources shall not exceed seven thousand (7,000) lamp lumens per flagpole. The light source shall have a beam spread no greater than necessary to illuminate the flag and shall be fully shielded.
  - k. Under-canopy lighting for such applications as gas/service stations, hotel/theater marquees, fast-food/bank/drugstore drive-ups, shall be accomplished using flat-lens full-cutoff fixtures aimed straight down and shielded in such a manner that the lowest opaque edge of the fixture shall be below the light source at all lateral angles. The average illumination in the area directly below the canopy shall not exceed twenty (20) initial footcandles and the maximum shall not exceed thirty (30) initial footcandles.
4. Installation
- a. Electrical feeds for lighting standards shall be run underground, not overhead.
  - b. Poles supporting lighting fixtures for the illumination of parking areas and located directly behind parking spaces, or where they could be hit by snow plows, shall be placed a minimum of five (5) feet outside paved area or tire stops, or placed on concrete pedestals at least thirty (30) inches high above the pavement, or suitably protected by other municipality-approved means.
  - c. Pole mounted fixtures for lighting horizontal tasks shall be aimed straight down and poles shall be plumb.
5. Maintenance
- Lighting fixtures and ancillary equipment shall be maintained so as to always meet the requirements of this Ordinance.

### **C. LIGHTING PLAN SUBMISSION**

Lighting plans shall be submitted for variance, building permit and special exception applications for review and approval, in accordance with the plan-submission information requirements specified in Subdivision & Land Development Ordinance.

### **D. COMPLIANCE MONITORING**

1. Safety Hazards
  - a. If the Township Zoning Officer judges a lighting installation creates a safety hazard, the person(s) responsible for the lighting shall be notified and required to take remedial action pursuant to Article 8 of this Ordinance.
2. Nuisance Glare and Inadequate Illumination Levels

- a. When the Township judges an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels or otherwise varies from this Ordinance, the Township may cause notification of the person(s) responsible for the lighting and require appropriate remedial action.
- b. If the infraction so warrants, the Township may act to have the problem corrected as in 502.10.D.1.a. above.

**E. NONCONFORMING LIGHTING**

Any lighting fixture or lighting installation existing on the effective date of this Ordinance that does not conform with the requirements of this Section, shall be considered as a lawful nonconformance. A nonconforming lighting fixture or lighting installation shall be made to conform with the requirements of this Ordinance when:

1. Minor corrective action, such as reaiming or shielding can achieve conformity with the applicable requirements of this Ordinance.
2. It is deemed by the Township to create a safety hazard.
3. It is replaced by another fixture or fixtures or abandoned or relocated.
4. There is a change in use.

**SECTION 503 UNENCLOSED STORAGE**

**503.1 OUTDOOR STORAGE OF RECREATIONAL VEHICLES, BOATS, CAMPERS, TRAILERS AND TRUCKS UPON PROPERTIES CONTAINING OR ADJACENT TO AND OWNED BY THE OWNER OF A SINGLE-FAMILY DETACHED DWELLING**

Upon any property used principally for a single-family detached dwelling, the outdoor storage of recreational vehicles, travel trailers, trucks, boats, and trailers used solely for the transport of the residents' recreational vehicle(s) is permitted only according to the following requirements:

1. For purposes of this section, recreational vehicles, travel trailers, boats (including trailers), and other trailers used solely for the transport of the residents' recreational vehicle(s) are divided into two (2) separate categories, as follows:
  - a. Class I Vehicles: Those recreational vehicles, travel trailers, boats (including trailers), and other trailers used solely for the transport of the residents' recreational vehicle(s) that possess no more than two hundred (200) square feet, as measured to the vehicle's outermost edges, nor exceed a height of ten (10) feet, as measured from the ground to the highest point of the main body of the vehicle. Vehicle height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, masts, antennas, outrigger fishing poles, etc.), but will be measured to the highest point of any flybridge or other boat console.
  - b. Class II Vehicles: Those recreational vehicles, travel trailers, boats (including trailers), and other trailers used solely for the transport of the residents' recreational vehicle(s) that possess more than two hundred (200) square feet, as measured to the vehicle's outermost edges, and/or exceed a

height of ten (10) feet, as measured from the ground to the highest point of the main body of the vehicle. Vehicle height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, antennas, masts, outrigger fishing poles, etc.), but will be measured to the highest point of any flybridge or other boat console.

2. The temporary parking of one Class I or Class II vehicle for periods not exceeding seventy-two (72) hours during any seven (7) day period is permitted on a paved or gravel surface in any yard, so long as the vehicle is set back no less than ten (10) feet from any street right-of-way, and five (5) feet from adjoining property lines.
3. The storage of one Class I vehicle shall be permitted per lot behind the building setback line, as long as the unit is set back no less than five (5) feet from any adjoining lot line. All areas used for the storage of Class I vehicles shall be maintained so as to keep vegetation properly trimmed and debris or litter disposed of regularly. All vehicles shall maintain required licensure and prevent the leakage of fuels and/or lubricants into the ground.
4. Except as permitted in Section 503.1.2 of this Ordinance, and as follows, the parking or storage of any Class II vehicle is expressly prohibited in any residential zoning district, or on any property used principally for residential purposes. The storage of one Class II vehicle on a residentially-zoned parcel, or a parcel used for a principal residence, is permitted, subject to the following requirements:
  - a. In no case shall the vehicle contain more than three hundred twenty (320) square feet, as measured to the vehicle's outermost edges, nor exceed a height of thirteen (13) feet, as measured from the ground to the highest point of the vehicle's main body. Vehicle height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, antennas, masts, outrigger fishing poles, etc.), but will be measured to the highest point of any flybridge or other boat console.
  - b. All vehicles shall be set back a horizontal distance equal to twice (2 times) the vehicle's height from every side and rear lot line.
  - c. No vehicle shall be stored in front of the building setback line. On vacant lots, the vehicle must be stored behind the required front yard setback line, as specified for principal uses.
  - d. Screening, as described in Section 516 of this Ordinance, shall be provided along any side and rear lot lines. Such screening shall not extend into the required front yard. Screening shall not be required along a common side lot line when the owner resides on one (1) lot, and stores the vehicle on an adjacent vacant lot that he owns. One ten (10) foot wide break in required screening may be provided along one (1) rear or side lot line for vehicular access onto an adjoining alley.
  - e. All areas used for the storage of Class II vehicles shall be maintained so as to keep vegetation properly trimmed and debris or litter disposed of regularly. All vehicles shall maintain required licensure and prevent the leakage of fuels and/or lubricants into the ground.



5. The storage or parking of any commercial truck upon any lot zoned SR and/or RG, or lot used principally for residential purposes, is prohibited. For purposes of this section, commercial trucks shall include those that exceed a gross vehicle weight (truck plus rated payload) of ten thousand (10,000) pounds. In addition, the parking or storage of any trailer other than those accessory to a principal residential use is expressly prohibited on any residentially-zoned lot, or a lot used principally for residential purposes.

### **503.2 OUTDOOR STORAGE OF RECREATIONAL VEHICLES, BOATS, CAMPERS, TRAILERS, AND TRUCKS UPON PROPERTIES CONTAINING A TWO-FAMILY, SINGLE-FAMILY SEMI-DETACHED, SINGLE-FAMILY ATTACHED AND/OR MULTIPLE-FAMILY DWELLINGS**

The outdoor storage of such vehicles and/or trailers is expressly prohibited, except in areas specifically designed for such uses as required by Section 512.6 of this Ordinance.

### **503.3 OUTDOOR STOCKPILING**

In all zoning districts, no outdoor stockpiling of any material or outdoor storage of trash is permitted in the front yard (except domestic fuels such as fire wood expected to be used on an annual basis).

### **503.4 TRASH, GARBAGE, REFUSE, OR JUNK**

Except as provided in Sections 525.34, 525.49 and 525.59 of this Ordinance, the outdoor accumulation of trash, garbage, refuse, or junk for a period exceeding fifteen (15) days is prohibited.

### **503.5 DUMPSTERS**

All trash dumpsters shall be located within a side or rear yard, screened from adjoining roads and properties, and completely enclosed within a masonry or fenced enclosure equipped with a self-latching door or gate.

### **503.6 DOMESTIC COMPOSTS**

The placement of framed enclosure composts as an accessory residential use is permitted, subject to all accessory use setbacks. Only waste materials from the residential site shall be deposited within the compost, and in no case shall meat, or meat by-products be composted. All composts shall be properly maintained so as not to become a nuisance to nearby properties.

## **SECTION 504 SETBACK MODIFICATIONS**

### **504.1 FRONT SETBACK OF BUILDINGS ON BUILT-UP STREETS**

Where at least two (2) adjacent buildings within one hundred (100) feet of a property are set back a lesser distance than required, the average of the lesser distances becomes the required minimum front setback for the property. However, in no case shall the setback line be less than fifteen (15) feet from any abutting street right-of-way line.

## **504.2 ACCESSORY OR APPURTENANT STRUCTURES**

The setback regulations do not apply to:

1. Bus shelters; telephone booths; and cornices, eaves, chimneys, steps, canopies, and similar extensions, but apply to porches and patios whether covered or not.
2. Open fire escapes.
3. Minor public utility structures, articles of ornamentation or decoration.
4. Fences, hedges and retaining walls.

## **SECTION 505 HEIGHT LIMIT EXCEPTIONS**

### **505.1**

The height regulations do not apply to the following structures or projections, provided such structures or projections are set back a horizontal distance at least equal to their height from any property line:

1. Water towers, antennas (other than Communication Antennas and Towers), utility poles, smokestacks, chimneys, agricultural buildings, farm silos, windmills, flagpoles, or other similar structures.
2. Rooftop structures for the housing of elevators, stairways, water storage tanks, ventilating fans, and other mechanical appurtenances.
3. Parapet walls or cornices used solely for ornamental purposes if not in excess of five (5) feet above the roof line.

### **505.2**

In no case shall any freestanding or rooftop structure above the maximum permitted height be used for the purpose of providing additional floor space for residential, commercial or industrial purposes.

## **SECTION 506 CORNER LOTS**

1. A front yard, as provided for in the area and lot requirements for the various zoning districts, shall be required along each street right-of-way line on which a corner lot abuts. Additionally, there shall be provided one (1) side, and one (1) rear yard.
2. On corner lots, no such structure or vegetation shall be permitted within the clear sight triangle as defined in the Newberry Township Subdivision and Land Development Ordinance.

## **SECTION 507 MINIMUM HABITABLE FLOOR AREA**

All dwelling units must conform to the minimum habitable floor area following:

### 507.1

Single-family attached, single-family detached, single-family semi-detached, and two family dwelling units: seven hundred (700) square feet per dwelling unit.

### 507.2

Multi-family dwellings: four hundred fifty (450) square feet per dwelling unit.

## SECTION 508 ERECTION OF MORE THAN ONE PRINCIPAL USE ON A LOT

More than one principal use may be erected on a single lot in the V, MU, CC, RCO, LI, I and RI zoning districts, provided that all lot and yard requirements, standards, and other requirements of this Ordinance shall be met for each structure, as though it were on an individual lot. In addition, such proposals shall gain approval for a land development plan, and provide individually approved methods of sewage disposal. In all other zones, more than one principal use is permitted only in one building on a single lot.

## SECTION 509 REQUIRED VEHICULAR ACCESS

Every building hereafter erected or moved shall be on a lot adjacent to a public street right-of-way, or with access to an approved private street. The erection of buildings without approved access shall not be permitted. Approved access shall be defined in terms of the Newberry Township Subdivision and Land Development Ordinance and PennDOT Publication 282 and the Pennsylvania Code, Title 67, Chapter 441. Access to lots containing single-family dwellings shall be via driveways (see Section 510). Access to lots containing other uses shall be via access drives (see Section 511).

## SECTION 510 DRIVEWAY REQUIREMENTS (SINGLE-FAMILY DWELLING)

### 510.1 GENERAL

Driveways shall provide vehicular movement from a street to a parking area, garage, dwelling, building or structure to a property or lot containing a single-family dwelling unit of occupancy or a farm.

### 510.2 PENNDOT APPROVAL

All intersections with a State Route shall be subject to the approval of PennDOT. Any driveway intersecting with a State Route shall obtain a Highway Occupancy Permit from PennDOT prior to receipt of a Township Building Permit.

### 510.3 DRIVEWAY STANDARDS AND REQUIREMENTS

Driveways shall conform to the following:

1. Number of Driveways per Lot

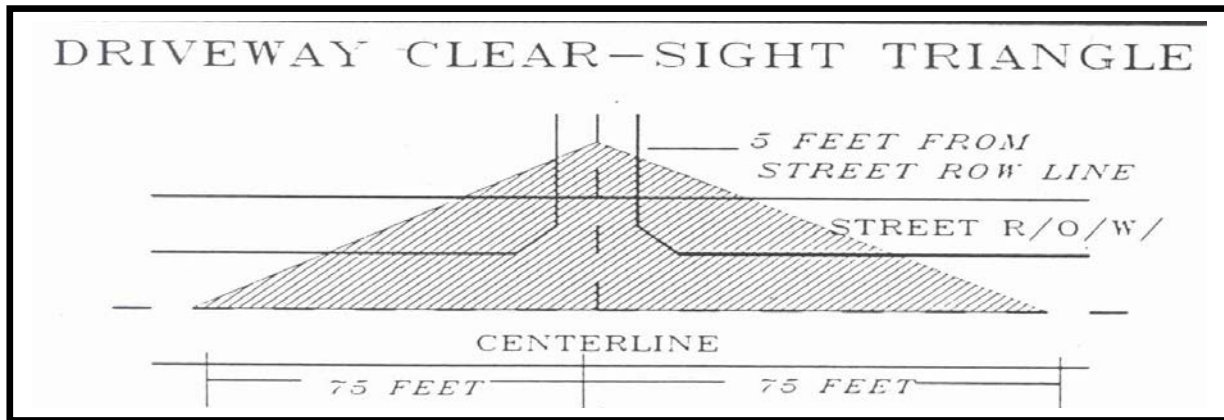
No more than two (2) driveway connections per lot shall be permitted and only one driveway connection per one hundred (100) feet of lot frontage is permitted. Driveway connections with a public street, when located on the same lot, shall be separated by a minimum of twenty-five (25) feet.

2. Driveway Setback Distances

Driveways shall not connect with a public street within forty (40) feet of the right-of-way lines of any intersecting streets, nor within five (5) feet of a fire hydrant. Driveways shall be set back at least three (3) feet from any side lot line, unless a common or joint driveway location is proposed. Plans which propose common or joint driveways shall be accompanied by a right-of-way agreement which shall be submitted for review by the Township and recorded with the York County Recorder of Deeds on the same date as the recording of the Final Plan. This agreement shall establish the conditions under which the driveways will be maintained.

3. Driveway Clear Sight Triangles

Driveways shall be located and constructed so that a clear sight triangle of seventy-five (75) feet, as measured along the street centerline, and five (5) feet along the driveway centerline is maintained. Grading and/or plantings (existing through mature growth) less than three (3) feet and greater than ten feet (10) feet above the driveway grade shall be permitted in the clear sight triangle.



4. Driveway Slope

A driveway shall not exceed a slope of eight (8%) percent within twenty-five (25) feet of the street right-of-way lines and no segment shall exceed fifteen (15%) percent.

5. Accessing Street of Lesser Classification

Driveway access shall be provided to the street of less classification when there is more than one street classification involved.

6. Driveway Width

Within ten (10) feet of the right-of-way of an intersecting street, driveways shall not be less than ten (10) feet or greater than twenty (20) feet in width.

7. Paving Requirement

Driveways shall be paved from the edge of a street cartway for their full width to a minimum length of fifteen (15) feet toward the lot and be constructed in a manner consistent with the design, maintenance, and drainage of the street.

8. Driveway Alignment

Driveways shall be aligned with driveways on the opposite side of the street whenever possible, but be located in relationship to driveways on other adjacent properties to provide safe and efficient movement of vehicles.

9. Driveway on Arterial and Collector Streets

Driveways which intersect arterial or collector streets shall be provided with vehicle turnaround within the lot, to prevent vehicles from backing out into the street. The minimum size of this turn around area shall be ten (10) feet by twenty (20) feet and the turn around shall be placed to the side of the main driveway so that entrance to the road can be performed in a safe manner.

10. Driveway Bank Slope

Where a driveway enters a bank through a cut, unless a retaining wall is used, the shoulders of the cut may not exceed fifty (50%) percent in slope within twenty-five (25) feet of the point at which the drive intersects the street right-of-way. The height of the bank must not exceed three (3) feet within twenty (20) feet of the street.

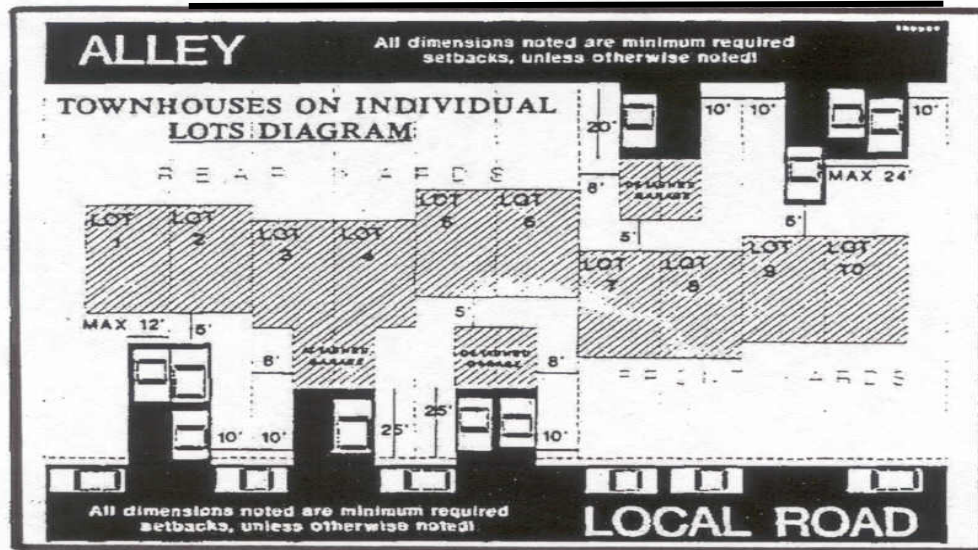
11. Driveway Intersection Angle

The minimum required angle between the centerline of a driveway and the centerline of the street which that driveway intersects shall be sixty-five (65) degrees.

**510.4 SINGLE-FAMILY ATTACHED DWELLINGS (TOWNHOUSES ON INDIVIDUAL LOTS)- DRIVEWAY AND GARAGE REQUIREMENTS**

Single-family attached dwellings are permitted to utilize driveways and garages if such driveways only connect with local public or private street rights-of-way, and they comply with the following requirements:

1. Driveways located within the front yard of lots, must be arranged as a side-by-side joint-use driveway with an adjoining single-family attached dwelling. Such driveway must be setback at least ten (10) feet from any lot line of an adjoining single-family attached dwelling that does not share the joint-use driveway, twenty (20) feet from any other driveway or access drive, and five (5) feet from the closest point of any building other than a garage. No individual driveway connecting with a local public or private street right-of-way shall be wider than twelve (12) feet. See Lots 1 & 2 on the following single-family attached dwellings Diagram.

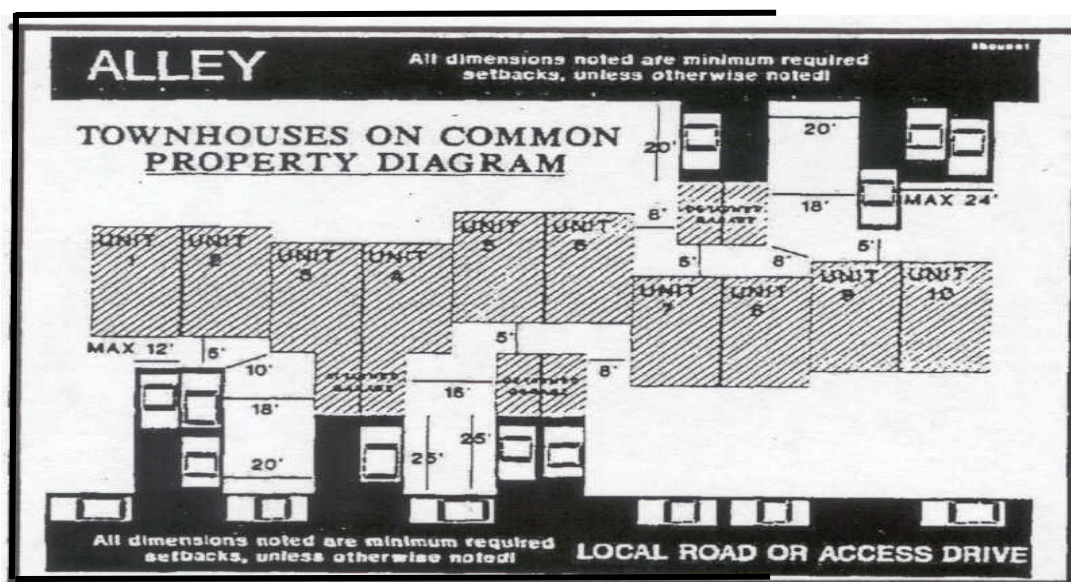


2. Garages within front yards of lots must be located no less than twenty-five (25) feet from the street right-of-way, eight (8) feet from any lot line of an adjoining single-family attached dwelling that does not share a joint-use driveway, and five (5) feet from any building, except where the garage is attached to the single-family attached dwelling. Such garage must also rely upon a joint-use driveway as regulated by the above Section 510.15.1. See Lots 3-6 on the above single-family attached dwelling Diagram.
3. Driveways located within rear yards of lots, must be arranged as a side- by-side joint-use driveway with an adjoining single-family attached dwelling. Such driveway must be setback at least ten (10) feet from any lot line of an adjoining single-family attached dwelling that does not share the joint-use driveway, twenty (20) feet from any other driveway or access drive, and five (5) feet from the closest point of any building, other than a garage. Within the rear yard, a driveway may have a maximum width of twenty-four (24) feet, so long as the other setbacks are provided. See Lots 9 & 10 on the above single-family attached dwelling Diagram.
4. Garages located within rear yards of lots, must be located no less than twenty (20) feet from the rear lot line, eight (8) feet from any lot line of an adjoining single-family attached dwelling that does not share a joint-use driveway, and five (5) feet from any building, except where the garage is attached to the single-family attached dwelling. Such garage must also rely upon a joint-use driveway as regulated by the above Section 510.15.3. See Lots 7 & 8 on the above single-family attached dwelling Diagram.

## 510.5 TOWNHOUSES ON COMMON PROPERTY-DRIVEWAY AND GARAGE REQUIREMENTS

Townhouses on common property are permitted to utilize driveways and garages if such driveways only connect with local public or private street rights-of-way, or access drives, and they comply with the following requirements:

1. A driveway located between a townhouse and a local street, road, access drive must be arranged as a side-by-side joint-use driveway with an adjoining townhouse. Such driveway must be setback at least twenty (20) feet from any other driveway or access drive, ten (10) feet from any townhouse or other building not served by the joint-use driveway, and five (5) feet from the townhouse, unless it includes an attached garage. No individual driveway connecting with a local public or private street right-of-way or access drive shall be wider than twelve (12) feet. A driveway connecting with an alley may have a maximum width up to twenty-four (24) feet, so long as the other setbacks are provided. See Units 1 - 6 on the following Townhouses on Common Property Diagram.



2. A garage located between a townhouse and a local public or private street right-of-way, access drive or alley must be located no less than twenty-five (25) feet from the street right-of-way or access drive cartway (whichever provides for the greater setback), twenty (20) feet from the alley right-of-way or cartway (whichever provides for the greater setback), eight (8) feet from any townhouse that does not share a joint-use driveway, sixteen (16) feet from any other garage, eighteen (18) feet from any driveway except the one providing access to the garage, and five (5) feet from the townhouse, except where it is attached to the townhouse. Such garage must also rely upon a joint-use driveway as regulated by

the above Section 510.4.1. See Lots 6 - 10 on the above Townhouses on Common Property Diagram.

## **SECTION 511 ACCESS DRIVE REQUIREMENTS (NON-SINGLE-FAMILY DWELLING AND/OR NON-FARM PARCELS)**

Access drives shall be provided in accordance with Article 6 of the Newberry Township Subdivision and Land Development Ordinance.

## **SECTION 512 PARKING REQUIREMENTS**

### **512.1 GENERAL PARKING REGULATIONS**

1. The facilities required herein shall be available to patrons throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking space located off the public right-of-way.
2. Unless determined unnecessary by the Township Engineer, parking spaces and approaches thereto shall be paved in accordance with the Newberry Township Subdivision and Land Development and Newberry Township Construction Improvements Specifications standards.
3. All commercial, public/semi-public, institutional, industrial and multi-family residential uses shall provide handicapped parking spaces in accordance with the Americans with Disabilities Act Accessibilities Guidelines for Buildings and Facilities, developed by the U.S. Architectural and Transportation Barriers Compliance Board. The applicant shall certify in writing or plan note that a zoning permit application and/or subdivision and/or land development plan complies with all relevant ADA requirements.
4. In residential zoning districts, no part of any minimum front yard setback shall be used for parking purposes, except that the driveway area located within the front yard setback may be used for off-street parking. For nonresidential uses, parking may be permitted no closer than fifteen (15) feet from the street right-of-way line.
5. The parking of any nonmotorized vehicle (including boats and trailers) or any motorized vehicle not having a current and valid registration and inspection certificate is prohibited within any street right-of-way.
6. Each use shall be calculated individually.

### **512.2 OFF-STREET PARKING REQUIREMENTS**

Any of the following permitted uses or buildings hereafter established, erected or enlarged; any use or building hereafter converted into one of the following uses; and any open space hereafter used shall be provided with not less than the minimum off-street parking spaces as set forth below, together with adequate access drives, driveways or other means of circulation and access to and from a street. However, in no case shall the minimum number of off-street parking spaces be less than two (2).

NEWBERRY TOWNSHIP, YORK COUNTY, PA



## **512.3 LOCATION AND MANAGEMENT REQUIREMENTS**

### **A. EXISTING PARKING**

Buildings and uses existing on the effective date of this chapter/ordinance shall not be subject to the requirements of this Section in accordance with the following:

1. The type or extent of use is not changed.
2. Provided that any parking facility now serving such structures or uses shall not in the future be reduced.

### **B. CHANGES IN REQUIREMENTS**

Whenever there is an alteration of a building or a change or extension of a use which increases the parking requirements, the total additional parking required for the alteration, change or extension shall be provided in accordance with the requirements of this Section.

### **C. CONFLICT WITH OTHER USES**

No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.

### **D. CONTINUING OBLIGATION**

All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Reasonable precautions are to be taken by the property owner or business owner to assure the availability of required facilities for the employees or other persons for whom the parking areas are designed to serve. The property owner or business owner shall ensure that the parking area at no time constitutes a nuisance, hazard or unreasonable impediment to traffic.

### **E. DRAINAGE, SURFACING AND MAINTENANCE**

1. The area of parking lots where there is no truck traffic, including driveways, shall be graded, surfaced with a paved, dust-free surface, and drained in accordance with the standards set forth in Newberry Township Subdivision and Land Development and Newberry Township Construction Improvements Specifications. Pavement sections with higher structural capabilities may be designed as necessary in accordance with Design of Hot Mix Asphalt Pavements for Commercial, Industrial and Residential Areas, National Asphalt Pavement Association, 1991, as amended. Alternate pavement sections, including concrete, can be considered if properly designed and then approved by the Township.
2. Parking areas shall be kept clean and free from rubbish and debris.
3. In all cases, such drainage, surfacing and maintenance activities and plans shall conform to other applicable Township codes and ordinances.

## **F. JOINT USE PARKING LOTS**

Except as provided herein this section, two (2) or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually.

1. In commercial shopping centers over three (3) acres in size, joint parking lots may be permitted. These joint facilities can reduce the total number of parking spaces required by a maximum of twenty (20%) percent. Therefore, the resulting joint parking lot will be required to provide at least eighty (80%) percent of the total number of spaces required by the sum of all of the shopping center's tenants. Such reduced parking spaces must be appropriately distributed upon the lot to provide convenient walking distance between every vehicle and each of the shopping center's stores.
2. Required parking spaces may be provided in spaces designated jointly to serve two (2) or more establishments or uses, provided that the number of required spaces in such joint facility shall not be less than the sum total required separately for all such establishments or uses. Where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces, primarily during periods when the other use(s) is not in operation, the total number of required parking spaces may be reduced to:
  - a. That required number of spaces that would be needed to serve the use generating the most demand for parking: plus,
  - b. Twenty (20%) of the number of required parking spaces needed to serve the use(s) generating the demand for lesser spaces.

## **G. REDUCTION IN MINIMUM PARKING REQUIREMENTS**

1. As a special exception use, an applicant may prove to the satisfaction of the Township Zoning Hearing Board that the minimum amount of off-street parking should be modified for a specific application because of one or more of the following circumstances.
  - a. The applicant proves that the parking will be shared with another use that will reduce the total amount of parking needed because the uses have different peak times of parking need, and that there is a legally guaranteed method to make sure that the parking will continue to be available during all the years that the use is in operation. or
  - b. The applicant proves that the parking demand for a particular use is unusually low because of some unusual and peculiar characteristic of the use.
2. The following conditions must be satisfied to be granted the special exception use:
  - a. A plan showing all required parking spaces, interior drives/aisles, landscaping and buffer areas, in strict conformance with the requirements of Section 512.6 of this Ordinance and indicating those improvements which are to be constructed.

- b. The area in which the spaces are not to be constructed shall be leveled and may remain in grass or other stabilized pervious material, so as to provide for overflow parking for other, seasonal or even peak times.
- c. Satisfactory documentation shall be submitted attesting the reduced need for off-street parking based on the following method:
  - 1) Peak Use: Determine the estimated the peak use of the site in number of persons.
  - 2) Persons-Auto Trips: Multiply the estimated peak use number of persons by 0.965.
  - 3) Automobile Parking: Divide the persons-auto trips number by 1.06. The result is the number of automobiles requiring on- and/or off-street parking.
  - 4) On-Street Parking Credit: Subtract the number of on-street parking spaces available for the proposed use. The amount of off-street parking required shall be reduced by one off-street parking space for every on-street space in front or the side of the lot (on street). On-street parking shall follow the established configuration of existing on-street parking. The number of on-street parking spaces shall be calculated using the parking stall depth requirements set forth in S. 512.4.A of this Ordinance for the specific type of parking configuration approved to be used.
    - a) Parallel parking shall include uninterrupted curb along the front or side of the lot.
    - b) Curb space must be contiguous to the lot which contains the use.
    - c) Parking spaces may not be counted that would obstruct a required clear sight triangle, or any other parking that violates any law or street standard.
    - d) On-street parking spaces credited for a specific use shall not be used exclusively by that use, but shall be available for use by the general public at all times. No signs or actions limiting the general public use of on-street spaces shall be permitted.
- d. The Landowner shall enter into an agreement with the Township agreeing to construct the improvements that have been waived, within six (6) months of notification from the Township. Failure of the Landowner to construct said improvements shall automatically give the Township the right to construct said improvements and lien all costs associated therewith on the property.

**H. COMPUTATION OF SPACES**

Where the computation of required parking spaces results in a fractional number, any fraction shall be counted as one.

## **I. LOCATION OF SPACES**

1. Off-street parking spaces for single-family and two-family dwellings shall be provided on the same lot.
2. Parking spaces for multi-family dwelling building(s) and other nonresidential uses (except agricultural & forestry uses) shall be readily accessible to the building(s) served. Such space shall be in the same zoning district as the principal building or use, and conform to the following requirements:
  - a. Required parking spaces shall be located within one hundred (100) feet of the principal building or use when located on the same side of the street.
  - b. Required parking spaces shall be located within three hundred (300) feet of the principal building or use when linked to a pedestrian trail or sidewalk when located on the same side of the street.
  - c. Fifty (50%) percent of the required parking spaces may be located across a collector street with the following conditions:
    - 1) Crosswalks shall be provided in order to ensure safe pedestrian access to and from the parking area.
    - 2) Safety lighting shall be provided at the crosswalk to illuminate the cross area when the parking area is used in early morning or at night.
    - 3) A pedestrian crossing sign in accordance with the most recent versions of PennDOT Publications 68 and 236 shall be provided on each side of the road.
    - 4) Parking lots located across a street shall be safe for pedestrian use. To ensure safety, the design of the crosswalk shall consider the speed limit, sight distance, visibility, road conditions and other safety factors. In the event that the crosswalk is deemed to be unsafe, the Zoning Officer shall not permit parking areas across a street.
    - 5) In the event that the crosswalk becomes a safety hazard due to increased traffic, adjacent development, the change of street classification or other circumstances that will affect pedestrian safety, the parking lot shall be abandoned.
  - d. The distances specified herein shall be measured from the nearest point of the parking lot to the nearest point of the principal building or use that the parking lot is required to serve.
3. The applicant for a zoning permit or use certificate shall submit, with his application, a legal document approved by the Township Solicitor that subjects such parcels of land to parking uses in connection with the principal use to which it is accessory. Prior to the issuance of a zoning permit, the Zoning Officer shall cause such legal documents to be recorded in the office of the York County Recorder of Deeds.

## **J. LIGHTING**

1. Lighting shall be used to illuminate off-street parking and shall be in accordance with Section 502.10 of this Ordinance.

**K. LANDSCAPING**

1. Interior of parking lot.
  - a. A minimum of five (5%) percent of the interior parking lot area shall be landscaped when:
    - 1) There are a total of forty (40) or more parking spaces in the parking lot. or
    - 2) There are one or more interior space aisle(s) provided in the parking lot with ten (10) or more parking spaces.
  - b. The required five (5%) percent interior parking lot landscaped area shall be landscaped with shade trees and ground cover. The following alternatives are permitted separately or in combination:
    - 1) Provide a continuous landscape strip between every four (4) rows of parking. The landscape strip shall be a minimum of eight (8) feet in width to accommodate shade trees and other landscaping.
    - 2) Provide large planting islands [over six hundred (600) square feet] to be located throughout the lot and planted with shade trees and ground cover located at the ends of parking rows.
    - 3) Provide planting islands at a minimum of nine feet wide between every ten (10) to fifteen (15) spaces to avoid long rows of parked cars.
  - c. A minimum of one shade tree shall be required for each eight (8) spaces.
2. Perimeter of parking lot: Perimeter landscaping located within the ten-foot required parking setback from a building shall be ground cover and shrubs or hedges. Shade trees are not required in the ten (10) foot setback area.

**L. TREES**

1. Standards for shade trees for parking area shall be provided in accordance with the following:

	<b>Small<sup>2</sup></b>	<b>Medium<sup>3</sup></b>	<b>Large<sup>3</sup></b>
Interior dimension	5 feet	N/A	N/A
Setback (from trunk perimeter)	N/A	6 feet <sup>1</sup>	10 feet <sup>1</sup>
Area, single tree	90 sq. ft.	250 sq. ft.	800 sq. ft.
Area, each additional tree in a group	25 sq. ft.	90 sq. ft.	200 sq. ft.
<sup>1</sup> The largest tree in any group will be considered as the first (1st) tree for counting purposes.			
<sup>2</sup> Each small tree shall be located in a planting area of at least ninety (90) square feet [plus twenty-five (25) square feet for each additional tree in a group] with a minimum interior dimension of five (5) feet.			
<sup>3</sup> Each medium and large tree shall be located in a planting area or undisturbed area that conforms to the minimum as specified in the chart above.			

2. Perimeter of parking lot: Perimeter shade trees and ground cover shall be planted within an eight (8) foot wide landscape strip around the entire perimeter of the lot, except along the street, to be planted in accordance with Section 515 herein below of this Ordinance. Existing shade trees may be used to meet the perimeter requirement of this section. The eight-foot-wide landscape strip may include a

sidewalk or walkway. Perimeter landscaping may be in any required buffer yard. Perimeter landscaping does not constitute screening.

3. Contiguous properties: When a parking lot abuts a residential zoning district, or any property used principally for residential purposes, Level Three screening in accordance with Section 516 herein below of this Ordinance, shall be provided along the entire property line.

**M. MAINTENANCE**

Maintenance of parking lot landscaping shall be in accordance with Section 515 herein below of this Ordinance.

**512.4 DESIGN STANDARDS**

**A. THE MINIMUM DIMENSIONS OF PARKING FACILITIES TO BE PROVIDED SHALL BE AS FOLLOWS:**

1. In all zoning districts, non-compact parking spaces per vehicle shall be not less than nine (9) feet wide and nineteen (19) feet long.
2. Parking space and aisle dimensions shall be not less than those listed in the following table.

Parking			Aisle -- Width	
Angle of Parking (degrees)	Stall Width (feet)	Stall Depth* (feet)	One-Way (feet)	Two-way (feet)
90°	9	19	25	25
60°	9	19	18.5	20
45°	9	19	13.5	20
30°	9	19	12	20
Parallel	8	22	12	20

Depth of parking space is the measurement from the curb or edge of the parking space toward the interior portion of the space to be occupied by a parked vehicle and not including any part of the aisle or driveway.

3. All dead-end parking lots shall be designed to provide sufficient backup area for the end parking spaces of the parking area.
4. Parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle.
5. Where more than ten (10) parking spaces are required, a maximum of forty (40%) percent of the parking spaces may be provided for compact vehicles. Each compact parking space shall be not less than eight (8) feet wide by seventeen (17) feet long. All compact parking spaces shall be located in the same area and be marked to indicate spaces designated for compact parking.
6. Trucks and trailers.

- a. Where truck parking spaces or trailer parking spaces are provided and/or required, parking space and aisle dimensions shall not be less than listed in the following table:

Parking			Aisle -- Width	
Angle of Parking (degrees)	Stall Width (feet)	Stall Depth* (feet)	One-Way (feet)	Two-way (feet)
90°	12	60	75	75
60°	12	60	56	60
45°	12	60	41	60
30°	12	60	36	60

Depth of parking space is the measurement from the curb or edge of the parking space toward the interior portion of the space to be occupied by a parked vehicle and not including any part of the aisle or driveway.

- b. Where truck parking spaces or trailer parking spaces are provided and/or required, the minimum width shall be twelve (12) feet and the minimum depth shall be sixty (60) feet. Aisle widths in truck parking areas shall be seventy-five (75) feet for one-way or two-way.

**B. SETBACKS FOR PARKING AREAS SHALL BE PROVIDED AS FOLLOWS:**

1. All parking spaces and access drives shall be located at least ten (10) feet from any multi-family dwelling building(s) and other nonresidential uses (except agricultural & forestry uses) located on the lot. The ten-foot setback between the parking area and building shall be for the purpose of providing a pedestrian access walkway and perimeter landscaping.
2. All parking spaces and access drives shall be at least eight feet from any side or rear lot line, except where buffer yards are required, in which case the standards set forth in Section 514 herein below this Ordinance, shall apply. The required setback shall not include screening.
3. No off-street parking area shall be located within a public right-of-way.

**C. SEPARATION**

1. In no case shall parking lots be designed to require or encourage vehicles to back into a public or private street right-of-way in order to leave the parking areas.
2. All paved off-street parking spaces shall be marked with paint or other methods so as to indicate their location.

**D. CURBING**

Curbing is important for safe and efficient parking areas.

1. Curbing within a parking lot may be required in a land development if determined necessary by the Township Engineer to:
  - a. Channelize and control vehicular movement in a safe manner through the parking area.

- b. Direct stormwater and drainage within the parking area.
  - c. Define parking areas.
  - d. Delineate and/or protect perimeter and interior landscaped areas from vehicles.
  - e. Separate vehicle movement from pedestrian movement as necessary for safety.
2. When required, curbing shall be constructed in accordance with Subdivision and Land Development Ordinance and Newberry Township Improvements Specifications Manual.
  3. Construction specifications for curbing to be installed in parking areas shall be submitted with the land development application.
  4. Where curbs are provided in a parking lot, the minimum curb radii shall be five (5) foot radius curvature and shall be required for all curblines. However, larger curb radii may be designed when necessary for trucks, buses, etc.

**512.5 PROHIBITED USES OF A PARKING LOT**

Automobile parking lots are for the sole purposes of accommodating the passenger vehicles of persons associated with the use which requires them. Parking lots shall not be used for the following:

1. The sale, display or storage of automobiles or other merchandise.
2. Parking/storage of vehicles accessory to the use.
3. Performing services (including services to vehicles).
4. Required off-street parking space shall not be used for loading and unloading purposes, except during hours when business operations are suspended.

**512.6 SCHEDULE OF REQUIRED PARKING SPACES**

The following lists required numbers of parking spaces by use type. Any use involving a combination of several uses shall provide the total number of spaces required for each individual use:

<b>AGRICULTURAL &amp; FORESTRY</b>	
<b>Type of Use</b>	<b>Minimum of One Parking Space For Each</b>
Intensive Farming Operation	Per non-resident farm employee
Agriculture, (excluding Intensive Farming Operation)	Per non-resident farm employee
Riding Stables	Two (2) stalls, plus (1 space) per every four (4) seats of spectator seating



<b>RESIDENTIAL USES</b>	
<b>Type of Use</b>	<b>Minimum of One Parking Space For Each</b>
Dwelling, Multi-Family	One third (1/3) dwelling unit (i.e. three spaces per dwelling unit). Such parking spaces can take the form of private driveways or garages and/or common parking lots, provided all spaces required are within one hundred fifty (150) feet of the unit served.
Dwelling, Single-Family Detached	one-half (1/2) dwelling unit (i.e. two spaces per dwelling unit)
Dwelling, Single-Family Semi-Detached	one-half (1/2) dwelling unit (i.e. two spaces per dwelling unit)
Dwelling, Townhouse (or Single-Family Attached)	One third (1/3) dwelling unit (i.e. three spaces per dwelling unit). Such parking spaces can take the form of private driveways or garages and/or common parking lots, provided all spaces required are within one hundred fifty (150) feet of the unit served.
Dwelling, Two-Family	one-half (1/2) dwelling unit (i.e. two spaces per dwelling unit)
Mobilehome Park	See Article V
Two-Family Conversions	one-half (1/2) dwelling unit (i.e. two spaces per dwelling unit)

<b>INSTITUTIONAL</b>	
<b>Type of Use</b>	<b>Minimum of One Parking Space For Each</b>
Clubs, lodges and other similar places	Two hundred (200) square feet of gross floor area, plus (1 space) per each employee on two (2) largest shifts
Rehabilitation centers (without overnight accommodations)	Employee, plus (1 space) per three (3) people anticipated to be handled through the facility
Hospital	One and one-half (1 1/2) beds [i.e. two (2) spaces per three (3) beds], plus six (6) spaces per doctor, plus (1 space) per employee support staff
Nursing, Rest or Retirement Homes	One and one-half (1 1/2) beds [i.e. two (2) spaces per three (3) beds], plus six (6) spaces per doctor, plus (1 space) per employee support staff
Place of Worship and Related Uses	Four (4) seats or two hundred (200) square feet of gross floor area, whichever is larger

<b>PUBLIC/SEMI-PUBLIC</b>	
<b>Type of Use</b>	<b>Minimum of One Parking Space For Each</b>
Cemeteries	One employee
Emergency Services	1 space for each 400 square feet, plus 1 space per stored vehicle
Essential Services	1 space for each 400 square feet, plus 1 space per stored vehicle
Museums, art galleries, cultural centers, community centers, libraries	One space per four hundred (400) square feet of gross floor area
Municipal Uses	1 space for each 400 square feet of office space, plus 1 space for each 50 square feet of assembly area, meeting room, conference, etc.
Parks & Playgrounds	2 spaces per acre
Public Uses	1 space for each 400 square feet of office space, plus 1 space for each 50 square feet of assembly area, meeting room, conference, etc.
Schools, Private & Public (below 10th grade, including kindergarten)	Six (6) students enrolled, plus (1 space) per teacher
Schools, Private & Public (10th grade and above, including colleges)	Three (3) students enrolled, plus (1 space) per teacher
School, Vocational-Mechanical Trade	One and one-half (1 1/2) students enrolled [i.e. two (2) spaces per three (3) students]
Theatre & Auditorium, banquet, conference, and meeting facilities: and other such places of public assembly	200 square feet, but not less than (1 space) per each two (2) seats

<b>COMMERCIAL USES</b>	
<b>Type of Use</b>	<b>Minimum of One Parking Space For Each</b>
Adult Related Uses	One hundred (100) square feet of gross floor area, plus (1 space) per each employee on the largest shift
Agricultural Support Businesses	One employee, but not less than four (4) spaces
Airport, Heliport	Four (4) air vehicles stored outside
Animal Hospitals	Four hundred (400) square feet of gross floor area, plus (1 space) per employee
Automobile Filling Stations	One fuel pump, plus (1 space) per four hundred (400) square feet of gross floor and ground area devoted to repair and service facilities in addition to areas normally devoted to automobile storage, plus (1 space) per employee on the largest shift
Automobile Parking Compound	Per employee
Automobile Sales	One thousand (1,000) square feet of gross indoor and outdoor display areas
Automobile Service	Four hundred (400) square feet of gross floor and ground area devoted to repair and service facilities in addition to areas normally devoted to automobile storage, plus (1 space) per employee on largest shift
Automobile Storage Compound	Per employee
Banks and similar Financial Institutions	Two hundred (200) square feet of gross floor area, plus (1 space) per employee
Boarding Houses	One guest room, plus (1 space) per employee or one-half (1/2) dwelling unit [i.e. two (2) spaces per dwelling unit] whichever is greater
Business Park	Two hundred (200) square feet of gross floor area
Campgrounds	Per campsite, plus (1 space) per employee, plus one-half (1/2) of the spaces normally required for accessory uses listed elsewhere within this schedule
Car Wash	One employee on the largest shift
Communication antennas, towers, and equipment	One per employee on the largest shift, but not less than 2 per site
Convenience Stores	One hundred (100) square feet of gross floor area, plus (1 space) per employee on the two (2) largest shifts
Day-Care, Commercial	Six (6) students enrolled, plus (1 space) per teacher
Farmers Market	Two hundred (200) square feet of retail sales area
Flea Market	Two hundred (200) square feet of retail sales area
Funeral Homes	One hundred (100) square feet of gross floor area, plus (1 space) per each employee, plus (1 space) per each piece mobile equipment, such as hearses and automobiles
Golf Course	One-eighth hole (1/8), plus (1 space) per employee, plus one-half (1/2) of the spaces normally required for accessory

<b>COMMERCIAL USES</b>	
<b>Type of Use</b>	<b>Minimum of One Parking Space For Each</b>
	uses listed elsewhere within this schedule
Greenhouses & Nurseries	One thousand (1,000) square feet of retail sales area
Health and Fitness Clubs	One hundred (100) square feet of gross floor area
Heavy equipment sales, washing, service and repair, such as excavation machinery, commercial trucks, buses, farm equipment, mobile homes, trailers, and other similar machinery	One thousand (1,000) square feet of gross indoor and outdoor display areas
Hotel	Guest sleeping room, plus (1 space) per each employee on two (2) largest shifts, plus three quarters (3/4) of the spaces normally required for accessory uses listed elsewhere within this schedule
Indoor Commercial Recreational Facilities	Two hundred (200) square feet of gross floor area, plus (1 space) for each employee
Kennels	Four hundred (400) square feet of gross floor area, plus (1 space) per employee
Laboratories for medical, scientific, or industrial research and development	Five hundred (500) square feet of floor area
Medical or Dental Clinic	One-sixth (1/6) Physician and/or Dentist [i.e. six (6) spaces per Physician and/or Dentist]
Mini-Warehouse	Twenty-five (25) units, plus (1 space) per two hundred fifty (250) square feet of office space, plus (2 spaces) per any resident manager
Motel	Guest sleeping room, plus (1 space) per each employee on two (2) largest shifts, plus three quarters (3/4) of the spaces normally required for accessory uses listed elsewhere within this schedule
Night Club	One hundred (100) square feet of floor area, plus (1 space) per employee on the largest shift
Office	Three hundred (300) square feet of gross floor area
Off-track betting parlors	Sixty-five (65) square feet of gross floor area
Outdoor Commercial Recreation Facilities	Two hundred (200) square feet of gross floor area, plus (1 space) for each employee; or if completely outside of a structure, (1 space) per each three (3) users at maximum utilization, plus (1 space) for each employee
Other Commercial buildings and uses	Four hundred (400) square feet of gross floor area
Planned Center	See Article V
Racetrack/Speedway	Three (3) seats

<b>COMMERCIAL USES</b>	
<b>Type of Use</b>	<b>Minimum of One Parking Space For Each</b>
Restaurant, Drive-Thru facilities	Two (2) seats, plus (1 space) per each employee on the two (2) largest shifts or if no seating is provided, 1 space per sixty (60) square feet of gross floor area, but with a minimum of ten (10) spaces
Restaurant, Fast Food facilities	Two (2) seats, plus (1 space) per each employee on the two (2) largest shifts
Restaurant (No Drive-Thru and No Fast Food facilities)	Two (2) seats, plus (1 space) per each employee on the two (2) largest shifts
Retail Sales	Two hundred (200) square feet of gross floor area of display area or sales area, plus (1 space) per each employee on two (2) largest shifts
Retail Services	Two hundred (200) square feet of gross floor area of display area or sales area, plus (1 space) per each employee on two (2) largest shifts
Sales, storage and/or wholesaling of the following	Two hundred (200) square feet of gross floor area of display area or sales area, plus (1 space) per each employee on two (2) largest shifts
School, Commercial	Two (2) students enrolled plus (1 space) per teacher
Shopping Center	One hundred eighty-two (182) square feet of gross leasable floor area
Tavern	One hundred (100) square feet of floor area, plus (1 space) per employee on the largest shift
Veterinarian's Offices	Five hundred (500) square feet of gross floor area

<b>RECREATION USES</b>	
<b>Type of Use</b>	<b>Minimum of One Parking Space For Each</b>
Amusement arcades	80 square feet of gross floor area
Athletic fields	Four seats of spectator seating; however, if no spectator seating is provided, a temporary parking area shall be provided on the site. Such area must provide sufficient numbers of spaces to serve all users of the site, and include a fence delineating such parking area
Bowling alleys, billiards rooms	¼ lane/table and one per each two employees
Golf driving ranges	One per tee and one per employee
Miniature golf courses	½ hole and one per employee
Riding schools or horse stables	Two stalls plus one per every four seats of spectator seating
Picnic areas	Per table
Skating rinks	Four persons of legal occupancy
Swimming pools (other than one accessory to a residential development)	Four persons of legal occupancy

<b>RECREATION USES</b>	
Tennis or racquetball clubs	¼ court plus one per employee plus 50% of the spaces normally required for accessory uses

<b>INDUSTRIAL USES</b>	
<b>Type of Use</b>	<b>Minimum of One Parking Space For Each</b>
Automobile wrecking	One employee on each of the two (2) largest shifts, or (1 space) per employee and at least (1 space) per each one thousand (1,000) square feet of gross floor area, whichever is the greatest number
Heavy industrial uses including the primary production of the following products from raw materials:	One-half (1/2), plus (1 space) per employee
Junkyards	One employee on each of the two (2) largest shifts, or (1 space) per employee and at least (1 space) per each one thousand (1,000) square feet of gross floor area, whichever is the greatest number
Light industrial uses including the manufacturing, assembling, converting, finishing, processing, packaging, storage, wholesaling and repair (where applicable) of the following:	Employee on the largest shift
Quarries and other mineral extractive-related uses	Employee on the two (2) largest shifts
Recycling facilities for paper, plastic, glass and metal products	Employee on the largest shift
Sawmills and Lumberyards	Employee on the largest shift, or (1 space) for each one thousand (1,000) square feet of gross floor area, whichever is greater
Solid waste processing, transfer or disposal facilities	Five thousand (5,000) square feet of gross floor area of the portion of the building devoted to the warehousing or wholesaling use, plus (1 space) for each 200 square feet of gross floor area of the portion of the building devoted to any office use. In addition to the off-street parking requirements and when there are ten (10) or more loading berths provided, trailer parking spaces shall be provided at one trailer parking space for each four (4) loading berths.
Warehousing and wholesale trade establishments	One employee on largest shift, or (1 space) per one thousand (1,000) square feet of gross floor area
Waste Handling Facilities	

<b>ACCESSORY</b>	
<b>Type of Use</b>	<b>Minimum of One Parking Space For Each</b>
Bed & Breakfast Inns	Per sleeping room, plus one-half (½) dwelling unit [i.e. two (2) spaces per dwelling unit]
Day-Care, Accessory	Per-half (½) dwelling unit [i.e. two (2) spaces per dwelling unit, plus (1 space) per each non-resident employee
Day-Care, Family	Per-half (½) dwelling unit [i.e. two (2) spaces per dwelling unit, plus (1 space) per each non-resident employee
ECHO Housing	Per dwelling unit, plus one-half (½) dwelling unit [i.e. two (2) spaces per dwelling unit] for principal dwelling
Farm Occupations	one-half (½) dwelling unit [i.e. two (2) spaces per dwelling unit]
Home Occupations	one-half (½) dwelling unit [i.e. two (2) spaces per dwelling unit], plus (1 space) per each non-resident employee, plus (1 space) per potential patron on-site at one time
No-Impact Home Occupations	one-half (½) dwelling unit [i.e. two (2) spaces per dwelling unit]
Rural Occupations	one-half (½) dwelling unit [i.e. two (2) spaces per dwelling unit], plus (1 space) per potential patron on-site at one time

## **SECTION 513 OFF-STREET LOADING FACILITIES**

### **513.1 GENERAL**

Off-street loading shall be required in accordance with this section prior to the occupancy of any building or use, so as to alleviate traffic congestion on streets. These facilities shall provide adequate off-street areas for the loading and unloading of vehicles be provided whenever:

1. A new use is established.
2. The use of a property or building is changed and thereby requiring more loading space.
3. An existing use is enlarged, thereby requiring an increase in loading space.

for all commercial, office, manufacturing, institutional, hospital or other similar uses requiring the delivery or pickup of products or materials.

### **513.2 SITE PLAN APPROVAL**

1. Each application for a zoning permit (or use for which off-street loading spaces are required) shall include a drawing (site plan) showing the proposed layout of

the loading area. The drawing shall clearly indicate the design elements required below.

2. No zoning permit shall be issued for any use for which a loading area is required unless the site plan has been approved or necessary variances have been approved.

### **513.3 SURFACING**

All off-street loading facilities shall be constructed and maintained with the same paved concrete or bituminous surface material required for Access Drives in the Newberry Township Subdivision and Land Development Ordinance and Newberry Township Improvements Specifications Manual. Alternate surfacing may be approved by the Township in industrial sites.

### **513.4 SEPARATION FROM STREETS, SIDEWALKS, AND PARKING LOTS**

Off-street loading spaces shall be designed so that there will be no need for service vehicles to back over streets or sidewalks. Furthermore, off-street loading spaces shall not interfere with off-street parking lots.

### **513.5 DRAINAGE**

Off-street loading facilities (including access drives) shall be provided with adequate facilities to collect and convey storm water in accordance with the Section 609 of the Newberry Township Subdivision and Land Development Ordinance and Newberry Township Improvements Specifications Manual. Furthermore, all off-street loading facilities shall be designed to prevent the collection of standing water on any portion of the loading facility surface, particularly next to access drives: Adequately sized inlets and storm sewers shall be provided to discharge storm water in accordance with a plan to be approved by the Township. At a minimum, all off-street loading facilities shall be graded to a minimum slope of one (1%) percent to provide for drainage.

### **513.6 LOCATION**

Except as provided elsewhere, a ground level loading area may be located in any side or rear yard. No exterior portion of an off-street loading facility (including access drives) shall be located within fifty (50) feet of any land within a residential zoning district or existing residential use. Where possible, off-street loading facilities shall be located on the face of a building not facing any adjoining land in a residential zone or existing residential use.

### **513.7 CONNECTION TO STREET**

Every loading space shall be connected to a street by means of an access drive. The access drive shall be at least twenty-four (24) feet wide for two-way travel, or eighteen (18) feet wide for one way travel, exclusive of any parts of the curb and gutters. Section 511 specifies other requirements for access drives.

### **513.8 REQUIRED OFF-STREET LOADING FACILITIES SIZES**

The following lists required minimum loading space sizes, in feet (excluding access drives, entrances and exits):

NEWBERRY TOWNSHIP, YORK COUNTY, PA



Facility	Length	Width	Height (If Covered or Obstructed)
Industrial, Wholesale and Storage Uses	63 feet	12 feet	15 feet
All Other Uses	33 feet	12 feet	15 feet

### **513.9 LIGHTING**

Lighting shall be used to illuminate loading areas and shall be in accordance with Section 502.10 of this Ordinance.

### **513.10 LANDSCAPING AND SCREENING REQUIREMENTS**

Unless otherwise indicated, all off-street loading facilities shall be surrounded by a fifteen (15) foot wide landscape strip. All off-street loading facilities shall also be screened from any adjoining residential uses, adjoining residentially zoned properties and/or adjoining public streets.

### **513.11 SCHEDULE OF OFF-STREET LOADING SPACES REQUIRED:**

Required berths and spaces:

Use	Gross Floor Area (square feet)	Number of Spaces
Commercial, wholesale manufacturing, hospital laundry, institutional, or similar uses	Under 8,000	1
	8,000 to 40,000	2
	Over 40,000 to 100,000	3
	Over 100,000 to 250,000	4
	Each additional 200,000	1
Office buildings or hotels	Under 100,000	1
	Over 100,000 to 300,000	2
	Over 300,000	3

### **SECTION 514 BUFFERING**

Buffer yards shall meet the following requirements:

1. A buffer yard shall be located at the perimeter of the lot for any given use and shall not be located in any portion of a public right-of-way or proposed right-of-way.
2. Permitted uses in a buffer yard: stormwater management facilities, underground utility facilities, picnic areas, greenways or pedestrian walkways. Buildings or storage of any kind shall not be permitted in a buffer yard.
3. A buffer yard and screening shall be provided between districts and uses as follows:

- a. A buffer yard of fifty (50) feet shall be required between residential uses or zoning districts and nonresidential uses or zoning districts. Level three (3) screening shall be required within the buffer yard.
  - b. A buffer yard of twenty-five (25) feet shall be required between multi-family residential uses or zoning districts and single-family/two-family residential uses or zoning districts. Level one screening shall be required within the buffer yard.
  - c. A buffer yard of twenty-five (25) feet shall be required between commercial uses or zoning districts and industrial uses or zoning districts. Level two (2) screening shall be required within the buffer yard.
  - d. A buffer yard of fifty (50) feet shall be provided where residential uses or zoning districts are adjacent to arterial streets. Level one screening shall be required. A buffer yard of one hundred (100) feet shall be provided where residential uses or zoning districts are adjacent to interstate highways. Level three (3) screening shall be required.
  - e. Buffer requirements within the Village (V) zoning district. A standard buffer yard of ten (10) feet shall be provided between any residential and nonresidential use located within the Village (V) zoning district. Level one screening shall be installed in the required buffer yard, except along parking areas where level two (2) screening shall be installed.
4. Parking lots shall not encroach into a buffer yard. Buffer yards shall not be used for parking.
  5. A buffer yard shall not be required in front yards except as required in Subsection 3.e herein this section.

## **SECTION 515 LANDSCAPING**

Landscaping shall be required for any land development or major preliminary or major final subdivision in the Designated Growth Area.

### **A. MINIMUM REQUIRED LANDSCAPING**

Nonresidential and multi-family residential land developments shall have a minimum of twenty (20%) percent landscaping of the total gross lot area, excluding building floor area, impervious surface and sensitive environmental protection features defined in the Newberry Township Comprehensive Plan and Article 4, Sensitive Environmental Features Overlay District.

1. At least sixty (60%) percent of all trees, shrubs and groundcover required by this section shall be native plants, except that a minimum of thirty (30%) percent of the vegetation chosen for erosion control shall be native plants from Subsection E(1), Vegetation acceptable for erosion control. Plants chosen shall be appropriate for their intended function and location based on plant characteristics in accordance with Subsection D(7), native plants for the landscape. Plants chosen shall be appropriate for their intended function and location based on plant characteristics.

2. The required landscaped area shall include a minimum of twelve (12) deciduous or evergreen trees for each gross acre with a minimum of two-and-one-half (2 ½) inch caliper at time of planting. As an alternative, six (6) trees for each one acre shall be required if deciduous trees are four (4) inches in caliper or greater at the time of planting, and evergreen trees are nine (9) feet in height or greater at the time of planting. A combination of tree sizes is permitted where at least one of larger sized trees may be substituted for two (2) smaller sized trees.
3. Five (5) deciduous shrubs or hedges may be substituted for one deciduous tree for a maximum of twenty (20%) of the tree requirement.
4. The preservation of existing deciduous or evergreen trees of four (4) inch caliper or greater within the net lot area may be substituted for fifty (50%) percent of the tree requirement. (Net lot area for this section shall be total gross lot area minimum building floor area, impervious surface and sensitive environmental features as defined in the Newberry Township Comprehensive Plan and Article 4, Sensitive Environmental Features Overlay District. The number of existing trees must meet or exceed fifty (50%) percent of the number of trees required in Subsection A(1).
5. The remaining area required to be landscaped shall be ground cover.
6. Cost estimate for posting of securities shall be provided in accordance with the Newberry Township Subdivision and Land Development Ordinance.
7. All trees, shrubs, hedges or ground cover that die or are destroyed shall be replaced within six (6) months by the applicant.

**B. Street trees**

Shade trees shall be provided along the frontages of all new roads constructed by the Developer in the Designated Growth Area within a subdivision or land development. Street trees shall conform to Section 610 of the Newberry Township Subdivision and Land Development Ordinance.

**C. SCREENING**

1. Deciduous trees shall have a minimum caliper measurement of 2 ½ inches, measured a minimum of six inches above the soil line.
2. Coniferous trees shall have a minimum height of six feet.
3. Evergreen shrubs, except for those used as low ground covers, shall have an average height of 20 inches.
4. Deciduous shrubs shall have an average height of 30 inches.
5. Trees with less than three inches in caliper shall be properly staked or trees with more than three inches in caliper shall be guyed and be properly protected for a period of one year from the date of planting.
6. Any nylon rope used in balling the tree must be cut and removed from the root ball.

7. Trees and shrubs shall be hardy, not prone to disease or pests and suitable for use as a screening hedge including dense foliage.
8. Shrubs to be used on slopes steeper than 3 to 1 shall be chosen from Subsection E(1), Vegetation acceptable for erosion control. Ground cover to be used on slopes steeper than 3 to 1 shall be chosen from the list titled "Vegetation Acceptable for Erosion Control" in Subsection E(1) below, except that no more than 50% of berm area may be composed of ornamental grass or legume mixture.
9. Mulch for grass seed mix must be straw mulch as specified in PennDOT Publication 408 ("Pub. 408"), except that slopes steeper than 3 to 1 shall receive erosion control blankets/mats as specified in Pub. 408. Mulch shall be placed around trees, shrubs and ground cover. Mulch shall be shredded bark or other organic mulch, if approved by Township officials, in continuous beds surrounding vegetation. Mulch shall not be the sole cover but shall be used in conjunction with vegetative ground cover which shall cover 95% of the area within two years of planting. A system of staking, matting and/or netting shall be installed on slope/mound areas steeper than 3 to 1 to be mulched, but that will not inhibit vegetative growth and that will not be visible two years after planting.
10. Stabilization measures shall include erosion control blankets or mats as specified in PennDOT Pub. 408 for slopes steeper than 3 to 1.

#### **D. LANDSCAPE PLAN**

All landscaping shall be drawn to scale on a site development plan and submitted to the Zoning Officer prior to the issuance of a zoning permit or with the land development or major preliminary or final subdivision application. The landscape plan shall be prepared and certified by a landscape architect licensed by the Commonwealth of Pennsylvania. The landscape plan shall contain the following data as a minimum:

1. An on-site inventory identifying type, size and height of existing plant materials.
2. A plant schedule describing plant materials, including names (common and botanical), location, qualities, caliper sizes, heights, spread, and spacing at installation.
3. Location, height and type of plant material proposed for buffer yards, screening and fencing.
4. The manner in which trees and shrubs are to be planted shall be indicated on a tree and shrub planting detail.
5. The manner in which lawn areas and ground cover are to be planted shall be indicated on a ground cover detail.
6. A description of how existing healthy trees are proposed to be retained and protected from damage during construction should be described in the construction detail.
7. Size, height, location and material of proposed seating, lighting, planters, sculptures and water features.

8. Location and dimension of sight triangles as defined in the Newberry Township Subdivision and Land Development Ordinance.

**E. NATIVE PLANT REQUIREMENTS**

The use of native species benefits land developers by reducing landscape maintenance costs and will benefit the community and the environment by reestablishing a native plant community.

1. Vegetation acceptable for erosion control is as follows:

Type	Botanical Name	Common Name
S = Shrub Gc = Ground cover N = Native		
S	Cornus alba	Siberian dogwood
S, N	Cornus sericea	Red osier dogwood
S, N	Cornus racemosa	Gray dogwood
S	Cotoneaster apiculata	Cranberry cotoneaster
Gc	Cotoneaster horizontalis	Ground cotoneaster
S	Calluna vulgaris	Scotch heather
S	Forsythia suspensa	Weeping forsythia
S		Various types of ornamental grasses
Gc	Juniper conterta	Shore juniper
Gc	Juniper horizontalis	Creeping juniper
Gc	Juniper sabina	"Savin" juniper
S, N	Myrica pensylvanica	Northern bayberry
Gc	Pachysandra terminallis	Japanese spurge
Gc	Stephandra incisa "crispa"	Crispa cutleaf stephandra
Gc, N	Symphoricarpos chenaultii "Hancock" x	Prostrate Chenault coralberry
S	Yucca filementosa	Candles of Heaven
Gc		PennDOT formula "W" grass-legume seed mix, (tall fescue, birdsfoot trefoil, redtop)
S, N	Rhus aromatica	Fragrant sumac

2. Native plants acceptable for landscaping are as follows:

- a. Shrubs.

- 1) Azalea, sweet (Rhododendron arborescens): to 10 feet; white-pink flowers; rich, moist, acid soil; mostly sun.
- 2) Azalea, rhodora (Rhododendron canadense): Three feet to four feet; very hardy; lavender-white flowers; rich, acid soils.
- 3) Azalea, flame (Rhododendron calendulaceum): to eight feet; red to gold flowers mid-May; acid, well-drained soil.
- 4) Azalea, mountain (Rhododendron, canescens): to 10 feet; pink to white, fragrant flowers; rich woodland soils.

- 5) Azalea, pinxter (*R. periclymenoides*): to 10 feet; small pink flowers; woodland, sun to part shade; rich acid soil.
- 6) Azalea, roseshell (*R. prinophyllum*): to eight feet; pink, fragrant flowers in May; sun to part shade; moist, acid soils.
- 7) Azalea, swamp (*R. viscosum*): to six feet; fragrant white flowers; sun-part shade; rich, moist, acid soils.
- 8) Blueberry, highbush (*Vaccinium corymbosum*): six feet to 12 feet; sun to part shade; moist woods, bogs and swamps.
- 9) Chokeberry, red (*Aronia arbutifolia*): five feet to eight feet upright shape; fall foliage in shades of red; holds fruit into winter.
- 10) Chokeberry, black (*A. melanocarpa*): three feet to five feet thicket-forming shrub; black berries; good wildlife value.
- 11) Bayberry (*Myrica pensylvanica*): to nine feet; grows well on poor, sandy acid soils; blue-gray berries; wildlife.
- 12) Bearberry (*Arctostaphylos uva-ursi*): thick ground cover; dark red fall fruits; needs sun and well-drained soil.
- 13) Buttonbush (*Cephalanthus occidentalis*): to 10 feet; needs moist to wet soil; ponds & streams; yellow fall color.
- 14) Carolina allspice (*Calycanthus floridus*): to six feet; large glossy leaves; dense border screen; sun to light shade.
- 15) Cinquefoil, shrubby (*Potentilla fruticosa*): three feet to four feet; yellow flowers June until frost; shrub border; sun to moisture.
- 16) Dogwood, pagoda (*Cornus alternifolia*): to 25 feet; border, screening; purple fruit; maroon fall color; moist soil.
- 17) Dogwood, silky (*C. amomum*): to 10 feet by 10 feet; shrub border; blue fruit; deep red fall foliage; wet to dry soil.
- 18) Dogwood, gray (*C. racemosa*): to 15 feet; shrub border; white flowers and fruit; maroon fall color; sun to shade.
- 19) Dogwood, red osier (*C. sericea*): to eight feet; shrub border; bright red stems, white flowers and fruits; accent plant.
- 20) Elderberry (*Sambucus canadensis*): to 12 feet; fast-growing; meadows and edges of woodlands; edible berries.
- 21) Hazelnut (*Corylus americana*): to six feet to 10 feet; erect growth; fruits reddish, ornamental; adapted to shade.
- 22) Inkberry (*Ilex glabra*): six feet to nine feet; evergreen; black berries; shrub border; moist to wet soils; sun to shade.
- 23) Mountain laurel (*Kalmia latifolia*): to eight feet; difficult to grow; requires acid soil, good moisture and drainage.
- 24) Rhododendron, rosebay (*Rhododendron maximum*): to 15 feet; white flowers; light to full shade; rich, moist soil.
- 25) Shadbush; Serviceberry (*Amelanchier canadensis*): to 20 feet; woodlands, moist, acid soil; white flowers.
- 26) St Johnswort (*Hypericum prolificum*): to three feet; yellow flowers, dark green foliage; needs dry/moist soils; sun.

- 27) Spicebush (*Lindera benzoin*): to 12 feet; early flowering shrub; tolerates wet soils; red fruits eaten by birds.
  - 28) Strawberry bush (*Euonymus americana*): to six feet; shrub border; moist soil; partial shade; red fruit/grn. stems.
  - 29) Sumac, fragrant (*Rhus aromatica*): to six feet; banks, borders; sun to part shade; yellow flowers; good fall color.
  - 30) Sumac, shining (*Rhus copallina*): to 25 feet; large-scale plantings; attractive dark green foliage; spreads.
  - 31) Sumac, smooth (*Rhus glabra*): to 15 feet; large-scale plantings; sun to light shade; scarlet stems in fall.
  - 32) Sumac, staghorn (*Rhus typhina*): to 25 feet; sun to light shade; banks, highways; excellent fall color.
  - 33) Sweet pepperbush (*Clethra alnifolia*): three feet to six feet; spikes of small white flowers; wetland shrub; light shade.
  - 34) Viburnum, mapleleaf (*Viburnum acerifolium*): five feet to six feet; good understory, bird plant; woodland, deep shade.
  - 35) Viburnum, arrowwood (*V. dentatum*): four feet to eight feet; white flowers (June); shrub border; tolerates dry soils.
  - 36) Viburnum, nannyberry (*V. lentago*): 20 feet; white flowers in May, black berries; woodland edge, wildlife plant.
  - 37) Viburnum, blackhaw (*V. prunifolium*): to 15 feet; sun to part shade; medium to dry soil; edible berries; shrub border.
  - 38) Winterberry (*Ilex verticillata*): to eight feet; shrub border; dark green foliage; scarlet berries; good winter contrast.
- b. Small trees.
- 1) American hornbeam (*Carpinus caroliniana*): to 35 feet; blue-gray bark; sun to shade; moist soils along streams.
  - 2) Serviceberry (*Amelanchier arborea*): to 30 feet; rocky bluffs and upper slopes; white flowers (April).
  - 3) River birch (*Betula nigra*): to 50 feet; needs sun and moisture; streambanks, swales; pinkish, exfoliating bark.
  - 4) Redbud (*Cercis canadensis*): to 40 feet; magenta flowers; sun to part shade; moist soil; woodland edges.
  - 5) Fringe tree (*Chionanthus virginicus*): to 25 feet; fragrant fringe of white flowers; well-drained, moist, acid soil.
  - 6) Eastern dogwood (*Cornus florida*): to 30 feet; large white flowers; red fruits; woodland edges; good fall color.
  - 7) Witch hazel (*Hamamelis virginiana*): to 20 feet; sun to shade; moist woodlands; yellow to orange fall color.
  - 8) Eastern red cedar (*Juniperus virginiana*): to 30 feet; evergreen foliage from light green to blue; columnar; field.
  - 9) Pawpaw (*Asimina triloba*): to 30 feet; sun, moist soil; pendulant yellow leaves in fall; edible fruit in fall.
  - 10) Persimmon (*Diospyros virginiana*): to 50 feet; woodland edges, floodplains and old fields; edible fruits.

- c. Shrubs or small trees for dry, sunny sites.

Common Name	Botanical Name
Bayberry	<i>Myrica pensylvanica</i>
Bearberry	<i>Arctostaphylos uva-ursi</i>
Eastern red cedar	<i>Juniperus virginiana</i>

- d. Shrubs or small trees for moist sites, i.e., edges of ponds, streams, swamps and lower slopes of hills. Most will tolerate somewhat drier conditions as well.

Common Name	Botanical Name
Chokeberry	<i>Aronia arbutifolia</i> , <i>A. melanocarpa</i>
Elderberry	<i>Sambucus canadensis</i>
Inkberry	<i>Ilex glabra</i>
Rosebay	<i>Rhododendron maximum</i>
Shrubby dogwoods	<i>Cornus sericea</i> , <i>C. amomum</i> , <i>C. racemosa</i>
Spicebush	<i>Lindera benzoin</i>
Sweet pepperbush	<i>Clethra alnifolia</i>
Winterberry	<i>Ilex verticillata</i>
Witch hazel	<i>Hamamelis virginiana</i>

- e. Shrubs or small trees for wetlands or seasonally flooded sites or at the edge of water bodies.

Common Name	Botanical Name
American hornbeam	<i>Carpinus caroliniana</i>
Buttonbush	<i>Cephalanthus occidentalis</i>
Inkberry	<i>Ilex glabra</i>
River birch	<i>Betula nigra</i>
Spicebush	<i>Lindera benzoin</i>
Swamp azalea	<i>Rhododendron viscosum</i>
Sweet pepperbush	<i>Clethra alnifolia</i>
Winterberry	<i>Ilex verticillata</i>

- f. . Shrubs or small trees for shaded sites.

Common Name	Botanical Name
Azaleas	<i>Rhododendron canadense</i> , <i>R. claendulaceum</i> , <i>R. periclymenoides</i>
Hazelnut	<i>Corylus americana</i>
Mapleleaf viburnum	<i>Viburnum acerifolium</i>
Mountain laurel	<i>Kalmia latifolia</i>
Rhododendrons	<i>Rhododendron maximum</i>



g. Shrubs or small trees for wildlife food and cover.

Common Name	Botanical Name
Bayberry	<i>Myrica pensylvanica</i>
Chokeberry	<i>Aronia melanocarpa</i> , <i>A. arbutifolia</i>
Elderberry	<i>Sambucus canadensis</i>
Inkberry	<i>Ilex glabra</i>
Winterberry	<i>Ilex verticillata</i>
Serviceberry	<i>Amelanchier canadensis</i> , <i>A. arborea</i>
Shrubby dogwoods	<i>Cornus amomum</i> , <i>C. racemosa</i> , <i>C. sericea</i>
Spicebush	<i>Lindera benzoin</i>
Sumacs	<i>Rhus glabra</i> , <i>R. copallina</i> , <i>R. typhina</i>
Viburnums	<i>Viburnum prunifolium</i> , <i>V. lentago</i> , <i>V. dentatum</i> , <i>V. acerifolium</i>

h. Large trees

- 1) Eastern hemlock (*Tsuga canadensis*): large evergreen tree; long-lived; food and cover for songbirds.
- 2) Eastern white pine (*Pinus strobus*): large evergreen tree; blue-green foliage; moist/dry soils; wildlife.
- 3) American beech (*Fagus grandifolia*): to 60 feet; rich, moist soils; smooth gray bark; good ornamental; wildlife.
- 4) Black gum (*Nyssa sylvatica*): to 70 feet; sun to light shade; acid soil; white flowers; spectacular red fall color.
- 5) Black walnut (*Juglans nigra*): to 75 feet; found on rich, moist soils; edible nuts preferred by many mammals.
- 6) Black willow (*Salix nigra*): to 30 feet; found on streambanks and in wet meadows; streambank protection.
- 7) Red maple (*Acer rubrum*): to 75 feet; grows best in wet soils; red fall color; good ornamental and wildlife tree.
- 8) Sugar maple (*Acer saccharum*): to 80 feet; moist slopes; excellent ornamental; brilliant fall color; wildlife.
- 9) Sycamore (*Platanus occidentalis*): to 125 feet; streambanks and floodplains; white/green flaking bark; wildlife.
- 10) Northern red oak (*Quercus rubra*): to 90 feet; moist to dry soils; acorns provide food for many birds/mammals.
- 11) Pin oak (*Quercus palustris*): to 60 feet; typically requires wet to moist soils; acorns, food for wetland animals.
- 12) White oak (*Quercus alba*): 80 feet to 100 feet; moist to dry soils; produces acorns every year; important wildlife tree.
- 13) White ash (*Fraxinus americana*): to 80 feet; moist, rich soils; good ornamental; yellow to maroon fall color.
- 14) Mockernut hickory (*Carya tormentosa*): 50 feet to 75 feet; moist, open woods and slopes; nuts large with thick shells.

- 15) Shagbark hickory (*Carya ovata*): 70 feet to 80 feet; rich soils on slopes and in valleys; provides excellent wildlife food.
  - 16) Shellbark hickory (*Carya lachiniosa*): 80 feet to 100 feet; moist to wet fertile bottomlands in southern pennsylvania; wildlife.
- i. Native grasses and wildflowers for ground cover, wildlife or aesthetics
- 1) Big bluestem (*Andropogon gerardii*): height, three feet to seven feet; clumping, vertical, deep blue stem; purple seedhead.
  - 2) Bushy bluestem (*Andropogon glomeratus*): to four feet; large, cottony flowers; full sun; moist-wet, rich soils
  - 3) Broom sedge (*Andropogon virginicus*): to three feet; full sun; poor soils in assoc. with eastern red cedar; orange in fall.
  - 4) Pennsylvania sedge (*Carex pensylvanica*): less than one foot; never needs mowing; clumps; dry shade/trees.
  - 5) Northern sea oats/river oats (*Chasmanthium latifolium*): to three feet; aggressive; moist woodlands; adaptable.
  - 6) Fraser sedge (*Cymophyllus fraseri*): to one inch; rich, cool, moist woodlands; evergreen, leaves red in winter.
  - 7) Hairgrass, tufted (*Deschampsia cespitosa*): to three feet; medium/moist soil; semi-shade; clumps with airy panicles.
  - 8) Purple lovegrass (*Eragrostis spectabilis*): to two feet; dry, poor soils; full sun; delicate purple flowers.
  - 9) Soft rush (*Juncus effusus*): to three feet; bright green, spiky plant; very moist to wet soil; pond edge; mostly sunny.
  - 10) Muhly grass (*Muhlenbergia capillaris*): two feet clumps; fine textured, light green blades; sun; poor soil; accent.
  - 11) Switch grass (*Panicum virgatum*): to three feet to seven feet; winter wildlife cover; accent plantings; yellow fall color; sun.
  - 12) Sideoats grama (*Bouteloua curtipendula*): to three feet; nearly any soil; seeds hang uniformly on side of stems.
  - 13) Little bluestem (*Andropogon scoparius*): two feet to three feet; wildflower meadows; accents; red-gold fall color; sun.
  - 14) Indian grass (*Sorghastrum nutans*): to five feet; clumps of green with yellow flowers - July; copper plumes; sunny.
  - 15) Eastern gamma grass (*Tripsacum dactyloides*): to three feet to six feet; coarse textured clumps; moist-boggy soils; sun.
  - 16) Sundrops (*Oenothera fruticosa*): herbaceous perennial; meadows, dry fields, roadside banks.
  - 17) Butterfly-weed (*Asclepias tuberosa*): herbaceous perennial; dry woods, old fields; bright orange flowers.
  - 18) Wild blue phlox (*Phlox divaricata*): herbaceous perennial; blue to pink flowers; rich soil, deciduous woods.
  - 19) Indian paintbrush (*Castilleja coccinea*): herbaceous annual/biennial; moist meadows; brilliant flowers.
  - 20) Beard-tongue (*Penstemon digitalis*): herbaceous perennial; meadows, old fields and roadsides.

- 21) Common yarrow (*Achillea millefolium*): to three feet; perennial, white to pink flowers; tolerates poor soils.
  - 22) Boneset (*Eupatorium peffoliatum*): to five feet; perennial with persistent white flowers; wet meadows, floodplains.
  - 23) New England aster (*aster novae-angliae*): two feet to six feet; purple flowers, late summer; meadows; butterfly nectar.
  - 24) Blazing star (*Liatris spicata*): to three feet; perennial; moist meadows, roadsides; lavender flower spikes; sun.
  - 25) Prairie coneflower (*Ratibida pinnate*): to five feet; perennial; yellow flowers; dry fields, limestone uplands.
  - 26) Black-eyed Susan (*Rudbeckia hirta*): one foot to three feet; herbaceous biennial; fields, meadows; yellow flowers with brown.
  - 27) Ox-eye sunflower (*Heliopsis helianthoides*): two feet to five feet; perennial; fields, floodplains; food and cover for birds.
  - 28) Canada goldenrod (*Solidago canadensis*): to five feet; perennial; old fields; yellow flowers; nectar for butterflies.
  - 29) Stiff goldenrod (*Solidago rigida*): to five feet, perennial; moist fields, rich soil; yellow flowers - August; butterflies.
  - 30) Showy goldenrod (*Solidago speciosa*): to four feet; perennial; moist meadows, rocky woods; yellow flowers - September.
  - 31) Recommendations for vegetating steep slopes: Native legumes such as bush-clover, showy tick-trefoil, et al., are currently much too expensive for any practical applications. A noninvasive, introduced mix of birdsfoot trefoil (*Lotus corniculatus*) - five pounds/A; redtop (*Agrostis alba*) - 10 pounds/A; and annual ryegrass (*Lolium multiflorum*) - 10 pounds/A is suggested.
- j. Native trees or hybrids acceptable for street trees.
- 1) Small trees, less than 30 feet in height.
    - a) Serviceberry (*Amelanchier arborea*, *A. canadensis*, *A. laevis* and *Amelanchier x grandiflora*): small trees with medium growth rate; crown widths are 15 feet to 25 feet; shade tolerant, but do well in full sun; attractive bark, flowers and fruit; somewhat sensitive to drought, soil compaction, salt and leaf diseases; prefer moist, well-drained, acid soils. Recommended varieties include Cumulus Serviceberry (*Amelanchier laevis* "Cumulus"), Majestic Serviceberry (*Amelanchier laevis* "Majestic"), Autumn Brilliance Serviceberry (*Amelanchier x grandiflora* "A. Brilliance"), Robin Hill Serviceberry (*Amelanchier x grandiflora* "Robin Hill").
    - b) Eastern redbud (*Cercis canadensis*): a picturesque small tree with heart-shaped leaves; rose-pink buds in spring before leaves appear; spreading crown, 25 feet to 35 feet; adapted to full sun or light shade; acid to alkaline, well-drained soils; needs occasional fertilization; select only trees from northern seed sources.

- c) Hawthorn (*Crataegus* spp): very tough, small flowering tree; acid to alkaline soils, droughty to wet, light to heavy; select for form and branching habit, disease resistance and absence of dangerous thorns. Recommended varieties include Thornless Cockspur Hawthorn (*Crataegus crus-galli* var. *inermis*), Crimson Cloud English Hawthorn (*Crataegus laevigata* "Superba"), Winter King Green Hawthorn (*Crataegus viridis* "Winter King").
  - d) Flowering crabapples (*Malus* spp. and hybrids): wide variety of shapes, with crown widths varying from 10 feet to 25 feet; provide attractive flowers and fruit, little fall color; select varieties with insect and disease resistance; most require full sun and moist, well-drained, acid soil. Recommended varieties include Adams Crabapple (*Malus* "Adams"), Harvest Gold Crabapple (*Malus* "Hargozam"), Madonna Crabapple (*Malus* "Mazam"), Prairifire Crabapple (*Malus* "Prairifire"), Red Jewel Crabapple (*Malus* "Jewelcole"), Sentinel Crabapple (*Malus* "Sentinel"), Snowdrift Crabapple (*Malus* "Snowdrift"), Spring Snow Crabapple (*Malus* "Spring Snow").
  - e) Shubert Chokecherry (*Prunus virginiana* "Shubert"): hardy, vigorous tree with colorful foliage, flowers and fruit; upright branching; tolerates low fertility and dry sites; limited service life (10 to 20 years); "Canada Red Select" has faster growth and more regular branching habit.
- 2) Intermediate trees, 30 feet to 45 feet in height.
- a) American hornbeam (*Carpinus caroliniana*): irregular crown 20 feet to 35 feet in width; foliage is yellow, orange and red in fall; bark is bluish gray; prefers well-drained, acid to neutral soil; relatively disease free.
  - b) Imperial honeylocust (*Gleditsia tricanthos* "Impcole"): dense, wide-spreading crown (35 feet to five feet); usually free of thorns and fruit; susceptible to insect damage; tolerates salt, heat, drought and compaction.
  - c) American hophornbeam (*Ostrya virginiana*): graceful tree with gray-brown bark; crown width is 20 feet to 30 feet; few pest problems; tolerates shade and will thrive in full sun; prefers well-drained, acid soil.
- 3) Large trees, more than 50 feet in height.
- a) Red maple (*Acer rubrum*): heights to 75 feet, crown widths from 30 feet to 70 feet; autumn foliage is yellow to red; tolerates partial shade; shallow root system with some surface roots; wet to dry, acid soils. Some recommended varieties include October Glory Red Maple (*Acer rubrum* "PN 1 0268"), Red Sunset Red Maple (*Acer rubrum* "Franksred"), Autumn Flame Red Maple (*Acer rubrum* "Autumn Flame").

- b) Sugar maple (*Acer saccharum*): heights to 80 feet; crown widths from 40 feet to 70 feet; fall foliage is brilliant yellow, orange or red; slow to medium growth rate and good shade tolerance; sensitive to heat, soil compaction and drought. Recommended cultivars include Bonfire Sugar Maple (*Acer saccharum* "Bonfire"), Commemoration Sugar Maple (*Acer saccharum* "Commemoration"), Goldspire Sugar Maple (*Acer saccharum* "Goldspire"), Green Mountain Sugar Maple (*Acer saccharum* "PN1 0285"), Legacy Sugar Maple (*Acer saccharum* "Legacy"), Seneca Chief Sugar Maple (*Acer saccharum* "Seneca Chief").
- c) River birch (*Betula pigma* "Heritage"): heights to 50 feet; crown widths from 30 feet to 35 feet; salmon-colored bark; good resistance to birch borer; limited service life as street tree; prefers moist, well-drained acid soils.
- d) Hackberry (*Celtis occidentalis* "Prairie Pride"): heights to 50 feet; crown widths from 40 feet to 50 feet; yellow autumn foliage; small dark red to purple fruit; tolerates light shade, acid to alkaline soil and wet to dry sites.
- e) White ash (*Fraxinus americana*): heights to 80 feet; crown widths from 40 feet to 70 feet; transplants readily; prefers moist and well-drained, acid to neutral soil; tolerates partial shade; yellow to maroon fall colors. Some suggested cultivars include Autumn Applause White Ash (*Fraxinus americana* "Autumn Applause"), Autumn Purple White Ash (*Fraxinus americana* "Autumn Purple"), Champaign County White Ash (*Fraxinus americana* "Champaign County"), Rosehill White Ash (*Fraxinus americana* "Rosehill"), Skyline White Ash (*Fraxinus americana* "Skycole").
- f) Green ash (*Fraxinus pennsylvanica*): heights to 65 feet; crown widths from 35 feet to 55 feet; yellow fall foliage; wet to dry, acid to alkaline soils; rapid growth rate; tolerates drought and compaction. Suggested varieties include Patmore Green Ash (*Fraxinus pennsylvanica* "Patmore"), Summit Green Ash (*Fraxinus pennsylvanica* "Summit"), Urbanite Green Ash (*Fraxinus pennsylvanica* "Urbanite").
- g) Honeylocust (*Gleditsia triacanthos*): heights to 80 feet; crown widths from 40 feet to 70 feet; yellow fall foliage; provides light shade; transplants readily; tolerates heat, drought, compaction and wide range of soil conditions; select only thornless cultivars. Suggested varieties include Moraine Honeylocust (*Gleditsia triacanthos* "Moraine"), Shademaster Honeylocust (*Gleditsia triacanthos* "PN1 2835"), Skyline Honeylocust (*Gleditsia triacanthos* "Skycole").
- h) Sweetgum (*Liquidambar styraciflua*): height to 75 feet; crown width from 40 feet to 65 feet; glossy, star-shaped leaves; shades

of green, yellow, scarlet and purple in fall; needs acid soil, full sun and adequate space for roots. Recommended varieties are Gold Dust Sweetgum (*Liquidambar styraciflua* "Goduzam"), Moraine Sweetgum (*Liquidambar styraciflua* "Moraine").

- i) Cucumbertree (*Magnolia acuminata*): height to 70 feet; crown widths from 30 feet to 55 feet; attractive form and branching habit; full sun to partial shade and calcareous soils; prefers moist, well-drained soil; brown fall color.
- j) Black gum (*Nyssa sylvatica*): height to 70 feet; crown widths from 30 feet to 45 feet; foliage is dark, glossy green changing to bright yellow, orange and scarlet in fall; prefers well-drained, acid soil and full sun or light shade; resistant to insects and diseases.
- k) Swamp white oak (*Quercus bicolor*): height to 80 feet; crown widths from 50 feet to 80 feet; tolerates drought, salt, soil compaction and some shade; transplants more readily than other white oaks; growth rate is moderate; yellow-brown foliage in autumn.
- l) Shingle oak (*Quercus imbricaria*): height to 65 feet; crown widths from 40 feet to 70 feet; transplants well, plant in full sun; tolerates dry soils, but prefers moist, well-drained, acid soils; yellow-brown to russet fall colors.
- m) Bur oak (*Quercus macrocarpa*): height to 90 feet; crown widths from 60 feet to 90 feet; intolerant of shade; grows slowly; adapted to wide range of soils, from acid to alkaline and moist to dry; yellow-brown fall foliage.
- n) Pin oak (*Quercus palustris*): height to 75 feet; crown widths from 40 feet to 55 feet; transplants readily; requires acid soil free of limestone and full sun; pruning of lower branches for pedestrians/traffic; bronze or red in fall.
- o) Willow oak (*Quercus phellos*): height to 75 feet; crown widths from 45 feet to 60 feet; prefers acid soil and full sun; fast growth rate; yellow-brown to russet fall foliage.
- p) Northern red oak (*Quercus rubra*): height to 80 feet; crown widths from 45 feet to 65 feet; fast-growing; prefers well-drained, acid soil and full sun; reddish to golden brown fall foliage.
- q) Shumard oak (*Quercus shumardii*): height to 80 feet; crown widths from 45 feet to 65 feet; growth rate is moderate to fast; tolerates drought, salt, soil compaction and alkaline soils; prefers sun and well-drained soils; fall colors are reddish brown to scarlet.
- r) Legend American linden (*Tilia americana* "Wendell"): height to 70 feet; crown widths from 35 feet to 50 feet; prefers moist, fertile soil but tolerates drier sites; shade-tolerant but grows well

in full sun; intolerant of salt; bright red buds and twigs in winter.

- s) Redmond American linden (*Tilia americana* "Redmond"): height to 70 feet; crown widths from 30 feet to 45 feet; intolerant of salt; prefers moist, fertile soil, but tolerates drier sites; transplants readily; shade-tolerant, but grows well in full sun; growth rate is medium to fast with an upright growth habit; new twigs are crimson.
- 4) Suggested street trees are native tree species, cultivars of native species and, infrequently, hybrids of native species. More detailed information on the above-listed street trees is available from Street Tree Fact Sheets by H. D. Gerhold, W. N. Wandell and N.L. Lacasse, a publication of the Municipal Tree Restoration Program. Providing landscape screens and borders using native plants enhances wildlife habitat while, at the same time, lowering requirements for water, fertilizer and pesticides. Since native plants have evolved in concert with regional conditions, they are adapted to local site requirements; require less maintenance than exotic plants; and provide a wide range of beauty and natural diversity.
- 5) The lists of native plants are not intended to be all-inclusive. They were compiled as a sampling of representative plants, which exhibit some of the best characteristics of flower and form, adaptability and wildlife values. Since the lists were assembled with border/screen/open space requirements in mind, they include a number of herbaceous perennial plants and many of the native, large tree species.

## **F. MAINTENANCE PLAN**

Landscaping required in this section shall be maintained in a healthy, growing condition at all times. It shall be the responsibility of the property owner of record or his delegated representative to properly maintain and care for any landscape screen or other treatment as approved by the Township. In order to ensure proper maintenance of landscaping, a maintenance plan addressing the following shall be required:

- 1. The maintenance plan shall be prepared and certified by a landscape architect, registered and licensed in the Commonwealth of Pennsylvania.
- 2. Project narrative.
- 3. Description of short-term maintenance procedures for the first year following the date of planting.
- 4. Long-term lawn and planting maintenance.
- 5. One-year contractors' warranty of all lawn and plant materials.

## SECTION 516 SCREENING

### **A. THE FOLLOWING LIST DESCRIBES VARIOUS LEVELS OF SCREENING**

#### 1. Level one.

This buffer shall contain screening materials which, at maturity, provide intermittent visual obstruction from the ground to a height of four (4) feet, as well as intermittent visual obstruction from a height of four (4) feet to a height of thirty (30) feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than twenty (20) feet in width upon the plant's maturity. Grouping of plant materials is encouraged to achieve a more natural appearance.

- a. Evergreen trees: minimum five (5) foot planting height.
- b. Deciduous trees: minimum two (2) inch caliper and six (6) foot planting height.
- c. Shrubs: eighteen (18) inch planting height, reaching a minimum of thirty (30) inches within two years. All shrubs (deciduous or evergreen) must have a minimum spread of twelve (12) inches to fifteen (15) inches when planted.
- d. Minimum planting width: ten (10) feet.

#### 2. Level two.

This buffer shall contain screening materials which, at maturity, provide semiopacity from the ground to a height of six feet and intermittent visual obstruction from a height of six (6) feet to a height of thirty (30) feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than twenty (20) feet in width; and vegetative screening material within semiopaque areas shall contain openings no greater than ten (10) feet in width upon the plants' maturity. Grouping of plant material is encouraged to achieve a more natural appearance.

- a. Evergreen trees: minimum five (5) foot planting height.
- b. Deciduous trees: minimum two (2) inch caliper and six (6) foot planting height.
- c. Shrubs: minimum eighteen (18) inch planting height, reaching a minimum of thirty (30) inches within two (2) years. All shrubs (deciduous and evergreen) must have a minimum spread of twelve (12) inches to fifteen (15) inches when planted.
- d. Minimum planting width: ten (10) feet.

#### 3. Level three.

This buffer shall contain screening materials which, at maturity, provide opacity from the ground to a height of thirty (30) feet. Vegetative screening materials within opaque areas shall contain no horizontal openings upon the plants' maturity. Trees within this buffer shall consist primarily of Eastern white pine and Norway spruce grouped to achieve a desired opacity. Screening shall consist of a combination, in longitudinal series, of at least two of the following options:



- a. Option A: fence screen.
  - 1) Minimum six (6) foot-high freestanding/retaining wall or solid fence.
  - 2) Evergreen trees: minimum five (5) foot tree planting height.
  - 3) Minimum planting width: twelve (12) feet.
- b. Option B: evergreen tree screen.
  - 1) Evergreen trees: minimum eight (8) foot tree planting height.
  - 2) Composition adequate to achieve a solid screen from zero to six (6) feet in height two years after planting.
  - 3) Minimum planting width: twelve (12) feet.
- c. Option C: berm screen.
  - 1) Berm.
    - a) Minimum six (6) foot height.
    - b) Berm slopes 3 to 1 and less steep.
    - c) Eight (8) feet minimum top width.
  - 2) Lawn, ground cover, shrubs and trees.
    - a) Minimum six (6) foot tree planting height.
    - b) Adequate to provide a continuous bed of vegetative ground cover over at least 95% of the berm area within two years of planting.
- d. Option D: steep berm screen.
  - 1) Steep berm.
    - a) Minimum six (6) foot tree planting height.
    - b) Composed of lightly compacted soil with stability measures adequate to retain stable soil structure and prevent erosion.
    - c) With slopes greater than 3 to 1 up to 2 to 1 maximum slope.
    - d) Eight (8) foot minimum top width.
  - 2) Ground cover, shrubs and trees.
    - a) Adequate to achieve a continuous bed of vegetative cover over at least 95% of the berm area within two years of planting.
    - b) Ground cover and shrubs to be chosen from the listing title "Vegetation acceptable for erosion control."
  - 3) Vegetation acceptable for erosion control.
    - a) Composition adequate to achieve a solid screen from zero to six (6) foot height two years after planting considering the expected plant size two years after planting.

## B. USES

The following specific uses or features shall be screened from adjacent properties and from public view from a street in accordance with the following:

1. Loading docks or spaces – Level 3.
2. Outdoor storage or any material stocks, or equipment, including but not limited to motor vehicles, farm or construction equipment or other similar items – Level 3.
3. Rooftop equipment shall be visually screened with a wall, fence or permanent enclosure.

4. Service entrances and utility facilities – Level 3.

### **C. MAINTENANCE**

All required plantings shall comply with Section 515 of this Ordinance All required fences or walls shall be permanently maintained in good condition and, whenever necessary, repaired and replaced.

## **SECTION 517 OUTDOOR SIGNS**

### **517.1 GENERAL INTENT**

The sign regulations, controls and provisions set forth in this part are made in accordance with an overall plan and program for the provision of public safety, land development, preservation of property values, and the general welfare of the Newberry Township and are intended to:

1. aid in traffic control and traffic safety.
2. preserve and protect property values.
3. lessen congestion of land and air space.
4. provide against undue concentrations of signs which distract and endanger traffic safety and traffic flow.
5. establish reasonable standards for commercial and other advertising through the use of signs in order to maintain and encourage business activity and development.
6. recognize the rights of the public in roads, streets, highways and the areas adjacent to those roads, streets and highways.
7. preserve the wholesome and attractive character of the Township.
8. recognize that the general welfare includes a community that shall be attractive, as well as healthy, spacious as well as clean, and well-balanced in its growth and development.

### **517.2 GENERAL REGULATIONS FOR ALL SIGNS**

1. Signs must be constructed of durable material and maintained in good condition.
2. No sign shall be maintained within the Township in such a state of disrepair as to have the appearance of complete neglect, which is rotting or falling down, which is illegible, or has loose parts separated from original fastenings.
3. Whenever a sign becomes structurally unsafe or endangers the safety of the building or premise, or endangers the public safety, the Zoning Officer shall give written notice to the owner of the premises on which the sign is located that such sign must be made safe or removed within five (5) days.
4. Advertising painted upon or displayed upon a barn or other building or structure shall be regarded as a flat wall sign and the regulations pertaining thereto shall apply.

5. Each sign shall be removed when the circumstances leading to its erection no longer apply.
6. Signs may be interior lighted with non-glaring lights, or may be illuminated by floodlights or spotlights that are shielded so that no light is directed or reflected toward any residence within one hundred feet (100') of the sign nor toward any public rights-of-way.
7. Directly illuminated signs, designed to give forth artificial light directly or through transparent or translucent material from a source of light within such sign, including, but not limited to neon, will be permitted within the V, MU, CC, RCO, LI, I and RI zoning districts, provided that no light is directed or reflected toward any residence within one hundred feet (100') of the sign nor toward any public rights-of-way.
8. No sign shall be of the intermittent flashing or rotating type, unless located within the MU, CC, RCO, LI, I and RI zoning district. Within the V zoning district intermittent flashing or rotating lighting is not permitted. No sign within the OS, RH, SR, RG, MHP, or R zoning district shall include lighting.
9. No sign located within three hundred feet (300') of any traffic light shall be illuminated with red, green, or yellow light bulbs or neon tubing.
10. All electrically illuminated signs shall be constructed to the standards of the National Board of Fire Underwriters.
11. Signs must be positioned so that they do not interfere with any clear sight triangle.
12. No loud, vulgar, indecent, or obscene advertising matter shall be displayed in any manner, including, but not limited to:
  - a. Any graphic illustration pertaining to specified sexual activities and/or specified anatomical areas.
  - b. Scenes wherein artificial devices are employed to depict, or drawings are employed to portray any of the prohibited signs, photographs or graphic representations described above.
13. No sign shall be erected or located as to prevent free ingress or egress from any window, door or fire escape.
14. No sign shall be placed in such a position that it will obscure light or air from a building or which would create a traffic danger.
15. No sign shall be permitted which is permanently attached to public utility poles or trees which are within the right-of-way of any street.
16. No sign located within the Floodplain Protection Overlay shall exceed six (6) square feet of area per side.
17. In the event that a symbol, trademark or other such figure is used as a sign post or standard which could be construed to indicate or identify a particular use or business, that symbol, trademark or figure is to be computed as part of the total allowable sign area.

18. Except in the case of billboards and directional signs, only those signs referring directly to services, materials or products made, sold, or displayed on the premises shall be permitted.
19. No point of any sign, including trim, border and supports, shall be located within ten feet (10') of any property or street right-of-way line.
20. Any sign attached to a building shall not be placed on the roof or be higher than the wall to which it is attached.
21. No point of a wall projecting sign shall be located less than eight and one-half feet (8 ½ ') above the grade directly below the sign.
22. Nothing in these regulations shall be construed as prohibiting signs intended for viewing principally from within a building or signs temporarily attached to the inside face of a display window, announcing a sale or similar feature, provided that the latter shall not occupy more than thirty-three and one-third percent (33 ½ %) of the total display window area for a period not to exceed ten (10) days.
23. Determination of Size of Sign Area: The area of a sign shall be construed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, including any border framing or decorative attachments, but not including any supporting framework or bracing incidental to the display itself. Where the sign consists of individual letters or symbols attached to a building, wall or window, the area of the sign shall be considered to be that of the smallest rectangle or other regular geometric shape which encompasses all of the letters and symbols.
24. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign; provided, however, for a double-face sign, if the interior angle formed by the two faces of the double-face sign is less than forty-five degrees (45°) and the two faces are at no point more than three feet (3') from one another, the area of only the larger face shall be included.
25. Determination of Sign Height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of: existing grade prior to construction; or the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

### **517.3 SPECIFIC SIGN REQUIREMENTS**

The tables on the following pages tabulate requirements imposed upon permanent, temporary, and planned center signs as permitted by the Township.

## **517.4 PROHIBITED SIGNS**

The following type of signs shall not be permitted in the Township:

1. Signs of such a design and location that they interfere with, compete for attention with, or may be mistaken for a traffic signal. This shall include any sign visible from the public right-of-way which uses an arrow device or the word 'stop'. It shall also include signs in which the colors red and green are used either in direct illumination or in high reflection by the use of special preparation, such as fluorescent paint or glass.
2. Any sign located in or extending into a public right-of-way, except those owned or operated by a duly constituted government.
3. Any freestanding or projecting sign within an area bounded by the intersection of two (2) rights-of-way and twenty feet (20') from such intersection along the rights-of-way, except permanent, on-site directional signs less than three feet (3') in height.
4. Any freestanding signs utilizing motor vehicles or trailers of any kind, except those trailers manufactured with a sign face permanently attached to it specifically for the purpose of being used as a portable sign.

## **517.5 SIGN PERMITS**

For signs requiring permits, the following requirements shall apply prior to the erection of said signs:

### **A. PERMIT APPLICATIONS:**

1. An Application for a permit shall be made at the Township Office.
2. Application shall be made on a form to be provided by the Township and shall contain the following information and documentation:
  - a. The name(s) and address(es) of the applicant and the landowner;
  - b. A statement from the landowner granting permission for the placement of the sign on the subject property.
  - c. A drawing to scale, showing the location of the sign with reference to the abutting property lines and streets.
  - d. A drawing to scale, showing all dimensions of the sign. For a directional sign or an on-premise sign advertising activities being conducted on the property, the drawing shall also contain an accurate representation of the advertising or informative contents of the sign.
  - e. A description of the construction materials of the sign and its manner of installation.
3. Each application shall be accompanied by the appropriate fee, as established by the Board of Supervisors.
4. All applications shall be reviewed, and permits issued, by the Zoning Officer. No sign permit shall be issued, except in conformity with the regulations of this

Ordinance, except upon order of the Zoning Hearing Board, granted pursuant to the procedures established for the issuance of a variance.

5. Permit Issuance - Following permit application approval, a sign permit will be issued by the Zoning Officer upon receipt of all required fees.
6. If there is any change in location or dimensions of any sign, or in advertising or informative contents of a sign, a new permit shall be required.
7. Revocation of Permits:
  - a. All permits shall be subject to revocation upon fifteen (15) days written notice for violation of any provision or upon change of information provided in the application.
  - b. Revocation of a permit shall not be cause for refund of the permit fee.

**PERMANENT SIGN REQUIREMENTS**

	Maximum Permitted Number	Maximum Permitted Sign Area	Maximum Height of Signs	Permitted Zones	Other Requirements	Permit Required
Sign Type						
Signs owned and associated with uses operated by the Township	Unlimited	Unlimited	Unlimited	All		No
Signs identifying other public and semi-public uses	1 freestanding or 1 wall sign	40 square feet per lot	10 feet	All		Yes
Off-premise directional signs for public and semi-public uses	2 per principal use	2 square feet per sign	5 feet	All	With permission of property owner	No
Off-premise directional signs for businesses	1 per principal use	6 square feet per sign	5 feet	V, MU, CC, RCO, LI, I, A, RR and RI		Yes
Residential nameplates identifying name of home and/or its occupant, not including name listing on mailbox	1 per dwelling	3 square feet per sign	8 feet	All		No
Property control signs (e.g., "No Trespassing", "Private Property", "No Hunting of Fishing", "Posted", "Private Drive" or similar type signs)	1 per 100 lineal feet of property line	2 square feet per sign	6 feet	All	Allowed as long as they do not obstruct sight triangles	No
Residential development/neighborhood signs. Such signs shall only list the name of the neighborhood/development and shall not list any names of contractors and/or realtors	1 per street entrance, but no more than 2 total	1 square foot per dwelling, not to exceed 32 square feet per sign	6 feet	RH, SR, RG, V, A, RR and R	The applicant shall submit a written description of the maintenance responsibilities in a form satisfactory to the Township Solicitor.	Yes
Individual business signs identifying the name and type of business and/or any trademark of the business conducted on the premises (not including Center signs)	1 wall and 1 freestanding sign	1 square foot per foot of building frontage maximum area 100 sq. ft.	6 feet	V, MU, CC, RCO, LI, I, A, RR and RI	.No flat wall sign nor wall projecting sign shall be larger than 15% of the wall area to which the sign is attached.	Yes
Home occupation signs	1 per dwelling unit	4 square feet	8 feet	All		No
Roadside stand signs for the sale of agricultural products upon a principal farm property	2 per farm	6 square feet per sign	10 feet	All	Roadside stand signs shall only be displayed during seasons when products are for sale.	No
On-site directional, entrance, exit, rest room and other informational signs	AS APPROVED BY THE TOWNSHIP PLANNING COMMISSION THROUGH ITS LAND DEVELOPMENT REVIEW PROCESS					
Billboards	See Section 525.9					

**TEMPORARY SIGN REQUIREMENTS**

	Maximum Permitted Number	Maximum Permitted Sign Area	Maximum Height of Freestanding Signs	Permitted Zones	Other Requirements	Permit Required
Sign Type						
Temporary signs of contractors, architects, mechanics, landscapers, and artisans, displayed only while actual on-site work is in progress.	1 per each separate firm involved in work on site	6 square feet per sign	4 feet	All	Removed upon completion of work.	No
Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing less than 3 acres.	1 per street frontage, maximum of 2 signs	4 square feet	4 feet	All	Removal within one week of sale.	No
Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing more than 3 acres.	1 per street frontage, maximum of 2 signs	24 square feet	10 feet	All	Removal within one week of sale.	Yes
Proposed development signs for residential and/or office complexes. Signs to be removed upon 75% completion of development or within 18 months of placement	1 per street frontage, maximum of 2 signs	24 square feet	10 feet	All, but only after final plan is approved.	Such signs shall be removed upon completion of construction of final unit.	Yes
Proposed development signs for commercial/industrial, and/or other nonresidential uses. Signs to be removed within 1 year of erection of sign.	1 per street frontage, maximum of 2 signs	24 square feet	10 feet	V, MU, CC, RCO, LI, I and RI but only after final plan approval.	All such signs shall be removed upon completion of building construction.	Yes
Special event signs for businesses (e.g., grand openings, change of use or ownership, closeout sale, clearance sale, holiday sale, etc.). Sign is to be removed after 7 days.	1 per lot (attached or free standing)	32 square feet	10 feet	V, MU, CC, RCO, LI, I and RI	Such signs may only be used during one consecutive period per calendar year, not exceeding 30 days.	Yes
Garage/yard sale signs upon properties conducting such sales.	1 per lot	4 square feet	4 feet	All	See Section 502.8 for additional requirements.	No
Political signs.	2 per lot	12 square feet	5 feet	All	Allowed 6 weeks prior to election and 2 weeks following election	No



**CENTER SIGN REQUIREMENTS (Planned Center or Shopping Center)**

	Maximum Permitted Number	Maximum Permitted Sign Area	Maximum Permitted Height	Maximum Permitted Letter Height	Permitted Zones	Other Requirements	Permit Required
Sign Type							
Anchor tenant sign for one use containing more than 150 lineal feet of storefront	1 per side facing a street, with a maximum of 2 signs	If sign is less than 300 feet from facing street, then sign can be 1 square foot per each lineal foot of storefront up to a maximum of 75 square feet. If sign is more than 300 feet from facing street, then sign can be 1.5 square feet per each lineal foot of storefront up to a maximum of 100 square feet.	Height of wall to which sign is attached	42 inches	Same as above	Signs shall only be provided as flat wall or wall projecting signs.	Yes
Storefront under-canopy signs for all principal uses.	1 per principal use	4 square feet	To base of canopy, or where no canopy is provided, 10 feet.	8 inches	Same as above	No under-canopy sign shall have a vertical dimension of more than 18 inches from lowest to highest point. The base of an under-canopy sign shall be no less than 8 feet, 6 inches above finished grade below such sign.	Yes
.Freestanding planned center sign	1 per street frontage with entrance or exit	50 square feet	15 feet	18 inches	V, MU, CC, RCO, LI, I	Sign shall devote no less than 50% of total sign area (per side) to advertisement of the planned center's name.	Yes
Anchor tenant sign for one use containing more than 150 lineal feet of storefront	1 per side facing a street, with a maximum of 2 signs	If sign is less than 300 feet from facing street, sign can be 1 square foot per each lineal foot of storefront up to a maximum of 100 square feet. If sign is more than 300 feet from facing street, then sign can be 1.5 square feet per each lineal foot of storefront up to a maximum of 150 square feet.	Height of wall to which sign is attached	42 inches	Same as above	These signs shall only be provided as flat wall or wall projecting signs.	Yes
Storefront sign for use containing up to 150 lineal feet of store front	1 per principal use	2 square feet per lineal foot of store-front up to a maximum of 75 square feet	Height of wall to which sign is attached	20 inches	Same as above	Sign shall only be provided as flat wall or wall projecting signs.	Yes
Outparcel signs for principal freestanding uses sharing common ingress and egress to planned center	2 per principal use, but only 1 per wall	75square feet per sign, not exceeding 20% of wall area to which sign is attached	Height of wall to which sign is attached	28 inches	Same as above	Signs shall only be provided as flat wall or wall projecting signs	Yes

## **SECTION 518 RESERVED**

(This Section shall be reserved.)

## **SECTION 519 ZONING REQUIREMENTS FOR USE OF ON-LOT SEWAGE DISPOSAL SYSTEMS**

### **519.1**

As of the effective date of this Ordinance, all future uses that rely upon on-lot sewage disposal systems shall be required to specifically test for and secure one disposal site (field, bed or trench) and another alternate disposal site. Both disposal sites shall be approved by the Sewage Enforcement Officer. Furthermore, the alternate disposal site shall be perpetually protected from excavation, construction and other activities that would result in disturbance of the soils' ability to renovate sewage effluent, until such time as the alternate field is activated due to malfunction of the initial disposal site.

### **519.2**

Regardless of any maximum lot area requirements listed elsewhere in this Ordinance, the minimum required lot size may be increased to insure an acceptable level of nitrate-nitrogen in the adjoining groundwaters. Such determinations will be made by the PA DEP, through its sewer module review process. In those cases where applicable maximum lot area requirements are exceeded to protect groundwater quality, the applicant shall furnish evidence that the amount of land needed to protect local groundwater is the minimum necessary for such protection.

### **519.3**

Every use relying upon on-lot sewage disposal systems shall be required to properly maintain and repair such systems.

## **SECTION 520 PERMANENT/TEMPORARY OCCUPANCY REQUIREMENTS**

No persons or family shall be permitted to permanently reside within any tent, travel trailer, bus, boat, camper, or motor home. However, temporary occupancy of a tent, travel trailer, camper, or motor home shall be permitted within an approved campground or for periods of up to seven (7) days in any calendar year on the property of a friend or relative.

In addition to the above, an individual and his/her family may temporarily reside within a mobile home upon a lot upon which a single-family dwelling is being constructed, but only in compliance with the following:

1. Such temporary occupancy shall be permitted only while the owner is actively engaged in the construction of the new dwelling.
2. Both the temporary mobile home and the proposed detached dwelling shall comply with all principal use setbacks.
3. The temporary mobile home shall be properly connected to all utilities.

4. A temporary permit has been obtained in accordance with Section 802.1.16 of this Ordinance.
5. A valid zoning permit has been issued for the dwelling to be constructed.
6. Once constructed, the single-family detached dwelling will be promptly occupied by the applicant and his/her family and the mobile home will be removed within thirty (30) days.

## **SECTION 521 OPERATIONS AND PERFORMANCE STANDARDS**

1. All uses proposed within Newberry Township shall operate in compliance with applicable State and Federal regulations, as they are periodically amended.
2. The following lists known governmental regulations associated with various land use impacts. This list in no way excludes or limits Federal or State jurisdiction over uses within the Township, but is merely provided for information to applicants and landowners.
  - a. Noise Pollution and Vibration “Rules and Regulations” of the Pennsylvania Department of Environmental Protection.
  - b. Air Pollution, Airborne Emissions and Odor: “Rules and Regulations” of the Pennsylvania Department of Environmental Protection.
  - c. Water Pollution: The Clean Streams Law, June 22, 1937 P.L 1987. 35 P.S. 691.1. as amended.
  - d. Mine Reclamation and Open Pit Setback: Pennsylvania Act No. 1984-219. the “Noncoal Surface Mining Conservation and Reclamation Act”.
  - e. Glare and Heat: “Rules and Regulations” of the Pennsylvania Department of Environmental Protection.
  - f. Handicap Access: The latest version of the American Disabilities Act.

## **SECTION 522 COMMON OPEN SPACE REQUIREMENTS**

### **522.1 OPEN SPACE AND GREENWAY LAND USE AND DESIGN STANDARDS**

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

#### **A. PERMITTED USES ON OPEN SPACE AND GREENWAY LANDS**

The following uses are permitted in open space and greenway land areas:

1. Nature Preserve and Wildlife Sanctuary, and other similar type conservation uses;
2. Agriculture, (excluding Intensive Farming Operation).
3. Pastureland for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than seventy-five (75%) percent of the minimum required open space and greenway land.
4. Forestry.

5. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, shooting ranges, and other uses similar in character and potential impact as determined by the Board of Supervisors.
6. Active non-commercial recreation areas, such as playingfields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required open space and greenway land or five (5) acres, whichever is less. Playingfields, playgrounds, and courts shall not be located within one hundred (100) feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces.
7. Golf courses, including their parking areas and associated structures, may comprise up to half of the minimum required open space and greenway land, but shall not include driving ranges or miniature golf.
8. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the conservation open space. However, water treatment plants and storage tanks, central sewage treatment plants and lagoons, and a fifty (50) foot buffer around such facilities shall not be included within the minimum required open space and greenway requirement. In cases where any sewage disposal system serving an individual dwelling is located in an open space and greenway area, the developer shall provide for on-site system maintenance via deed covenants and restrictions or other means approved by the Township. This shall include, but not be limited to, the inspection of the on-site systems and the pumping of septic tanks at intervals of not less than three (3) years from the date of the operation of each system.
9. Easements for drainage, access, sewer or water lines, or other public purposes.
10. Essential Services, specifically those involving underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required greenway land.

## **B. OPEN SPACE AND GREENWAY DESIGN STANDARDS**

1. Open Space and greenway lands shall be laid out in general accordance with the Newberry Township Comprehensive Plan and/or Map of Primary Conservation Areas by incorporating them into proposed open space and greenway areas or avoiding their disturbance in areas proposed for development to ensure that an interconnected network of open space and greenways will be provided. The required open space and greenway land consists of a mixture of Primary Conservation Areas (PCAs), all of which must be included, and Secondary Conservation Areas (SCAs). PCAs comprise: floodplains, wetlands, and steep slopes (greater than 25%). SCAs should include special features of the property that would ordinarily be overlooked or ignored during the design process.

Examples of such features are listed and described in Section 614 of the Newberry Township Subdivision and Land Development Ordinance.

2. In Option 1 and 2 conservation subdivisions, the open space and greenway land comprises a minimum of fifty (50%) percent and sixty (60%) percent of the Adjusted Tract Area respectively. This land shall generally remain undivided and may be owned and maintained by a homeowners' association, land trust, another conservation organization recognized by Newberry Township, or by a private individual. However, in no case shall less than thirty (30%) percent of the land comprising the Adjusted Tract Area be available for the common use and passive enjoyment of the conservation subdivision residents. These ownership options may be combined so that different parts of the open space and greenway land may be owned by different entities as determined by the Township.
3. In Option 1 and 2 conservation subdivisions “common greens” are optional. When utilizing this provision, at least two (2%) percent to three (3%) percent of the required open space and greenway lands may be in the form of common greens. A common green is typically 5,000-20,000 square feet in area, with a maximum area of 32,000 square feet, and shall be located internal to the developed areas. The minimum percent of open space in common greens shall be determined as follows:
  - a. Two (2%) percent of the required open space when the average lot size is 15,000 square feet or more.
  - b. Three (3%) percent of the required open space when the average lot size is less than 15,000 square feet.

A common green may be created and maintained as the open space around which dwellings are arranged. If common greens are utilized, dwellings shall face the common green with the front facade of the dwelling.

4. In Option 3 conservation subdivisions, the required open space and greenway land comprises all of the PCAs within the total tract, and may lie within the Estate Lots. However, because the minimum lot size is one acre, up to eighty (80%) percent of the Secondary Conservation land may be included within undivided open space, if the developer so chooses.
5. Up to five (5%) percent of the total tract acreage in any of the options may be subject to Newberry Township’s public land dedication requirement Section 613 of the Newberry Township Subdivision and Land Development Ordinance.
6. Buffers for Adjacent Public Parkland: Where the proposed subdivision adjoins public parkland, a natural open space and greenway buffer at least one-hundred-fifty (150) feet deep shall be provided within the subdivision along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction). Where this buffer is unwooded, the Board of Supervisors may require vegetative screening to be planted, or that it be

managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive alien plant and tree species.

### **C. OTHER REQUIREMENTS**

1. No portion of any dwelling or building lot may be used for meeting the minimum required open space and greenway land. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required open space and greenway land.
2. Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes in accordance with Section 404.4 herein, shall be provided to open space and greenway land in accordance with the following requirements:
  - a. Each neighborhood shall provide one centrally located access point per fifteen (15) lots, a minimum of thirty-five (35) feet in width.
  - b. Access to open space and greenway land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
3. All open space and greenway land areas that are not wooded or farmed shall be landscaped in accordance with the landscaping requirements Section 515 herein this Ordinance.

## **522.2 PERMANENT OPEN SPACE AND GREENWAY PROTECTION THROUGH CONSERVATION EASEMENTS**

### **A. IN OPTIONS 1, 2, AND 3 CONSERVATION SUBDIVISIONS**

In Options 1, 2 and 3 conservation subdivisions, the required open space and greenway land shall be subject to permanent conservation easements prohibiting future development and defining the range of permitted activities. (For example, the clearing of woodland habitat shall generally be prohibited, except as necessary to create trails, active recreation facilities, and to install subsurface septic disposal systems or spray irrigation facilities.) The determination of necessity shall lie with the Board of Supervisors. A list of permitted uses of open space and greenway lands is contained in Sections 404.4 and 522.1.

## **522.3 DISCRETIONARY DENSITY BONUSES**

Additional density may be allowed by the Board of Supervisors when one of the following public benefits is proposed:

### **A. PUBLIC USAGE OF OPEN SPACE AND GREENWAY LAND**

1. The Board of Supervisors may encourage the dedication of land for public use (including active and passive recreation areas, municipal buildings, etc.) according to the following standards:
  - a. A density bonus for greater public usage of open space and greenway land in new subdivisions shall be computed on the basis of a maximum of one

dwelling unit per five (5) acres of open space and greenway land or per two thousand five hundred (2,500) feet of trail that becomes publicly accessible.

- b. The decision whether to accept an applicant's offer to dedicate open space and greenway land to public usage within a proposed subdivision shall be at the discretion of the Board of Supervisors, which shall be guided by the recommendations contained in the Comprehensive Plan and Open Space Plan (if applicable), particularly those sections dealing with active recreational facilities and passive trail networks.

## **B. ENDOWMENT FOR OPEN SPACE AND GREENWAY MAINTENANCE**

1. When open space and greenway land is to be donated to a land trust or to the Township, the Board of Supervisor may allow up to a ten (10%) percent density bonus to generate additional income to the applicant for the sole purpose of endowing a permanent fund to offset continuing costs of maintaining the open space and greenway land, including costs associated with active or passive recreation facilities:
  - a. Spending from this fund should be restricted to expenditure of interest so that the principal may be preserved.
  - b. Assuming an annual average interest rate of five (5%) percent, the amount designated for the Endowment Fund shall be at least twenty (20) times the estimated annual maintenance costs. Such estimate shall be prepared by an agency, firm, or organization acceptable to the Board of Supervisors, and with experience in managing conservation land and/or recreational facilities.
2. Because additional dwellings, beyond the maximum that would ordinarily be permitted, may reasonably be considered to be net of development costs and represent true profit, seventy-five (75%) percent of the net selling price of the endowment lots shall be donated by the applicant to the Open Space and Greenway Maintenance Endowment Fund for the open space and greenway lands within the subdivision. This fund shall be transferred by the developer to the designated entity with ownership and maintenance responsibilities, at the time this entity is created.
3. When estimating the projected maintenance costs of the open space and greenway land, open space and greenway land that is not accessible by the conservation subdivision residents for their common enjoyment need not be included in the calculations. Such lands would typically include areas designated on the Final Plan as land reserved for future agricultural, horticultural, silvicultural, or equestrian uses, which may be leased or sold to another party for those express purposes, and which are protected from future development by a permanent conservation easement. In such cases, the density bonus shall be adjusted proportionately to reflect only the acreage that is accessible to residents for their passive or active recreation.

## **C. IMPLEMENTATION**

1. For each of the above categories of public purposes, density bonuses may be implemented by reducing the amount of required open space and greenway land by up to ten (10%) percent, reducing the minimum lot area requirements by up to ten (10%) percent, or by a combination of these approaches, at the discretion of the Board of Supervisors. The cumulative reductions may total up to thirty (30%) percent.

## **522.4 OWNERSHIP AND MAINTENANCE OF OPEN SPACE AND GREENWAY LAND AND COMMON FACILITIES**

### **A. DEVELOPMENT RESTRICTIONS**

All open space and greenway land shall be permanently restricted from future subdivision and development. Under no circumstances shall any development be permitted in the open space and greenway land at any time, except for those uses listed in Section 522.1 of this Ordinance.

### **B. OWNERSHIP OPTIONS**

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

1. Fee Simple Dedication to the Township - The Township may, but shall not be required to, accept any portion of the common facilities, provided that:
  - a. There is no cost of acquisition to the Township.
  - b. The Township agrees to and has access to maintain such facilities.
2. Condominium Association. - Common facilities may be controlled through the use of condominium agreements. Such agreements shall be in accordance with relevant state law. All open space and greenway land and common facilities shall be held as "common element." In addition to the provisions of this section, the requirements of Section 402.01.9.i of the Newberry Township Subdivision and Land Development Ordinance regarding Community Associations shall be met.
3. Homeowners' Association - Common facilities may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in state regulations and statutes, and the provisions set forth in Section 402.01.9.i of the Newberry Township Subdivision and Land Development Ordinance regarding Community Associations. In addition, the following regulations shall be met:
  - a. The applicant shall provide the Township a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.



- b. The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.
  - c. Membership in the association shall be automatic (mandatory) for all purchasers of dwelling units therein and their successors in title.
  - d. The association shall be responsible for maintenance and insurance of common facilities.
  - e. The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his dues. Such dues shall be paid with the accrued interest before the lien may be lifted.
  - f. Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to Newberry Township no less than thirty (30) days prior to such event.
  - g. The association shall have adequate staff to administer, maintain, and operate such common facilities.
4. Private Conservation Organization or York County - With permission of the Township, an owner may transfer either fee simple title of the open space and greenway land or easements on the open space and greenway to a private non-profit conservation organization or to York County provided that:
- a. The conservation organization is acceptable to Newberry Township and is a bona fide conservation organization intended to exist indefinitely.
  - b. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization or York County becomes unwilling or unable to continue carrying out its functions.
  - c. The open space and greenway land is permanently restricted from future development through a conservation easement and the Township is given the ability to enforce these restrictions.
  - d. A maintenance agreement acceptable to Newberry Township is established between the owner and the organization or York County.
5. Dedication of Easements to Newberry Township - Newberry Township may, but shall not be required to, accept easements for public use of any portion of the common land or facilities. In such cases, the facility remains in the ownership of the condominium association, homeowners' association, or private conservation organization while the easements are held by the Township. In addition, the following regulations shall apply:
- a. There shall be no cost of acquisition to the Township.
  - b. Any such easements for public use shall be accessible to the residents of the Township.
  - c. A satisfactory maintenance agreement shall be reached between the owner and the Township.
6. Non-Common Private Ownership - Up to eighty (80%) percent of the required open space and greenway land may be included within one or more large "conservancy lots" of at least ten (10) acres provided the open space and

greenway land is permanently restricted from future development through a conservation easement, except for those uses listed in Section 522.1.A of this Ordinance, and that the Township is given the ability to enforce these restrictions.

### **C. MAINTENANCE**

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

### **SECTION 523 REQUIRED TRAFFIC IMPACT STUDY**

All uses requiring a traffic impact study shall provide a study in accordance with Article 4 of the Newberry Township Subdivision and Land Development Ordinance.

## **SECTION 524 GREASE AND OIL CATCHMENT FACILITIES**

Any use involving the generation of waste grease and/or oil (including vehicle washing activities) shall be required to install traps to collect such greases and/or oils. Such uses shall also demonstrate a regular and proper means of disposal of such greases and oils, as required by applicable State and Federal laws. This section shall not apply to the routine and on-site washing of farm machinery.

## **SECTION 525 SUPPLEMENTARY USE PROVISIONS**

### **525.1 STANDARDS FOR USES**

1. In addition to the general provisions for uses within a particular zoning district established in Articles 2 and 3, and the additional general provisions for uses established in the previous sections of Article 5 herein, these subsequent sections of Article 5 set forth the supplementary provisions that shall be applied to each use identified herein. These supplementary provisions must be satisfied prior to approval of any application for a certificate of use and occupancy permit, special exception and/or conditional use. The applicant shall be required to demonstrate compliance with these standards and must furnish whatever evidence is necessary to demonstrate such compliance.
2. All uses identified subsequently herein Article 5 must comply with the general provisions for uses within a particular zoning district in which the use is to be located, unless different standards are established herein the subsequent sections of Article 5; in any case, the more restrictive of the general and supplementary provisions shall apply.
3. For the purposes of this Article 5, any required setbacks shall be measured from the boundary line of the site for which the certificate of use and occupancy permit, special exception or conditional use is requested, regardless of whether or not this line corresponds to a property line or a lease line.

### **525.2 ADULT-RELATED USES**

Adult-related uses are permitted as provided in Article 2, subject to the following criteria:

1. Any adult-related uses shall not be permitted to be located within one thousand (1,000) feet of any other adult-related use.
2. No adult-related uses shall be located within one thousand (1,000) feet of any residentially-zoned land.
3. No establishment shall be located within one thousand (1,000) feet of any parcel of land which contains any one or more of the following specified land uses:
  - a. Amusement park.
  - b. Camp (for minors' activity).
  - c. Child care facility.
  - d. Church or other similar religious facility.
  - e. Community center.

- f. Museum.
  - g. Park.
  - h. Playground.
  - i. School.
  - j. Other lands where minors congregate.
4. The distance between any two (2) adult entertainment establishments shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of each establishment. The distance between any adult entertainment establishment and any land use specified above shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior property line of the adult entertainment establishment to the closest point on the property line of said land use.
  5. No materials, merchandise, or film offered for sale, rent lease, loan, or for view upon the premises shall be exhibited or displayed outside of a building or structure.
  6. Any building or structure used and occupied as an adult-related establishment shall be windowless, or have an opaque covering over all windows or doors of any area in which materials, merchandise, or film are exhibited or displayed, and no sale materials, merchandise, or film shall be visible from outside of the building or structure.
  7. No sign shall be erected upon the premises pictorially depicting or giving a visual representation of the type of materials, merchandise or film offered therein.
  8. Each entrance to the premises shall be posted with a notice specifying that persons under the age of eighteen (18) years are not permitted to enter therein and warning all other persons that they may be offended upon entry.
  9. No adult-related use may change to another adult-related use, except upon approval of an additional conditional use.
  10. The use shall not create an enticement for minors because of its proximity to nearby uses where minors may congregate.
  11. No unlawful sexual activity or conduct shall be permitted.
  12. No more than one (1) adult-related use may be located within one building or shopping center.

### **525.3 AGRICULTURE**

Agriculture uses, except for Intensive Farming Operation uses are permitted as provided in Articles 2 and 3, subject to the following criteria:

1. Minimum Lot Area shall be ten (10) acres.
2. Minimum Lot Width shall be two hundred fifty (250) feet.
3. Minimum Setback Requirements:
  - a. Front yard setback shall be fifty (50) feet:

- b. Side yard setback shall be fifty (50) feet on each side (100 feet total);
  - c. Rear yard setback shall be fifty (50) feet;
  - d. Special setback requirements - Except as provided for in the following paragraph, no new slaughter area, area for the storage or processing of manure, garbage, or spent mushroom compost, structures for the cultivation of mushrooms or the raising of commercial livestock, or any building housing commercial livestock, shall be permitted within three hundred (300) feet of any property line within any residential zoning district.
    - 1) The above special setback requirements may be reduced where it is shown that, because of prevailing winds, unusual obstructions, topography, or other conditions, a lesser distance would protect adjoining lands from odor, dust, or other hazards. In no case, however, shall the Zoning Hearing Board reduce the special setback requirement be reduced to less than one hundred (100) feet. The burden shall be upon the applicant to prove that a lesser distance would not be detrimental to the health, safety and general welfare of the community.
  - e. These setbacks shall not apply to agricultural fences that are used to contain agricultural livestock. Such fences shall be set back a minimum of six (6) feet from any adjoining street right-of-way lines.
4. Maximum Permitted Height shall be one hundred fifty (150) feet provided all structures are set back a distance at least equal to their height from all property lines.
  5. Maximum Lot Coverage shall be ten (10%) percent:
  6. All lanes exclusively serving agriculture uses shall be exempt from driveway and access drive requirements.
  7. Permitted accessory uses include, but are not limited to the following:
    - a. Roadside stands for the sale of agricultural products, subject to the following:
      - 1) Any structure used to display such goods and related parking shall be no more than two thousand (2,000) square feet in size and shall be located at least twenty-five (25) feet from any property line.
      - 2) At least half of the products displayed for sale must have been produced on the premises:
      - 3) Off-street parking shall be provided for all employees and customers.
      - 4) Any signs used shall be provided in accordance with Section 517 of this Ordinance.
    - b. Accessory and Family day-care facilities, as defined herein.
    - c. Manure storage facilities, subject to the following regulations:
      - 1) All manure storage facilities shall be designed in compliance with the most recent provisions of the PA DEP and York County Conservation District.
      - 2) All waste storage facilities' designs shall be reviewed by the York County Conservation District. The applicant shall furnish a letter from

the Conservation District attesting to approval of the design of the proposed facility.

3) Construction and subsequent operation of the waste storage facility shall be in accordance with the permit and the approved design. Any design changes during construction or subsequent operation will require the obtainment of another review by the York County Conservation District.

d. Other farm occupations as provided for in this Ordinance.

e. One (1) single-family detached dwelling.

#### **525.4 AIRPORTS/HELIPORTS AND AIRSTRIPS/HELIPADS**

Airports/heliports are permitted as provided in Article 2, subject to the following criteria:

1. Minimum Lot Area for airports and heliports shall be thirty (30) acres.
2. Minimum Lot Area of airstrips and helipads shall be ten (10) acres.
3. All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.
4. The applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the application.
5. No part of the take-off/landing strip and/or pad shall be located nearer than three hundred (300) feet from any property line, nor within one thousand (1,000) feet of any existing residential use.

#### **525.5 ANIMAL HOSPITALS**

Animal hospitals are permitted as provided in Articles 2 and 3, subject to the following criteria:

1. Minimum Lot Area – Unless animals are kept inside at all times, each site shall contain at least five (5) acres; otherwise, the minimum lot area requirement of the applicable zoning district shall apply.
2. All animal boarding buildings that are not completely enclosed, and any outdoor animal pens, stalls or runways shall be located within the rear yard and screened from adjoining properties, and shall be a minimum of one hundred (100) feet from all property lines.
3. All outdoor pasture areas shall be enclosed to prevent the escape of animals. All such enclosures shall be set back a minimum of ten (10) feet from all property lines.
4. The applicant shall furnish evidence of effective means of animal and veterinary waste collection and disposal which shall be implemented.

## **525.6 AUTOMOBILE FILLING STATIONS (INCLUDING MINOR INCIDENTAL REPAIR)**

Automobile filling stations are permitted as provided in Article 2, subject to the following criteria:

1. The subject property shall have a minimum width of one hundred twenty-five (125) feet.
2. The subject property shall front on an arterial or collector road.
3. The subject property shall be set back at least three hundred (300) feet from the closest point on the exterior lot line of any lot containing a school, day-care facility, playground, library, hospital or nursing, rest or retirement home.
4. The outdoor storage of vehicles awaiting repair shall not be permitted in front of the service building. No more than three (3) vehicles may be stored per service bay, and the storage area for such vehicles shall be screened from all adjoining roads and/or properties. No vehicle shall be stored upon the site for more than one (1) month.
5. All structures (including gasoline pump islands, but not permitted signs) shall be set back at least thirty (30) feet from any street right-of-way line.
6. No outdoor storage of auto parts shall be permitted.
7. All ventilation equipment associated with fuel storage tanks shall be set back one hundred (100) feet and oriented away from any adjoining residentially-zoned properties.
8. The applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with State and Federal regulations.

## **525.7 AUTOMOBILE SERVICE**

Automobile service facilities involving the reconditioning, service and repair facilities including, but not limited to auto mechanics drive-thru lubrication services and tires, auto paint, brake, muffler, transmission, windshield, auto body, car radio, and upholstery shop are permitted as provided in Article 2, subject to the following criteria:

1. All service and/or repair activities shall be conducted within a completely enclosed building.
2. All uses involving drive-thru service shall provide sufficient on-site stacking lanes to prevent vehicle back-ups on adjoining roads.
3. No outdoor storage of parts, equipment, lubricants, fuel, or other materials used or discarded, as part of the service or repair operation shall be permitted.
4. All exterior vehicle storage areas shall be subject to lot coverage requirements and screened from adjoining residentially-zoned properties and roads.
5. The storage of unlicensed vehicles is prohibited.

6. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directed toward any adjoining residentially-zoned property.
7. All vehicles shall be repaired and removed from the premises promptly.
8. The demolition or junking of automobiles is prohibited. Demolished vehicles or parts thereof shall be removed from the site within two (2) weeks of arrival.
9. The applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with State and Federal regulations, and that Section 524 of this Ordinance has been complied with.

### **525.8 BED AND BREAKFAST INNS**

Bed and breakfast inns are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. For the purposes of this Ordinance, a bed and breakfast shall be defined as an owner-occupied, single-family detached dwelling, where between one (1) and five (5) rooms are rented to overnight guests on a daily basis for periods not exceeding fourteen (14) consecutive days.
2. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character shall be permitted.
3. All floors above grade shall have direct means of escape to ground level.
4. Within the (A, R, RR and RH) zoning districts, all parking areas shall be set back a minimum of twenty-five (25) feet from all property lines. Within the (V) zoning district, all parking shall be located in the side and/or rear yard, shall be set back at least five (5) feet from adjoining lots, and shall be screened from adjoining lots and streets.
5. A bed and breakfast may erect one sign no larger than twelve (12) square feet in size, which must be set back ten (10) feet from all lot lines.
6. Meals shall be offered only to registered overnight guests.
7. The applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be used.
8. The applicant shall furnish proof of approval from the PA Department of Labor and Industry.

### **525.9 BILLBOARDS**

Billboard are permitted as provided in Article 2 subject to the following criteria:

1. No billboard shall be located within one thousand (1,000) feet of another billboard.
2. All billboards shall be a minimum of fifty (50) feet from all side and rear property lines.



3. All billboards shall be set back at least thirty-five (35) feet from any street right-of-way lines.
4. All billboards shall be set back at least five hundred (500) feet from any land within a residential zoning district.
5. No billboard shall obstruct the view of motorists on adjoining roads, or the view of adjoining commercial or industrial uses, which depend upon visibility for identification.
6. No billboard shall exceed an overall size of three hundred (300) square feet nor exceed twenty-five (25) feet in height.
7. All properties upon which a billboard is erected shall be regularly maintained so as not to create a nuisance by means of weeds, litter or vector habitation.

### **525.10 BOARDING HOUSES**

Boarding houses are permitted as provided in Article 2 subject to the following criteria:

1. Minimum Lot Area shall be one (1) acre.
2. The applicant shall furnish evidence that approved systems for sewage disposal and water supply shall be used.
3. Rooms for lodging shall have a minimum gross floor area of 150 square feet.
4. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character, shall be permitted.
5. All floors above grade shall have direct means of escape to ground level.
6. Parking shall be located in the side or rear yard, shall be set back at least five (5) feet from adjoining lots, and shall be screened from adjoining lots and streets.
7. One (1) sign, not to exceed six (6) square feet shall be permitted.
8. The applicant shall furnish evidence of approvals granted by the PA Department of Labor and Industry.

### **525.11 BUSINESS PARK**

Business parks are permitted as provided in Article 2 subject to the following criteria:

1. The business park shall contain non-motorized transportation facilities, including but not limited to sidewalks, walking paths, greenway linkages which shall be an integral part of the business park. The non-motorized transportation facilities shall connect all proposed lots and building sites within the business park and provide linkages to adjoining lots and future and existing development. The application shall identify the function or functions of each non-motorized pathway or greenway and shall design such pathway or greenway to adequately perform such function or functions.

2. Permitted Uses: The business park shall be permitted to have a mix of those listed as Industrial uses in Section 210 and 211 and accessory commercial uses limited to the following:
  - a. Banks and financial institutions.
  - b. Restaurants, (excluding Drive-Thru facilities).
  - c. Commercial daycare.
  - d. School, commercial.
  - e. Emergency services.
  - f. Hotels, motels.
  - g. Health and Fitness clubs.
  - h. Convenience stores.
  - i. Medical and dental clinics.
  - j. Emergency Services.
  - k. Essential Services.
  - l. Municipal Uses.
  - m. Public Uses.
  - n. Retail Sales, no one building to exceed 3,500 square feet in building size.
  - o. Retail Services; no one building to exceed 3,500 square feet in building size.
  - p. Wholesale warehousing facilities which do not exceed twenty thousand (20,000) square feet in building size and where clientele are specific users located elsewhere in the business park and retails sales are not conducted
  - q. Repair of business and office equipment.
3. A maximum of twenty (20%) percent of the gross floor area of the buildings within the business park shall be permitted to be developed with such accessory commercial uses. If the development of the businesses parks is proposed in phases, at no time during the development shall the portion of the floor area dedicated toward the accessory commercial uses exceed twenty (20%) percent of the total building floor area within the developed phases of the business park.
4. The areas of the business park set aside for the accessory commercial use shall be identified on the plans and shall be so designed to be internal to the business parks and to be accessory and in support of the overall industrial uses within the business park. The commercial uses shall be located within the business park to best facilitate motorized and non-motorized access.
5. The subject property shall front on an arterial or collector road, and all access drives shall be set back at least two hundred (200) feet from the intersection of any street rights-of-way. All internal access drives providing access to parcels within the park shall remain private.
6. Screening and buffering in compliance with Article 5 above herein shall be provided.
7. Both public sewer and public water utilities shall be utilized.
8. All uses within the Park must comply with all applicable Federal, State and local regulations.

9. A traffic study prepared in accordance with Section 523 of this Ordinance and Article 4 of the Newberry Township Subdivision and Land Development Ordinance.
10. The business center shall be permitted to erect one business center sign along each of the center's frontages. At least fifty (50%) percent of the total sign area shall be devoted to advertisement of the business center's name. The size of such sign shall not exceed one (1) square foot for each four (4) feet of frontage contained within the business center. In no case shall a business center sign exceed a maximum size of one hundred (100) square feet nor an overall height of twenty (20) feet. In addition, individual uses within the business center may have signs; however, such signs shall be flat wall, wall projecting, or roof signs as described in Section 517 of this Ordinance.

### **525.12 CAMPGROUNDS**

Campgrounds are permitted as provided in Article 2 subject to the following criteria:

1. Setbacks - All campsites shall be located at least fifty (50) feet from any side or rear property line and at least one hundred (100) feet from any public street right-of-way line.
2. Each campground shall contain at least ten (10) acres. Each campsite shall be at least three thousand (3,000) square feet in size and shall either provide parking space for one (1) automobile which will not interfere with the convenient and safe movement of traffic, or equivalent parking shall be provided in a common parking area.
3. An internal road system shall be provided. Access roads shall be designed and constructed in accordance with the Newberry Township Subdivision and Land Development and Newberry Township Construction Improvements Specifications standards. On-drive parallel parking shall not be permitted.
4. All outdoor play areas shall be set back one hundred (100) feet from any property line and screened from adjoining residentially-zoned properties. Such outdoor play areas shall be used exclusively by registered guests and their visitors.
5. All campgrounds shall furnish centralized completely enclosed sanitary and garbage collection facilities that are leak proof and vermin proof and that shall be set back a minimum of one hundred (100) feet from any property line. Such facilities shall be screened from adjoining residentially-zoned properties.
6. Any accessory retail or service commercial uses shall be set back a minimum of one hundred (100) feet from any property line. Such accessory commercial uses shall be solely designed and constructed to serve the campground's registered guests and their visitors. Any parking spaces provided for these commercial uses shall only have vehicular access from the campground's internal road rather than the public street. All accessory commercial uses and related parking shall be screened from adjoining residentially-zoned properties.

7. All campgrounds containing more than one hundred (100) campsites shall have vehicular access to an arterial or collector street as identified on the Official Zoning Map, and shall be located on lands that are not characterized by a majority of prime agricultural soils as defined herein.
8. A campground may construct one freestanding or attached sign containing no more than thirty-two (32) square feet. Any reference to accessory commercial or recreational facilities shall remain secondary in size to the reference of the principal campground use. Such sign shall be set back at least ten (10) feet from the street right-of-way line, at least one hundred (100) feet from any residential zone, and, at least twenty-five (25) feet from adjoining lot lines.
9. A minimum of twenty (20%) of the gross area of the campground shall be devoted to active and passive recreational facilities. Responsibility for maintenance of the recreation area shall be with the landowner.
10. During operation every campground shall have an office in which shall be located the person responsible for operation of the campground.
11. All water utilities, sewage disposal systems, rest rooms, solid waste disposal and vector control shall be approved and maintained in accordance with the requirements of the PA DEP.
12. All lighting shall be arranged and shielded so that no glare or direct illumination shall be cast upon adjacent properties or public streets.
13. No permanent structures shall be permitted on any campsite other than fire places.
14. No recreational vehicles may be parked within a campground for more than one hundred eighty (180) consecutive days.
15. No persons shall be permitted to permanently reside on any campsite.

### **525.13 CAR WASHES**

Car washes are permitted as provided in Article 2 subject to the following criteria:

1. Public sewer and public water utilities shall be utilized, and grey water recycling is encouraged. Adequate provision for the collection and disposal of greases shall be demonstrated.
2. For automatic and self-service car washes, each washing bay shall provide a one hundred (100) foot long on-site stacking lane which precedes the washing process. For full service car washes, such on-site stacking shall be a minimum of three hundred (300) feet per bay.
3. For full service car washes, a post-washing drying area shall be provided for no less than six (6) vehicles per washing bay.
4. All structures housing washing apparatuses shall be set back one hundred (100) feet from any street right-of-way line, fifty (50) feet from any rear property line, and twenty (20) feet from any side lot line.

5. Trash receptacles shall be provided and routinely emptied to prevent the scattering of litter, and the applicant shall furnish and implement a working plan for the cleanup of litter and debris.
6. The subject property shall front on an arterial or collector road.
7. The applicant shall demonstrate compliance with Section 524 of this Ordinance.

#### **525.14 CEMETERIES**

Cemeteries are permitted as provided in Article 3 subject to the following criteria:

1. For cemeteries exceeding two (2) acres in size, the applicant must demonstrate the proposed location does not consist of prime farmland.
2. All burial plots or structures shall be located at least twenty (20) feet from any property line or street right-of-way line.
3. Assurances must be provided that water supplies of surrounding properties will not be contaminated by burial activity within the proposed cemetery.
4. No burial plots or facilities shall be permitted in the Floodplain Protection Overlay.

#### **525.15 COMMUNICATION ANTENNAS, TOWERS AND EQUIPMENT**

Communication antennas, tower and equipment are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. Unless co-located upon another existing structure, the applicant shall demonstrate that the proposed location is necessary for the efficient operation of the system.
2. All towers and guide wire anchors shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.
3. No new site shall be located within five hundred (500) feet of:
  - a. The nearest property line of any, adjoining property used for an existing residential use.
  - b. The nearest property line of any approved lot which has been subdivided during the last five (5) years for residential purposes, which has not yet been constructed.
  - c. The nearest property line of any lot proposed for residential purposes which have been submitted for preliminary or final subdivision plan approval.
4. For any new site adjacent to any other properties (than those listed in S. 525.15.3 of this Ordinance), all structures shall be set back from each property line a distance equal to it height, but in no case shall any structure be permitted to be located within any required minimum setback.
5. If the site is in A or RR zoning districts, the applicant shall demonstrate that the proposed location is located on the least productive soils (Class IV-VIII).
6. The applicant must be licensed by the Federal Communication Commission (FCC).

7. No tower shall be artificially lighted except when required by the Federal Aviation Administration (FAA).
8. The application shall submit notice of approval for the proposed installation from the FAA and the FCC.
9. The applicant shall submit expert testimony that the communication tower or antenna is the minimum height required to function satisfactorily.
10. Any utilities extended to the tower site shall be placed underground.
11. The applicant shall submit a plan for the removal of the communication tower and the communication antenna when they become functionally obsolete or are no longer in use. The applicant shall be responsible for the removal of the facility within three (3) months from the date the applicant ceases use of the facility or the facility becomes obsolete.
12. In order to reduce the number of antenna support structures needed in the Township in the future, any proposed support structure shall be designed to accommodate the maximum load of carriers and equipment.
13. If an antenna site is fully automated, two (2) off-street parking spaces shall be required. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift, but in any event, may not be less than two (2) off-street parking spaces.
14. The maximum size of an equipment shelter should be five hundred (500) square feet.

#### **525.16 DAY-CARE FACILITIES, COMMERCIAL**

Commercial day-care facilities are permitted as provided in Article 2 subject to the following criteria:

1. An outdoor play area shall be provided, at a rate of sixty-five (65) square feet per individual enrolled. Off-street parking areas shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and screening and buffering shall be in compliance with Article 5 above herein, but vegetative materials located within the outdoor play areas shall be of a nonharmful type (poisonous, thorny, allergenic, etc.) All outdoor play areas must provide a means of shade, such as a shade tree(s) or pavilion(s).
2. Enrollment shall be defined as the largest number of students and/or children under day-care supervision at any one time during a seven (7) day period.
3. Passenger “drop-off” and “pickup” areas shall be provided on site and arranged so that the passengers do not have to cross traffic lanes on or adjacent to the site.
4. All commercial day-care facilities shall obtain and maintain the proper licensure from the Commonwealth of Pennsylvania.
5. The applicant shall demonstrate that adequate safeguards are provided to protect students from nearby, intensive commercial and industrial uses.

## **525.17 DAY-CARE FACILITIES, FAMILY**

Family day-care facilities are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. All family day-care facilities shall be conducted within a detached single-family dwelling.
2. A family day-care facility shall offer care and supervision to no more than six (6) different non-resident minors during any calendar day.
3. All family day-care facilities with enrollment of more than three (3) minors shall furnish a valid Registration Certificate for the proposed use, issued by the PA Department of Public Welfare.
4. An outdoor play area no less than three hundred ninety (390) square feet in area shall be provided. Such play area shall not be located within the front yard nor any vehicle parking lot. Outdoor play areas shall be set back at least twenty-five (25) feet and screened from any adjoining existing residential use or residentially-zoned properties with Level 1 screening in accordance with Section 516 of this Ordinance, but no vegetative materials located within the outdoor play areas shall be of a nonharmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must include a means of shade, such as a tree(s) or pavilion(s).
5. Passenger “drop-off” and “pick-up” areas shall be provided on site and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site,

## **525.18 DWELLING, MULTI-FAMILY**

Multi-family dwellings are permitted as provided in Article 2 subject to the following criteria:

1. Minimum Lot Area shall be two (2) acres.
2. All dwelling units must be connected to public sewer and public water systems.
3. Minimum Required Setbacks – All structures and dumpsters shall be set back at least fifty (50) feet from every property line. Off-street parking and loading shall be set back at least twenty-five (25) feet from every property line. Interior building set-backs shall be as follows.
  - a. Front to front, rear to rear, or front to rear, parallel buildings shall have at least 0.5 times the average length of the buildings between faces of the building. If the front or rear faces are obliquely aligned, the above distance may be decreased by as much as ten (10) feet at one end if increased by similar or greater distance at the other end.
  - b. A minimum yard space of thirty (30) feet is required between end walls of buildings. If the buildings are at right angles to each other, the distance between the corners of the end walls of the building may be reduced to a minimum of twenty (20) feet. and
  - c. A minimum yard space of forty (40) feet is required between end walls and front or rear faces of buildings.

4. At least thirty (30%) of any multi-family dwelling development site shall be devoted to common open space required by the Newberry Township Subdivision and Land Development Ordinance and Section 522 of this Ordinance. Such required open space shall be in addition to any dedicated parklands and/or fees in-lieu thereof. The location, design, ownership, and maintenance of such common open space shall be subject to the requirements of Section 522 of this Ordinance.

### **525.19 ECHO HOUSING**

ECHO housing is permitted as provided in Articles 2 and 3 subject to the following criteria:

1. The elder cottage shall be of portable construction and may not exceed nine hundred (900) square feet of floor area.
2. The total building coverage for the principal dwelling, any existing accessory structures, and the elder cottage together shall not exceed the maximum lot coverage requirement for the respective zoning district.
3. The elder cottage shall only be occupied by at least one (1) person who is at least fifty-five (55) years old, handicapped or disabled, and is related to the occupants of the principal dwelling by blood, marriage or adoption.
4. The elder-cottage shall be occupied by a maximum of two (2) people.
5. Utilities:
  - a. For sewage disposal and water supply and all other utilities, the elder cottage shall be physically connected to those systems serving the principal dwelling. No separate utility systems or connections shall be constructed or used. All connections shall meet the applicable utility company standards. And,
  - b. If on-site sewer or water systems are to be used, the applicant shall submit evidence to the Township showing that the total number of occupants in both the principal dwelling and the elder cottage will not exceed the maximum capacities for which the one-unit systems were designed, unless those systems are to be expanded, in which case the expansion approvals are to be submitted. Any connection to or addition to an existing on-site sewer system shall be subject to the review and approval of the Township Sewage Enforcement Officer.
6. The required parking for the elder cottage unit shall be all-weather, off-street parking, with unrestricted ingress and egress to the street right-of-way, shall be provided in addition to that required for the principal dwelling.
7. The elder cottage shall be installed and located only in the side or rear yards, and shall adhere to all side and rear yard setback requirements for principal uses.
8. The elder cottage shall be removed from the property within three (3) months after it is no longer occupied by a person who qualifies for the use.
9. Upon the proper installation of the elder cottage, the Zoning Officer shall issue a temporary zoning permit. Such permit shall be reviewed every twelve (12)



months until such time as the elder cottage is required to be removed. A fee, in the amount to be set by the Board of Supervisors, shall be paid by the landowner upon each renewal of the temporary zoning permit. Such fee shall be based upon the cost of the annual review of the permit.

### **525.20 ESSENTIAL SERVICES**

Essential Service buildings and/or structures are permitted as provided in Articles 2 and 3 subject to the following criteria

1. Front, side and rear yards shall be provided in accordance with the regulations of the zoning district in which the building or structure is located.
2. Height of building or structure shall be as required by the specific zoning district the building or structure is located within.
3. Unhoused equipment shall be enclosed with a chain link fence six (6) feet in height.
4. Housed Equipment - When the equipment is totally enclosed within a building, no fence or screen planting shall be required and the yard shall be maintained in conformity with the zoning district in which the facility is located.
5. Screen Planting in Residential Zoning Districts - The required fence for unhoused equipment shall be screened as defined in Article 5 of this Ordinance.
6. The external design of the building shall be in conformity with the buildings in the zoning district.
7. Storage of Vehicles - Within the Rural Resource Area Zoning Districts, as well as the residential zoning districts, the permitted public facilities shall not include the storage of vehicles or equipment used in the maintenance of any utility and no equipment causing noise, vibration, smoke, odor, or hazardous effect shall be installed.

### **525.21 FARM OCCUPATIONS**

Farm Occupations are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. For the purposes of this section, farm occupations may involve any one of a wide range of uses, so long as it remains secondary to and compatible with the active farm use. Retail sales shall only be permitted incident to the production of goods on the site.
2. Only farm residents shall be employed by the farm occupation and the owner of the farm occupation must reside on the site.
3. The use must be conducted within one completely enclosed building. Where practicable the farm occupation shall be conducted within an existing farm building. However, any new building constructed for use by the farm occupation shall be located behind the farm's principal buildings, or must be no less than one hundred (100) feet from any adjoining street rights-of-way or properties.

4. Any new building constructed for use by the farm occupation shall be of a design so that it can be readily converted to agricultural use, or removed, if the farm occupation is discontinued.
5. No part of a farm occupation shall be located within one hundred (100) feet of any side or rear lot line, nor three hundred (300) feet of any land within a residential zoning district. Such distances shall be measured as a straight line between the closest points of any physical improvement associated with the farm occupation and the property/zoning line.
6. The farm occupation shall occupy no more than four thousand (4,000) square feet of gross floor area, nor more than one (1) acre of lot area. However, any driveway serving the farm occupation and the farm shall not be calculated as land serving the farm occupation.
7. No more than fifty (50%) of the land devoted to a farm occupation shall be covered by buildings, structures, parking or loading areas, or any other impervious surfaces.
8. Any sign used for a farm occupation shall not exceed ten (10) square feet in size.
9. For farm parcels of up to fifty (50) acres in size, while the farm occupation is in operation, no nonfarm subdivision of the site shall be permitted.

#### **525.22 FARMERS AND/OR FLEA MARKETS**

Farmers and/or Flea Markets are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. The retail sales area shall be considered to be that of the smallest rectangle, or other regular geometric shape which encompasses all display stands, booths, tables or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale. The retail sales shall include all indoor and/or outdoor areas as listed above.
2. The retail sales area shall be set back at least fifty (50) feet from all property lines, and shall be calculated as part of the maximum permitted lot coverage, regardless of its surface treatment.
3. Off-street parking shall be provided at the rate of one space per each two hundred (200) square feet of retail sales area, and shall be designed and used in accordance with Section 512 of this Ordinance.
4. Off-street loading shall be calculated upon the retail sales area described above and according to the schedule listed in Section 513 of this Ordinance.
5. All outdoor display and sales of merchandise shall not begin prior to one hour before the official sunrise and shall cease no less than one (1) hour prior to dusk.
6. Any exterior amplified public address system shall be arranged and designed so as to prevent objectionable impact on adjoining properties.

7. The applicant shall be required to demonstrate adequacy of sewage disposal and water supply.
8. Exterior trash receptacles shall be provided amid any outdoor retail sales area. Such trash receptacles shall be routinely emptied so as to prevent the scattering of litter and debris. All applications shall include a description of a working plan for the cleanup of litter.

## **525.23 FORESTRY**

Forestry permitted as provided in Articles 2 and 3 subject to the following criteria where the value of the trees, logs or other timber products removed exceeds \$1,000. These provisions do not apply to the cutting of trees for the personal use of the landowner or for precommercial timber stand improvement:

### **A. NOTIFICATION OF COMMENCEMENT OR COMPLETION**

For all timber harvesting operations that are expected to exceed two acres, the landowner shall notify the Township Zoning Officer at least thirty (30) business days before the operation commences and within fifteen (15) days before the operation is completed. No timber harvesting shall occur until the notice has been provided. Notification shall be in writing and shall specify the land on which harvesting will occur, the expected size of the harvest area and, as applicable, the anticipated starting or completion date of the operation and logging plan. This written notification shall also specify any private roads affected, dates of affect, plans to restore any damages to private roads and contact information for the logging operations submitted to owners abutting the private road used to access the logging site.

### **B. PREPARATION OF A LOGGING PLAN**

Every landowner on whose land timber harvesting is to occur shall prepare a written logging plan in the form specified in this subsection. No timber harvesting shall occur until the plan has been prepared and proper notification of commencement is provided to the Township. The provisions of this plan shall be followed throughout the operation. The plan shall be available at the harvest site at all times during the operation and shall be provided to the Township Zoning Officer upon request.

### **C. RESPONSIBILITY FOR COMPLIANCE**

The landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan.

### **D. CONTENTS OF THE LOGGING PLAN**

1. As a minimum, the logging plan shall include the following:
  - a. Design, construction, maintenance and retirement of the access system, including haul roads, skid roads, skid trails and landings.
  - b. Design, construction and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips and water bars.
  - c. Design, construction and maintenance of stream and wetland crossings.

- d. The general location of the proposed operation in relation to Township and state highways, including any accesses to the highways.
- 2. Each logging plan shall include a site map containing the following information:
  - a. Site location and boundaries, including both the boundaries of the property on which the timber harvest will take place and the boundaries of the proposed harvest area within that property.
  - b. Significant topographic features related to potential environmental problems.
  - c. Location of all earth disturbance activities such as roads, landings and water control measures and structures.
  - d. Location of all crossing of waters of the commonwealth.
  - e. The general location of the proposed operation to Township and state highways, including any accesses to those highways.

**E. COMPLIANCE WITH APPLICABLE REGULATIONS**

The logging plan shall address and comply with the requirements of all applicable state laws and regulations and Township ordinances, including, but not, limited to, the following:

- 1. Soil Erosion and Sedimentation control regulations and standards of the York County Conservation District and/or PA DEP requirements.
- 2. Stream crossing and wetlands protection regulations of PA DEP and/or the U.S. Army Corps of Engineers.
- 3. Stormwater management plans and regulations issued pursuant to Section 609 of the Newberry Township Subdivision and Land Development Ordinance.

**F. RELATIONSHIP OF STATE LAWS, REGULATIONS AND PERMITS TO THE LOGGING PLAN**

Any permits required by state laws and regulations shall be attached to and become part of the logging plan. An erosion and sedimentation pollution control plan that satisfies the requirements of 25 Pennsylvania Code, Chapter 102, shall also satisfy the minimum requirements for the logging plan and associated map specified previously, provided that all information required by these subsections is included or attached.

**G. RESPONSIBILITY FOR ROAD MAINTENANCE AND REPAIR; ROAD BONDING**

The landowner and the operator shall be responsible for repairing any damage to Township roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic. Pursuant to 67 Pennsylvania Code, Chapter 189, Newberry Township may require the landowner or operator to furnish a bond to guarantee the repair of such damages.

**525.24 FUNERAL HOMES**

Funeral homes are permitted as provided in Article 2 subject to the following criteria:

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1. Public sewer and public water utilities shall be utilized.
2. Sufficient off-street parking shall be provided to prevent traffic back-ups onto adjoining roads.
3. No vehicular access to the site shall be from an arterial road.

### **525.25 GOLF COURSES**

Golf courses are permitted as provided in Article 2 subject to the following criteria:

1. In no case shall the golf course design permit or encourage a golf ball to be driven across any building, building lot, parking lot, street right-of-way, access drive, or driveway.
2. Golf paths shall be graded so as to discharge storm water runoff. Surface conditions of paths shall be adequately protected from an exposed soil condition.
  - a. The golf course design shall minimize golf path crossings of streets, access drives and driveways. Easily identifiable golf paths must be provided for crossings of streets, access drives or driveways. The golf course design shall both discourage random crossing and require use of the golf path crossings of streets, access drives and driveways. Golf path crossings shall conform to the following:
    - 1) Each crossing shall be perpendicular to the traffic movements.
    - 2) Only one street access drive or driveway may be crossed at each location.
    - 3) No crossing is permitted between a point fifteen (15) feet and one hundred fifty (150) feet from the cartway edge of a street access drive or driveway intersection.
    - 4) The crossing must be provided with a clear sight triangle of seventy-five (75) feet, measured along the street, access drive or driveway centerline and the golf path centerline, to a location on the centerline of the golf path, five (5) feet from the edge of the roadway. No permanent obstruction over three (3) feet high shall be placed within this area.
    - 5) Golf path intersections shall be designed to provide adequate sight distance with regard to both horizontal and vertical alignment. The required sight distance shall be governed by Section 603 of the Newberry Township Subdivision and Land Development Ordinance:
    - 6) The golf cart path shall not exceed a slope of eight (8%) percent within twenty-five (25) feet of the cartway crossing.
    - 7) Golf path crossings shall be signed warning motorists and pedestrians and golfers. The surface of the golf path shall be brightly painted with angle stripes.
    - 8) Golf path crossings of collector or arterial streets shall consist of a tunnel that is located below street grade. The golf course design shall both prohibit on-grade crossing of collector or arterial streets and require the use of the tunnel. The construction of the collector or

arterial roadway crossing of the tunnel shall comply with PennDOT standards.

3. All golf course buildings shall be set back seventy-five (75) feet from any adjoining roads and one hundred (100) feet from adjoining existing residential properties.
4. Golf courses may include the following accessory uses, provided such uses are reasonably sized, and located so as to provide incidental service to the golf course employees and users:
  - a. Clubhouse, which may consist of
    - 1) Restaurant, (excluding Drive-Thru facilities) snack bar, lounge and banquet facilities.
    - 2) Locker and rest rooms.
    - 3) Pro shop.
    - 4) Administrative offices.
    - 5) Golf cart and maintenance equipment storage and service facilities.
    - 6) Guest lodging for those using the golf course, provided:
      - a) no lodging units have separate exterior means of ingress/egress.
      - b) all lodging units shall be contained within the main clubhouse.
      - c) such guest lodging shall have a total occupancy of no more than twenty (20) persons.
    - 7) Fitness and health equipment, including workout machines, spas, whirlpools, saunas, and steam rooms.
    - 8) Game rooms, including card tables, billiards, ping-pong, and other similar table games.
    - 9) Baby-sitting rooms and connected fence-enclosed playlots.
  - b. Accessory recreation amenities located outside of a building, including:
    - 1) Driving range, provided the applicant shall furnish expert evidence that all lighting has been arranged to prevent glare on adjoining properties.
    - 2) Practice putting greens.
    - 3) Swimming pools.
    - 4) Tennis, platform tennis, handball, racquetball, squash, volleyball, and badminton courts.
    - 5) Boccie ball, croquet, shuffleboard, quoits, horseshoe pits, and washers courses.
    - 6) Picnic pavilions, picnic tables, park benches, and barbecue pits.
    - 7) Hiking, biking, horseback riding, and cross-country ski trails.
    - 8) Playground equipment and playlot games, including 4-square, dodge ball, tetherball, and hopscotch.
  - c. Freestanding maintenance equipment and supply buildings and storage yards.
5. All outdoor storage of maintenance equipment and/or golf carts shall be set back at least one hundred (100) feet and screened from adjoining residential properties and roads.

6. All dumpsters and off-street parking and/or loading areas shall be screened from adjoining or nearby residences. In addition, all off-street loading and dumpsters shall be screened from adjoining roads.

### **525.26 GREENHOUSES AND NURSERIES**

Greenhouses and nurseries are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. The display and sale of items not grown on the premises shall be incidental to the greenhouse/nursery operation. The display and sales area for those items shall be limited to not more than twenty-five (25%) percent of the total gross display and sales area on the property.
2. The display, sale and/or repair of power tools or motorized nursery, lawn or garden equipment shall not be permitted.

### **525.27 HEALTH AND FITNESS CLUBS**

Health and fitness clubs are permitted as provided in Article 2 subject to the following criteria:

1. Off-street parking shall be provided as required by the combination of elements comprising the health club, including accessory uses.
2. All outdoor recreation facilities shall be set back at least fifty (50) feet from the street right-of-way line, and twenty-five (25) feet from all other lot lines, and one hundred (100) feet from any existing residential use or residentially-zoned properties.
3. Any accessory eating, or retail use, shall not be directly accessible without passing through the main clubhouse building.
4. The applicant shall furnish expert evidence that all lighting of outdoor recreation areas has been arranged to prevent glare on adjoining properties and streets.

### **525.28 HEAVY EQUIPMENT SALES, WASHING, SERVICE AND/OR REPAIR FACILITIES**

Heavy equipment sales, washing, service and repair uses are permitted as provided in Article 2 subject to the following criteria:

1. These uses include sales, washing, service and repair of excavation machinery, commercial trucks, buses, farm equipment, mobile homes, trailers, and other similar machinery.
2. All service and/or repair activities shall be conducted within a completely enclosed building.
3. All uses involving drive-thru service shall provide sufficient on-site stacking lanes to prevent vehicle backups on adjoining roads.
4. All exterior storage and/or display areas shall be screened from adjoining residentially-zoned properties. All exterior storage/display areas shall be set back

at least fifty (50) feet from adjoining street lines and shall be covered in an all-weather, dust-free surface.

5. The storage of junked vehicles, boats, machinery, trucks, trailers, mobile homes and heavy equipment vehicles on the property is prohibited.
6. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directed toward any adjoining residentially-zoned property.
7. All vehicles shall be repaired and removed promptly from the premises.
8. The applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with State and Federal regulations, and that Section 525 of this Ordinance has been complied with.

### **525.29 HEAVY INDUSTRIAL USES**

Heavy industrial uses are permitted as provided in Article 2 subject to the following criteria:

1. The applicant shall provide a detailed description of the proposed use in each of the following topics:
  - a. The nature of the on-site processing operations, the materials used in the process, the products produced, and the generation and methods for disposal of any by-products. In addition the applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with State and Federal regulations.
  - b. The general scale of the operation in terms of its market area, specific floor space requirements for each step of the industrial process, the total number of employees on each shift, and an overall needed site size.
  - c. Any environmental impacts that are likely to be generated (e.g. odor, noise, smoke, dust litter, glare, vibration, electrical disturbance, waste water, storm water, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The applicant shall further furnish expert evidence that the impacts generated by the proposed use fall within acceptable levels as regulated by applicable laws and ordinances, including, but not limited to, those of Section 521 of this Ordinance.
  - d. A traffic study prepared in accordance with Article 4 of the Newberry Township Subdivision and Land Development Ordinance.

### **525.30 HOME OCCUPATIONS**

Home occupations are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. The use shall be clearly incidental to the primary use of the premises as a single-family detached dwelling for living purposes.
2. No more than two (2) persons, at least one of whom shall be a resident of the dwelling, may be engaged in the home occupation use.
3. No more than one (1) home occupation may be located in any dwelling unit.



4. The home occupation shall not alter the appearance of the building as a dwelling unit.
5. No mechanical equipment shall be employed in a home occupation, other than that customarily utilized for hobby or domestic purposes.
6. No manufacturing shall occur on the premises other than the products of customary hobbies and fabrication of garments by a seamstress.
7. No goods shall be displayed so as to be visible from the exterior of the premises.
8. Home occupations shall be limited to not more than twenty-five (25%) percent of the gross floor area of the dwelling unit, or four hundred (400) square feet of gross floor area, whichever is less.
9. No accessory building or structure shall be utilized as a home occupation.
10. Signs shall be provided in accordance with Section 517 of this Ordinance.
11. The applicant shall submit evidence of all applicable State approvals.

### **525.31 HOSPITALS**

Hospitals are permitted as provided in Article 2 subject to the following criteria:

1. Minimum Lot Area shall be five (5) acres.
2. Public sewer and public water utilities shall be utilized.
3. The subject property shall have frontage along an arterial or collector road.
4. Maximum Permitted Height - Ninety (90) feet provided that each building and/or structure shall be set back a horizontal distance from each property line at least equal to its height. For buildings exceeding thirty-five (35) feet, the applicant shall be required to submit expert evidence that sufficient safeguards regarding fire protection and rescue are in place.
5. Emergency entrances shall be located on a building wall facing away from adjoining residentially-zoned and/or used properties.
6. The applicant shall demonstrate proof of an approved means of disposal of all solid, medical, and hazardous wastes.
7. A traffic study prepared in accordance with Section 525 of this Ordinance and Article 4 of the Newberry Township Subdivision and Land Development Ordinance.

### **525.32 INDOOR COMMERCIAL RECREATION**

Indoor commercial recreation facilities are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. All activities shall take place in a completely enclosed building.
2. The applicant shall furnish evidence as to how the use will not constitute a nuisance due to noise or loitering outside the building.

3. Screening and buffering in compliance with Article 5 above herein shall be provided.
4. Applicant shall furnish expert evidence that all lighting has been arranged to prevent glare on adjoining properties.
5. All outdoor storage of maintenance equipment shall be set back at least one hundred (100) feet and screened from adjoining residential properties and roads.
6. All dumpsters and off-street parking and/or loading areas shall be screened from adjoining or nearby residences. In addition, all off-street loading and dumpsters shall be screened from adjoining roads.
7. The applicant shall furnish evidence that approved systems for sewage disposal and water supply shall be used.

### **525.33 INTENSIVE FARMING OPERATION**

Intensive Farming Operation uses are permitted as provided in Article 3, subject to the following criteria:

1. The development of new Intensive Farming Operation operations, or the expansion of existing Intensive Farming Operation operations, subject to the following conditions:
  - a. Minimum lot area shall be fifty (50) acres. Where a lot is comprised of more than one tract the owner of such tracts shall combine them under a single deed, which will preclude individual tracts being placed in separate ownership without processing a subdivision plan. The deed shall be recorded in the York County Register and Records Office, and a copy of such deed shall be included in the application.
  - b. The following setbacks are required:
    - 1) For new Intensive Farming Operation operations, the structure housing the Intensive Farming Operation operation shall be located no closer than one hundred (100) feet from any side or rear property line, no closer than one thousand (1,000) feet from any dwelling or water well not owned by the owner of the Intensive Farming Operation operation, and no closer than one thousand (1,000) feet from any place of worship or school. For expansions of existing Intensive Farming Operation operations, any additional lot coverage shall not be located on the property in such a manner that would increase the degree of nonconformity of the existing operation, if such nonconformity exists, with the setback requirements established by this section.
    - 2) New Intensive Farming Operation operations or expansions of existing Intensive Farming Operation operations receiving manure from a CAO directly or indirectly through a broker or other person shall not mechanically land apply manure within one hundred (100) feet of a stream, lake, or pond, unless a vegetated buffer no less than thirty-five (35) feet in width and meeting standards established by the

Natural Resources Conservation Service (NRCS) is used to prevent manure runoff into the water body.

- c. Max lot coverage: Ten (10%) percent.
- d. Maximum Permitted Height - One hundred fifty (150) feet provided all structures are set back a distance at least equal to their height from all property lines:
- e. For new Intensive Farming Operation operations, or expansions of existing Intensive Farming Operation operations, which require a nutrient management plan in accordance with the Pennsylvania Nutrient Management Act, the applicant shall demonstrate that such plan has been prepared and submitted to the York County Conservation District for review prior to the formal review and any subsequent action by the Township. Further, the applicant shall demonstrate that such plan has been approved by the York County Conservation District prior to the issuance of the zoning permit in accordance with Article 8 of this Ordinance.
- f. A water supply feasibility report shall be prepared in accordance with Section 402.01.9 of the Newberry Township Subdivision and Land Development Ordinance to demonstrate that sufficient water resources are available to serve the proposal.
- g. The applicant shall demonstrate, satisfactorily that the methods of disposing of dead animals are in strict compliance with applicable standards established by the PA DEP. Dead turkeys, chickens, or piglets shall be kept in airtight containers. Larger dead animals shall be kept in a manner so as to minimize the spread of odors and disease.
- h. A land development plan shall be submitted in accordance with the requirements of the Newberry Township Subdivision and Land Development Ordinance.
- i. Areas designed for outdoor storage of pallets, machinery, or other materials shall be provided with landscaping and screening in accordance with Sections 515 and 516 of this Ordinance.
- j. The perimeter of any parking area shall be landscaped in accordance with Section 512 of this Ordinance.

### **525.34 JUNK YARDS**

Junk yards are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. Minimum Lot Area shall be ten (10) acres.
2. The outdoor area devoted to the storage of junk shall be completely enclosed by an eight (8) foot high, sight-tight fence which shall be set back at least fifty (50) feet from all property lines and one hundred (100) feet from residentially-zoned and existing residential properties.
3. Screening and buffering in compliance with Article 5 above herein shall be provided.
4. All completely enclosed buildings used to store junk shall be set back at least fifty (50) feet from all property lines.

5. No material may be stored or stacked so that it is visible from adjoining properties and street rights-of-way.
6. All additional Federal and State laws shall be satisfied.
7. All junk shall be stored or arranged so as to permit access by firefighting equipment and to prevent the accumulation of water, and with no junk piled to a height greater than eight (8) feet.
8. No material shall be burned at any time.
9. Any junk yard shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor to cause the breeding or harboring of rats, flies, or other vectors.
10. No junk yard shall be located on land with a slope in excess of five (5%) percent.
11. All junk yards shall comply with the Township's Junk Yard Ordinance.
12. All vehicles within the junk yard shall be completely drained of fuel, lubricants, battery fluid, transmission fluid, brake fluids, coolants, and air conditioning fluids.

### **525.35 KENNELS**

Kennels are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. Minimum Lot Area shall be ten (10) acres.
2. Any structure used for the boarding of horses and/or dogs shall be set back at least three hundred (300) feet from any property line.
3. All kennels shall be maintained so to minimize odors perceptible at the property line.
4. All outdoor boarding or running areas shall be enclosed by a minimum four (4) foot-high fence, which is located at least twenty-five (25) feet from all property lines.
5. All parking compounds and unimproved overflow parking areas shall be set back at least ten (10) feet from adjoining lot lines. Unimproved overflow parking areas shall also provide a fence delineating such occasional parking facilities and preventing the parking and/or movement of vehicles across neighboring properties.
6. The applicant shall furnish evidence of an effective means of animal waste disposal which shall be implemented.

### **525.36 LABORATORIES FOR MEDICAL, SCIENTIFIC, OR INDUSTRIAL RESEARCH AND DEVELOPMENT**

Laboratories for medical, scientific, or industrial research and development are permitted in Article 2 subject to the following criteria:

1. The applicant shall provide a detailed written description of the proposed use in each of the following topics:
  - a. The nature of the on-site operations, the materials use, the products produced, and the generation and methods of disposal of any wastes and/or by products. In addition, the applicant shall furnish evidence that the storage and disposal of materials will be accomplished in a manner what complies with State and Federal regulations.
  - b. The total number of employees on each shift, and overall needed site size.
  - c. Any environmental impacts that are likely to be generated (e.g. odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The applicant shall further furnish expert evidence that the impacts generated by the proposed use fall within acceptable levels as regulated by applicable laws and ordinances.
  - d. A traffic study prepared in accordance with Section 525 of this Ordinance and Article 4 of the Newberry Township Subdivision and Land Development Ordinance.

### **525.37 MEDICAL OR DENTAL CLINIC**

Medical or dental clinics are permitted as provided in Article 2 subject to the following criteria:

1. Public water and public sewer shall be used.
2. Any accessory services, including laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic, may be permitted as part of the clinic facility, subject to the following specific conditions:
  - a. All entrances to parts of the building in which these accessory services are provide shall be from within the building and shall not be directly accessible without passing through the building.
  - b. The hours during which these services are provided shall be the same as those during the regular operation of the principal clinic.

### **525.38 MINI-WAREHOUSES**

Mini-warehouses are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. Parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least twenty-four (24) feet wide when cubicles open onto one side of the lane or when cubicles open onto both sides of the lane.
2. Required parking spaces may not be rented as, or used for, vehicular storage. However, additional external storage area may be provided for the storage of privately-owned travel trailers and/or boats, so long as such external storage area is screened from adjoining residentially-zoned land and adjoining roads, and is located behind the minimum front yard setback line. This provision shall not be interpreted to permit the storage of partially dismantled, wrecked, or inoperative vehicles.

3. All storage shall be kept within an enclosed building except that the storage of flammable, highly combustible, explosive or hazardous chemicals shall be prohibited. Any fuel tanks and/or machinery or other apparatuses relying upon such fuels shall be stored only in an external storage area as described above.
4. An on-site manager shall be required to be on the site on a full-time basis (40 hours/week) and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval and all applicable ordinances. Any dwelling for a resident manager shall comply with all of those requirements listed for dwellings within specific the zoning districts, and shall be entitled to all residential accessory uses provided in this Ordinance.
5. Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover, and other flammable materials, the repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture is prohibited.
6. No door openings for any mini-warehouse storage unit shall be constructed facing any residentially-zoned property.
7. Mini-warehouses shall be used solely for the dead storage of property. The following lists examples of uses expressly prohibited upon the site:
  - a. Auctions, commercial wholesale or retail sales, or garage sales.
  - b. The servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
  - c. The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment:
  - d. The establishment of a transfer and storage business.
  - e. Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
8. Exemptions to Prohibited Uses:
  - a. The Owner of the Mini-warehouse facility may hold an auction and is the only authorized entity to do so.

The applicant shall adequately demonstrate that all mini-warehouses rental and/or use contracts shall specifically prohibit these uses.

### **525.39 MOBILE HOME PARKS**

Mobile Home Parks are permitted as provided in Article 2 subject to the following criteria:

1. A mobile home park shall contain a minimum of five (5) acres.
2. All mobile home parks shall be served by public water and public sanitary sewer utilities.
3. Maximum density in a mobile home park shall be five (5) units per acre.
4. All mobile home lots or areas shall contain at least four thousand, two hundred fifty (4,250) square feet.

5. Each mobile home lot shall have a minimum front yard of thirty (30) feet, rear yard of twenty-five (25) feet, and two side yards of ten (10) feet each. In no case shall the distance between any two mobile homes be less than twenty-five (25) feet (these setbacks shall also apply to mobile home park office, service, utility, or other buildings).
6. All mobile home parks shall be provided with a perimeter landscape buffer strip that is at least fifty (50) feet wide. Such width shall be measured from adjoining property and rights-of-way lines.
7. Each mobile home shall be erected and connected to utilities according to the most recent version of the Newberry Township Building Code.
8. Each mobile home shall be provided with a minimum of two (2) paved parking spaces containing at least one hundred eighty (180) square feet of bituminous or concrete surface, which shall be located on the mobile home lot. If on-street parking is not provided, one additional off-street parking space per unit shall be provided in a common visitor parking compound. Such visitor parking compounds shall be sized, arranged, and located so that the spaces are within three hundred (300) feet walking distance to any unit served. Access to all parking spaces shall be limited to interior roads of the mobile home park; in no case shall access to such parking spaces be provided from adjoining public roads.
9. Interior mobile home park roads with no on-street parking shall be paved with an all-weather, bituminous surface at least twenty-four (24) feet wide. An additional width of ten (10) feet shall be provided for each lane of on-street parking.
10. Individual mobile home owners may install accessory or storage sheds, extensions and additions to mobile homes, and exterior patio areas. Any such facilities so installed shall not intrude into any required front, side, or rear yard, and, in every case, shall substantially conform in style, quality, and color to the existing mobile homes.
11. There shall be a minimum of twenty-five (25%) percent of the gross acreage of the mobile home park devoted to active and/or passive common recreational facilities. Responsibility for maintenance of the recreational areas shall be with the landowner and/or the operator. Should the landowner and/or the operator neglect to maintain the designated recreational areas, as depicted on the plan, the Township may then maintain said areas and assess the landowner for any costs incurred.
12. Screening and buffering in compliance with Article 5 above herein shall be provided.
13. All mobile home parks shall conform to the Newberry Township Mobile Home Park Ordinance.

## **525.40 NIGHT CLUBS AND TAVERNS**

Night clubs and Taverns are permitted as provided in Article 2 subject to the following criteria:

1. No part of the subject property shall be located within three hundred (300) feet of any existing residential land use and one hundred (100) feet from any residentially zoned land.
2. The applicant shall furnish expert evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, light and/or litter.
3. The applicant shall furnish expert evidence as to how the use will be controlled so as to not constitute a nuisance due to noise or loitering outside the building.
4. All structures on the subject property shall be screened from any adjacent residential use. Screening and buffering in compliance with Article 5 above herein shall be provided.
5. A working plan for the cleanup of litter shall be furnished and implemented by the applicant.

#### **525.41 NONCOMMERCIAL KEEPING OF LIVESTOCK**

Noncommercial keeping of livestock is permitted as provided in Articles 2 and 3 subject to the following criteria:

1. Except in the A and RR zoning districts where the minimum lot area shall be two (2) acres, the minimum lot area for all other zoning districts where this use is permitted shall be five (5) acres. Additionally, the following list specifies additional area requirements by size of animals kept:
  - a. GROUP 1 - Animals whose average adult weight is less than ten (10) pounds shall be permitted at an animal density of twelve (12) per acre with a maximum number of fifty (50) animals.
  - b. GROUP 2 - Animals whose average adult weight is between ten (10) and one hundred (100) pounds shall be permitted at an animal density of two (2) per acre, with a maximum number of twenty (20) animals.
  - c. GROUP 3 - Animals whose average adult weight is greater than one hundred (100) pounds shall be permitted at an animal density of one (1) per acre, with a maximum number of five (5) animals.
2. The keeping of a combination of animal types (Group 1, 2, and 3) shall require an animal density equal to the ratio of the number of animals, by type. In no case shall a lot contain more than fifty (50) total animals. Should one structure be used to house a combination of animal types, the most restrictive setback shall apply.
3. The following lists minimum setbacks (from all property lines) imposed upon the placement of any structure used to house noncommercial livestock:
  - a. GROUP 1 Animals
    - 1) Up to 25 animals, a 25-foot setback.
    - 2) Above 25 animals, a 50-foot setback.
  - b. GROUP 2 Animals
    - 1) Up to 2 animals; a 50-foot setback.
    - 2) Above 2 animals; a 100-foot setback.



- c. GROUP 3 Animals
  - 1) One hundred (100) feet.
- 4. All structures used to house noncommercial livestock shall be prohibited from placement in the front yard.
- 5. All outdoor pasture/recreation areas shall be enclosed with fencing to prevent the escape of the animals; such fencing must be set back at least ten (10) feet from all property lines.
- 6. All animal wastes shall be properly stored and disposed of so as not to be objectionable at the site's property line. All animals, their housing, and their outdoor pasture/recreation areas shall be properly maintained so as not to become a nuisance to adjoining properties.

### **525.42 NURSING, REST OR RETIREMENT HOMES**

Nursing, rest or retirement homes are permitted as provided in Article 2 subject to the following criteria:

- 1. Minimum lot area shall be two (2) acres.
- 2. The applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be utilized.
- 3. No more than seven (7) occupants per acre shall be permitted, excluding the staff of the facility.

### **525.43 OFF-TRACK BETTING PARLORS**

Off-track betting parlors are permitted as provided in Article 2 subject to the following criteria:

- 1. An off-track betting parlor shall not be permitted to be located within one thousand (1,000) feet of any other off-track betting parlor.
- 2. No off-track betting parlor shall be located within one thousand (1,000) feet of any residentially-zoned land.
- 3. No off-track betting parlor shall be located within one thousand (1,000) feet of any property which contains any one or more of the following specified land uses:
  - a. Amusement park.
  - b. Camp (for minors' activity).
  - c. Child care facility.
  - d. Church or other similar religious facility.
  - e. Community center.
  - f. Museum.
  - g. Park.
  - h. Playground.
  - i. School.
  - j. Other lands or establishments where minors (under the age of 18 years) congregate.

4. The distance between any two (2) off-track betting parlors shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of each establishment. The distance between any off-track betting parlor and any land use specified above shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior property line of the off-track betting parlor to the closest point on the property line of said land use.
5. No more than one (1) off-track betting facility may be located within one building or shopping center.
6. The applicant shall furnish expert evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, light and/or litter.
7. The applicant shall furnish expert evidence as to how the use will be controlled so as to not constitute a nuisance due to noise or loitering outside the building.
8. A working plan for the cleanup of litter shall be furnished and implemented by the applicant.
9. All off-track betting parlors shall comply with the Pennsylvania Horse and/or Harness Racing Commission's Rules and Regulations pertaining to Nonprimary Locations, as defined therein.

#### **525.44 OUTDOOR COMMERCIAL RECREATION**

Outdoor commercial recreation facilities are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. Minimum lot size shall be ten (10) acres.
2. Minimum lot width shall be 300 (300) feet.
3. A buffer yard of fifty (50) feet shall be provided between the facility and the street right-of-way line. Level two (2) screening shall be provided in accordance with Section 516 of this Ordinance.
4. A buffer yard of two hundred (200) feet shall be provided between the facility and any adjoining residential uses or zoning districts. Level three (3) screening shall be provided in accordance with Section 516 of this Ordinance.
5. Landscaping shall be provided in accordance with Section 516 of this Ordinance.
6. The site and/or individual tracks shall be fenced to prevent unauthorized entrance and accidental exit of vehicles.
7. The facility shall be operated only between the hours of 10:00 a.m. and 10:00 p.m.

#### **525.45 PLACES OF WORSHIP**

Places of worship are permitted as provided in Article 2 subject to the following criteria:

1. Minimum Lot area shall be two (2) acres.
2. Minimum Lot width shall be two hundred (200) feet.
3. All places of worship with sanctuary seating capacity of two hundred-fifty (250) or more persons shall front and have access to an arterial or collector road.
4. All places of worship with sanctuary seating capacity of two hundred-fifty (250) or more persons shall utilize public water and public sewer facilities.
5. Minimum required setbacks shall be:
  - a. Side: Fifty (50) feet on both sides.
  - b. Front: Thirty-five (35) feet.
  - c. Rear: Thirty-five (35) feet.
6. Place of Worship Related Residences
  - a. All residential uses shall be accessory to, and located upon the same lot or directly adjacent to a lot containing a place of worship.
  - b. All residential uses shall be governed by the specific dimensional criteria for other residential uses in the zoning district where the site is located, except that any number of members associated with the place of worship may share group quarters.
7. Place of Worship Related Educational and/or Day-Care Facilities
  - a. All education and/or day-care uses shall be accessory, and located upon the same lot as the place of worship.
  - b. If educational and/or day-care is offered below the college level, an outdoor play area shall be provided, at a rate of sixty-five (65) square feet per individual enrolled. Off-street parking areas shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and must be set back twenty-five (25) feet from all property lines. Outdoor play areas shall be completely enclosed by a minimum six (6) foot high fence, and screened from adjoining existing residential use or residentially-zoned properties. Any vegetative materials located within the outdoor play areas shall be of a nonharmful type (poisonous, thorny, allergenic, etc.) All outdoor play areas must provide a means of shade, such as a shade tree(s) or pavilion(s).
  - c. Enrollment shall be defined as the largest number of students and/or children under day-care supervision at any one time during a seven (7) day period.
  - d. Passenger “drop-off” and “pickup” areas shall be provided on site and arranged so that the passengers do not have to cross traffic lanes on or adjacent to the site.
8. Place of Worship Related Cemeteries
  - a. All burial plots or structures shall be located at least twenty (20) feet from any property line or street right-of-way line.
  - b. Assurances must be provided that water supplies of surrounding properties will not be contaminated by burial activity within the proposed cemetery.

- c. No burial plots or facilities shall be permitted in the Floodplain Protection Overlay.

#### **525.46 PRIVATE CLUBHOUSES**

Private clubhouses are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. All private clubs shall front and have access to an arterial or collector road.
2. All off-street parking shall be provided in accordance with Section 512 herein above and will also be set back thirty (30) feet from any adjoining residential lot lines.
3. All outdoor recreation/activity areas shall be set back at least fifty (50) feet from any property line.
4. Screening and buffering in compliance with Article 5 above herein shall be provided along any adjoining residentially-zoned property.
5. The applicant must furnish evidence as to how the use will be controlled so as not to constitute a nuisance due to noise or loitering outside of the clubhouse.
6. The applicant shall furnish evidence that approved systems for sewage disposal and water supply will be utilized.

#### **525.47 QUARRIES AND OTHER EXTRACTIVE-RELATED USES**

Quarries and other extractive related uses are permitted as provided in Articles 2 and 3 subject to the following criteria:

##### **A. GENERAL - QUARRY OPERATIONS:**

1. May not substantially injure or detract from the lawful existing or permitted use of neighboring properties.
2. May not adversely affect any public or private water supply source.
3. May not adversely affect the local, efficient and economical extensions of public services, facilities and utilities throughout the Township.
4. May not create any significant damage to the health, safety, or welfare of the Township and its residents and property owners.
5. May not result in the land area subject to quarrying being placed in a condition which will prevent the use of that land for economically and ecologically productive uses upon completion of the quarry operation.
6. Must demonstrate compliance with all applicable State regulations at all times.

##### **B. SITE PLAN REQUIREMENTS**

As a part of each application the applicant shall furnish an accurately surveyed site plan on a scale no less than 1:2,400, showing the location of the tract or tracts of land to be affected by the operation. The surveyed site plan shall be certified by a registered professional engineer or a

registered professional land surveyor with assistance from experts in related fields and shall include the following:

1. The boundaries of the proposed land affected, together with the drainage area above and below the area.
2. The location and names of all streams, roads, railroads, and utility lines on or immediately adjacent to the area.
3. The location of all buildings within one thousand (1,000) feet of the outer perimeter, of the area affected, and the names and addresses of the owners and present occupants.
4. The purpose for which each building is used.
5. The name of the owner of the affected area and the names of adjacent landowners, the municipality, and the county.

**C. MINIMUM LOT AREA - FIFTY (50) ACRES**

**D. FENCING**

A fence measuring at least eight (8) feet in height must enclose the area of actual quarrying. If a chain link fence is used, then said fence shall include a vegetative screen that is provided along the outside of the fence, away from the quarry.

**E. SETBACK**

The following table identifies minimum setbacks imposed upon specific features of the quarry and other extractive-related uses from adjoining and/or nearby uses:

Quarry-Related Feature	Existing Residential Use	Existing Nonresidential Building	Residentially Zoned District	Adjoining Road	Public/ Nonprofit Park	Cemetery Or Stream Bank	Adjoining Property
Stock piles or spoil piles	300 ft.	300 f t	1,000 ft.	100 ft	300 ft	100 ft.	100 ft
Mineral processing equipment (e.g. rishers, sorters, conveyors, dryers, etc.)	300 ft	300 ft	1,000 ft	100 ft	300 ft	100 ft	100 ft.
Quarry pit	300 ft.	300 ft	1,000 ft	100 ft	300 ft	100 ft	100 ft.
On-site access roads and off-street parking, loading and vehicle storage and weighing facilities	300 ft	300 ft	500 ft	100 ft	300 ft	100 ft	100 ft
Other operational equipment, structures and/or improvements	300 ft	300 ft	500 ft.	100 ft	300 ft.	100 ft.	

**E. ACCESS**

Vehicular access shall be so arranged as to minimize danger and congestion along adjoining roads and to avoid the creation of nuisances to nearby properties. Access drives used by trucks shall only intersect with collector or arterial roads, as identified on the Official Zoning Map.

1. All access drives shall be designed and located in accordance with Section 511 herein above of this Ordinance and Article 6 of the Newberry Township Subdivision and Land Development Ordinance.
2. All access drives serving the site shall have a paved minimum thirty-five (35) foot wide cartway for a distance of at least two hundred (200) feet from the intersecting street right-of-way line. In addition, a fifty (50) foot-long gravel section of access drive should be placed just beyond the preceding two hundred (200) foot paved section to help collect any mud that may have attached to a vehicle’s wheels.

3. In general, access drives shall intersect public streets at ninety (90) degrees as site conditions permit, however in no case shall access drives intersect public streets at less than seventy (70) degrees. Said angle shall be measured from the centerline of the street to the centerline of the access drive.

**F. TRAFFIC IMPACT**

The applicant shall provide a traffic study prepared in accordance with Article 4 of the Newberry Township Subdivision and Land Development Ordinance.

**G. RECLAMATION**

The applicant shall demonstrate compliance with Section 7.(c) of the Pennsylvania Act No. 1984-219, as may be amended. The applicant shall provide a detailed description of the proposed use of the site, once reclamation has been completed, including a description of any zoning and/or subdivision approvals or remedies that would be necessary to accommodate the proposed use. Finally, the applicant shall provide written notification to the Township within thirty (30) days, whenever a change in the reclamation plan is proposed to the PA DEP.

**H. SCREENING**

Screening shall be provided in accordance with Section 516 of this Ordinance.

**I. OPERATIONS PROGRESS REPORT**

Within ninety (90) days after commencement of surface mining operations, and each year thereafter, the operator shall file an operations and progress report with the Zoning Officer setting forth all of the following:

1. The name or number of the operation.
2. The location of the operation with reference to the nearest public road.
3. A description of the tract or tracts, including a site plan showing the location of all improvements, stockpile, quarry pits, etc..
4. The name and address of the landowner or his duly authorized representative.
5. An annual report of the type and quantity of mineral produced.
6. The current status of the reclamation work performed in pursuance of the approved reclamation plan.
7. A maintenance report for the site that verifies that all required fencing, berming and screening has been specifically inspected for needed repairs and/or maintenance and that such needed repairs and/or maintenance has been performed.
8. Verification that the proposed use continues to comply with all applicable State regulations. The operation shall furnish copies of any approved permits and/or any notices of, violation issued by the PA DEP.

## **525.48 RACETRACKS/SPEEDWAYS**

Racetracks/Speedways are permitted as provided in Article 4 subject to the following criteria:

1. In addition to complying with all provisions set forth in Ordinance No. 296 the Newberry Township Racetrack and Speedway Ordinance, all racetracks/speedways are subject to the following:
  - a. All areas used for the racing, testing and maintenance of motor vehicles shall be setback a minimum of four hundred (400) feet from the lot line of an existing dwelling.
  - b. All buildings, parking, loading and unloading areas shall be setback a minimum of one hundred fifty (150) feet from the lot line of an existing dwelling.
  - c. The applicant shall prove that the standards of Article 5 will be met, including noise, lighting and dust.
  - d. Minimum lot area shall be fifty (50) acres.

## **525.49 RECYCLING FACILITIES FOR PAPER, PLASTIC, GLASS, AND METAL PRODUCTS**

Recycling facilities for paper, plastic, glass and metal products are permitted as provided in Article 2 subject to the following criteria:

1. All operations, including collection shall be conducted within a completely enclosed building.
2. There shall be no outdoor storage of materials processed, used, or generated, by the operation.
3. The applicant shall explain the scope of operation, and offer expert testimony regarding the measures used to mitigate problems associated with noise, fumes, dust, and litter.
4. The applicant will be required to assure regular maintenance of the site to immediately collect stray debris.

## **525.50 RESTAURANTS**

Restaurants are permitted as provided in Article 2 subject to the following criteria:

1. The applicant shall demonstrate that adequate water supply and sewage disposal can be provided.
2. Where cafés are provided, exterior trash receptacles shall be provided and routinely emptied so as to prevent the scattering of litter. The applicant shall present and implement a plan for control and cleanup of litter.
3. The applicant shall comply with Section 524 herein above regarding grease and oil catchment facilities.

## **525.51 RESTAURANTS, DRIVE-THRU**

Drive-thru restaurants are permitted as provided in Article 2 subject to the following criteria:

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1. The applicant shall demonstrate that adequate water supply and sewage disposal can be provided.
2. Exterior trash receptacles shall be provided and routinely emptied so as to prevent the scattering of litter. The applicant shall present and implement a plan for control and cleanup of litter.
3. An exterior speaker/microphone systems shall be arranged and/or screened to prevent objectionable noise impact on adjoining properties.
4. All café seating shall be completely enclosed by a minimum three (3) foot high fence.
5. Screening and buffering in compliance with Article 5 above herein shall be provided along any adjoining existing residential use or residentially-zoned property.
6. Each drive-through lane shall have minimum of two hundred (200) feet of on-site stacking preceding the order location.
7. The applicant shall comply with Section 524 herein above regarding grease and oil catchment facilities.

#### **525.52 RESTAURANTS, FAST FOOD**

Fast food restaurants are permitted as provided in Article 2 subject to the following criteria:

1. The applicant shall demonstrate that adequate water supply and sewage disposal can be provided.
2. Exterior trash receptacles shall be provided and routinely emptied so as to prevent the scattering of litter. The applicant shall present and implement a plan for control and cleanup of litter.
3. An exterior speaker/microphone systems shall be arranged and/or screened to prevent objectionable noise impact on adjoining properties.
4. All café seating shall be completely enclosed by a minimum three (3) foot high fence.
5. Outdoor play areas shall be completely enclosed by a minimum six (6) foot high fence.
6. Screening and buffering in compliance with Article 5 above herein shall be provided along any adjoining existing residential use or residentially-zoned property.
7. Any accessory drive-through lane shall have minimum of two hundred (200) feet of on-site stacking preceding the order location.
8. The applicant shall comply with Section 524 herein above regarding grease and oil catchment facilities.

### **525.53 RIDING STABLES**

Riding stables are permitted as provided in Article 3 subject to the following criteria:

1. Minimum Lot Area shall be ten (10) acres.
2. Any structure used for the boarding of horses shall be set back at least three hundred (300) feet from any property line.
3. All stables shall be maintained so to minimize odors perceptible at the property line.
4. All outdoor training, show, riding, boarding, running or pasture areas shall be enclosed by a minimum four (4) foot-high fence, which is located at least twenty-five (25) feet from all property lines.
5. All parking compounds and unimproved overflow parking areas shall be set back at least ten (10) feet from adjoining lot lines. Unimproved overflow parking areas shall also provide a fence delineating such occasional parking facilities and preventing the parking and/or movement of vehicles across neighboring properties.
6. The applicant shall furnish evidence of an effective means of animal waste disposal which shall be implemented.

### **525.54 RURAL OCCUPATIONS**

Rural occupations are permitted as provided in Article 3 subject to the following criteria:

1. Only one rural occupation may be conducted on the same property as the owner's principal residence, and shall not exceed the area of the principal residence's ground floor area or one thousand (1,000) square feet, whichever is less.
2. A rural occupation shall only be conducted within one completely enclosed building that satisfies at least one of the following:
  - a. The building will remain the same size and in the same location as it existed on the effective date of this Ordinance/Section.
  - b. The building is limited to one story in height, or twenty (20) feet, whichever is lesser, is located in the rear yard of the principal residence, and is set back at least one hundred (100) feet from any side or rear lot lines. All applicants are required to design buildings that are compatible with their residential settings.
3. In no case shall any new rural occupation building be constructed before the owner resides permanently on the subject property. In addition, rural occupations may only be conducted so long as the sole owner of the business resides on the site.
4. In no case shall the required maximum lot coverage be exceeded by those impervious surfaces associated with the principal residence, rural occupation and/or other permitted accessory uses and structures.

5. All off-street parking and loading spaces shall be screened from adjoining roads and properties.
6. No outdoor storage or display shall be permitted.
7. No rural occupation and its principal dwelling shall generate more than twenty (20) vehicle trips per day to and from the site. The applicant shall furnish evidence regarding the expected numbers of vehicles trips associated with the proposed use.
8. Vehicular access to the rural occupation shall be limited to the same driveway connection with the public street right-of-way that serves the principal residence. No additional roadway connection shall be permitted.
9. The maximum number of employees that do not reside on the site shall be equal to (2) full time positions. For purposes of this section, employees shall be defined as those involved in the on-site conduct of the rural occupation.
10. Rural occupations shall be conducted between the hours of 6 a.m. and 9 p.m.
11. No manufacturing, mechanical or industrial use shall be permitted which causes any noise, glare, fumes, smoke, dust, vibration, electromagnetic interference, or other hazard that is noticeable at any property line of the rural occupation. No use that requires application or permitting by the PA DEP for the handling of hazardous waste or other substances shall be permitted.
12. Any area devoted to retail sales display shall be limited to twenty (20%) percent of the overall size of the rural occupation.
13. The applicant shall furnish evidence that an approved means of sewage disposal shall be utilized, and further that such means is part of the same system in use for the principal residence.

### **525.55 SAWMILLS**

Sawmills are permitted as provided in Article 3 subject to the following criteria:

1. Minimum Lot Area shall be ten (10) acres.
2. All cutting, sawing, grinding, or other processing shall be conducted within a completely-enclosed building.
3. No materials shall be deposited or stored, and no building or structure shall be located within two hundred (200) feet of any property line, and five hundred (500) feet of any adjoining existing residential use or residentially-zoned property.
4. Any external area used for the unloading/loading, transfer, storage or deposition of material must be completely screened and buffered in compliance with Article 5 above herein shall be provided along any adjoining existing residential use or residentially-zoned property and public street right-of-way.
5. All facilities shall provide sufficiently-long stacking lanes into the facility, so that vehicles waiting will not have to back up onto public roads.

6. All access drives shall be designed and located in accordance with Section 511 herein above of this Ordinance and Article 6 of the Newberry Township Subdivision and Land Development Ordinance.
7. All access drives serving the site shall have a paved minimum thirty-five (35) foot wide cartway for a distance of at least two hundred (200) feet from the intersecting street right-of-way line. In addition, a fifty (50) foot-long gravel section of access drive should be placed just beyond the preceding two hundred (200) foot paved section to help collect any mud that may have attached to a vehicle's wheels. The owner and/or operator shall be responsible for removing any mud from public roads caused by persons traveling from the site.
8. In general, access drives shall intersect public streets at ninety (90) degrees as site conditions permit, however in no case shall access drives intersect public streets at less than seventy (70) degrees. Said angle shall be measured from the centerline of the street to the centerline of the access drive.

#### **525.56 SCHOOLS, PUBLIC AND PRIVATE**

Private and public schools are permitted as provided in Article 2 subject to the following criteria:

1. All off-street parking lots shall be set back twenty -five (25) feet and screened and buffered from adjoining property lines in accordance with Article 5 above herein shall be provided along any adjoining existing residential use or residentially-zoned property.
2. All buildings shall be set back at least one hundred (100) feet from any adjoining existing residential use or a residentially zoned district.
3. If educational and/or day-care is offered below the college level, an outdoor play area shall be provided, at a rate of sixty-five (65) square feet per individual enrolled. Off-street parking areas shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and must be set back twenty-five (25) feet from all property lines. Outdoor play areas shall be completely enclosed by a minimum six (6) foot high fence, and screened from adjoining existing residential use or residentially-zoned properties. Any vegetative materials located within the outdoor play areas shall be of a nonharmful type (poisonous, thorny, allergenic, etc.) All outdoor play areas must provide a means of shade, such as a shade tree(s) or pavilion(s).
4. Passenger "drop-off" and "pickup" areas shall be provided on site and arranged so that the passengers do not have to cross traffic lanes on or adjacent to the site.
5. Enrollment shall be defined as the largest number of students and/or children under day-care supervision at any one time during a seven (7) day period.

#### **525.57 SCHOOLS, VOCATIONAL-MECHANICAL TRADE**

Vocational-mechanical trade schools are permitted as provided in Articles 2 and 3 subject to the following criteria:

1. Any maintenance, repair, rebuilding, testing, or construction of mechanical devices shall be conducted within a completely-enclosed building.
2. All ventilation outlets shall be located at least one hundred (100) feet and oriented away from adjoining existing residential use or a residentially zoned district.
3. All exterior storage and/or display areas must be screened from and buffered from, in accordance with Article 5 herein, any adjoining existing residential use or residentially-zoned property. All exterior storage/display areas must be set back at least thirty-five (35) feet from adjoining street rights-of-way and must be covered in an all-weather, dust free surface.
4. Except in any industrial zoning district:
  - a. No outdoor storage of parts, equipment, lubricants, fuel or other materials used or discarded, as part of the operation shall be permitted.
  - b. The outdoor storage of inoperable vehicles, boats, machinery, trucks, trailers, mobile homes and heavy equipment vehicles on the property is prohibited.

#### **525.58 SHOPPING CENTERS**

Shopping centers are permitted as provided in Article 2 subject to the following criteria:

1. The subject property shall front on an arterial or collector road, unless the adjoining local roads are improved to meet the anticipated traffic patterns shown by the required traffic study, and all access drives shall be set back at least two hundred (200) feet from the intersection of any street rights-of-way.
2. Minimum Lot Size shall be three (3) acres provided that outparcels developed as part of an integrated site development in conjunction with a lot of three (3) acres or more may be no less than one (1) acre.
3. Minimum Lot Width shall be two hundred (200) feet.
4. Both public sewer and public water utilities shall be utilized.
5. Maximum Lot Coverage shall be eighty-five (85%) percent .
6. A traffic study prepared in accordance with Section 523 of this Ordinance and Article 4 of the Newberry Township Subdivision and Land Development Ordinance.
7. The shopping center shall be permitted to erect one planned center sign along each of the center's frontages. At least fifty (50%) percent of the total sign area shall be devoted to advertisement of the shopping center's name. The size of such sign shall not exceed one (1) square foot for each four (4) feet of frontage contained within the shopping center. In no case shall a planned center sign exceed a maximum size of one hundred (100) square feet nor an overall height of twenty (20) feet. In addition, individual uses within the shopping center may have signs. However, such signs shall be flat wall, wall projecting, or roof signs as described in Section 517 of this Ordinance.

## **525.58A SINGLE-FAMILY ATTACHED DWELLINGS AND SINGLE-FAMILY SEMI-DETACHED DWELLINGS BY CONSERVATION SUBDIVISION DESIGN**

Single-Family Attached Dwellings and Single-Family Semi-Detached Dwellings shall be permitted to be designed according to the Conservation Subdivision Design standards within the Village Zoning District subject to the following criteria:

1. The applicant must demonstrate compliance with the provisions of Section 404, following Design Option 1 or Design Option 2 for the RH Zoning District.
2. The minimum tract size shall be 10 acres.
3. The minimum lot width shall be 45 feet.
4. The minimum lot area for each dwelling unit shall be 7,000 square feet.
5. Each lot shall be served by public water and public sewer.
6. Each unit on a lot shall have garage space of adequate size to park one vehicle. Additional off-street parking shall be provided for each unit sufficient to park two vehicles. Such parking shall be on a paved surface.
7. If the applicant is proposing fewer than 50 units, the applicant shall present evidence of estimated traffic trips entering and leaving the tract during the morning and evening peak hours at full build-out of the development. If the applicant is proposing 50 or more units, a traffic impact study shall be presented.
8. Open space within the tract outside each individual lot shall be separately delineated on the site plan submitted for conditional use approval. Such open space may be shown divided into multiple parcels as lot additions to the residential lots. The applicant shall have the option, as part of the conditional use application, of offering to the Township the open space shown on the plan. If such offer is made, and if the Township desires to accept the dedication of open space, then as a condition of approval of the conditional use, the applicant shall tender a deed, in a form acceptable to the Township Solicitor, of the open space. If the Township fails to accept the deed within 15 days of Final Land Development Plan approval of the development, then, such offer shall be rescinded and the open space shall be divided between the lots as shown by the conditional use plan.

## **525.59 SOLID WASTE DISPOSAL, PROCESSING, AND TRANSFER FACILITIES**

Solid waste disposal and processing facilities are permitted as provided in Article 2 subject to the following criteria:

1. Any processing of solid waste (including but not limited to incineration, composting, shredding, compaction, material separation, refuse derived fuel, pyrolysis, etc.) shall be conducted within a completely enclosed building.
2. No refuse shall be deposited or stored, and no building or structure shall be located within two hundred feet (200) of any property line, and five hundred (500) feet of any land of an adjoining existing residential use or residentially-zoned property.

3. Any external area used for the unloading/loading, transfer, storage or deposition of material must be completely screened and buffered in compliance with Article 5 herein.
4. The applicant must demonstrate compliance (through a written statement) and continue to comply with all applicable State and Federal standards and regulations.
5. All facilities shall provide sufficiently-long stacking lanes into the facility, so that vehicles waiting will not have to back upon onto public roads.
6. All access drives shall be designed and located in accordance with Section 511 of this Ordinance and Article 6 of the Newberry Township Subdivision and Land Development Ordinance.
7. All access drives serving the site shall have a paved minimum thirty-five (35) foot wide cartway for a distance of at least two hundred (200) feet from the intersecting street right-of-way line. In addition, a fifty (50) foot-long gravel section of access drive should be placed just beyond the preceding two hundred (200) foot paved section to help collect any mud that may have attached to a vehicle's wheels. The owner and/or operator shall be responsible for removing any mud from public roads caused by persons traveling from the site.
8. In general, access drives shall intersect public streets at ninety (90) degrees as site conditions permit, however in no case shall access drives intersect public streets at less than seventy (70) degrees. Said angle shall be measured from the centerline of the street to the centerline of the access drive.
9. Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against the indiscriminate and unauthorized dumping, all areas of the site shall be protected by locked barricades, fences, gates or other positive means designed to deny access to the area at unauthorized times or locations.
10. Hazardous waste, as defined in the Code of Federal Regulations, Title 40, Chapter 1, Part 261, or as amended, shall not be disposed of within the proposed area.
11. Litter control shall be exercised to prevent the scattering of wind-borne debris, and a working plan for the cleanup of litter shall be submitted to the Township.
12. The unloading, processing, transfer, and deposition of solid waste shall be continuously supervised by a qualified facility operator.
13. Any waste that cannot be used in any disposal process/or material that is to be recycled, shall be stored in leak- and vector-proof containers. Such containers shall be designed to prevent their being carried by wind or water. These containers shall be stored within a completely-enclosed building.
14. All storage of solid waste shall be indoors in a manner that is leak- and vector-proof. During normal operation, no more solid waste shall be stored on the

property than is needed to keep the facility in constant operation, but, in no event shall the solid waste be stored for more than seventy-two (72) hours.

15. A contingency plan for the disposal of solid waste during a facility shutdown, shall be submitted to the Township.
16. Leachate from the solid waste shall be disposed of in a manner in compliance with any applicable State and Federal laws or regulations, If leachate is to be discharged to a municipal sewage facility, pre-treatment shall be required and appropriate permits shall be obtained from the applicable agencies and authorities. In no event shall leachate be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with the PA DEP regulations.
17. All structures shall be set back at least a distance equal to their height.
18. A water supply feasibility report shall be prepared in accordance with Section 402.01.9 of the Newberry Township Subdivision and Land Development Ordinance to demonstrate that sufficient water resources are available to serve the proposal.
19. A traffic study prepared in accordance with Section 525 of this Ordinance and Article 4 of the Newberry Township Subdivision and Land Development Ordinance.
20. A minimum one hundred (100) foot wide landscape strip shall be located along all property lines. No structures, storage, parking, or any other related activity or operation shall be permitted within this landscape strip. Any fences or other screening erected on the site must not be located within this landscape strip.
21. Any sanitary landfill must be owned and operated by a municipality or its authority.

### **525.60 TWO-FAMILY CONVERSIONS**

Two-family conversions are permitted as provided in Articles 2 and 3, subject to the following criteria:

1. The structure must be a single-family detached dwelling that existed on the effective date of this Ordinance, and contained (at that time) at least three thousand (3,000) square feet of habitable floor area.
2. The applicant shall furnish evidence that an approved system of water supply and sewage disposal will be utilized.
3. No extensions or modifications to the external appearance of the building (except fire escapes) which would alter its residential character shall be permitted.
4. All floors above grade shall have direct means of escape to ground level.
5. The applicant shall obtain any required land development approvals.



## **525.61 WAREHOUSING AND WHOLESALE TRADE ESTABLISHMENTS**

Warehousing and wholesale trade establishments are permitted as provided in Article 2 subject to the following criteria:

1. The applicant shall provide a detailed description of the proposed use in each of the following topics:
  - a. The nature of the on-site activities and operations, the types of materials stored, the frequency of distribution and restocking, the duration period of storage of materials, and the methods for disposal of any surplus or damaged materials. In addition, the applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with State and Federal regulations.
  - b. The general scale of the operation, in terms of its market area, specific floor space requirements for each activity, the total number of employees on each shift and an overall needed site size.
  - c. Any environmental impacts that are likely to be generated (e.g. odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, storm water, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels, as regulated by applicable laws and ordinance, including but not limited to those listed in Section 521 herein above of this Ordinance,
  - d. The applicant shall submit a traffic study prepared in accordance with Article 4 of the Newberry Township Subdivision and Land Development Ordinance.

## **525.62 WHOLESALE SALES, STORAGE AND AUCTIONS OF AUTO MOBILES TRUCKS, BUSES, AND OTHER HEAVY EQUIPMENT**

Wholesale sales, storage and auctions of automobiles, trucks, buses, and other heavy equipment are permitted as provided in Article 2 subject to the following criteria:

1. The subject property shall front along and have vehicular access to an arterial road.
2. Minimum Lot Area shall be ten (10) acres.
3. All exterior areas used for the storage of automobiles shall be completely enclosed by a minimum six (6) foot high fence, and shall be subject to the zoning district which the site is located, setback, landscaping and screening requirements imposed upon off-street parking lots.
4. Access drives shall be governed by Section 310 for a distance of two hundred (200) feet from the edge of the street right-of-way. Beyond this, all areas used for vehicle access or storage shall not be governed by Section 311 (Off-Street Parking Requirements) of this Ordinance. However, all storage areas shall include a nonpaved all-weather, dust-free surface.

5. Vehicles may be stored in a stacked configuration. However, no vehicles shall be located more than one hundred (100) feet from a minimum eighteen (18) foot wide on-site access drive.
6. Neither part of the subject property shall be within five hundred (500) feet of any residentially-zoned land, nor shall it be one thousand (1,000) feet of another similar facility.
7. The applicant shall be required to provide, sufficient off-street parking and loading so as not to require such parking or loading on or along any road, nor upon adjoining property. If, at any time after the opening of the facility, the Supervisors determine that parking, loading or traffic back-ups are occurring on adjoining roads, and such are directly related to the lack of on-site facilities on the subject property, the Supervisors can require the applicant to revise and/or provide additional on-site parking and/or loading space. In addition, the Supervisors may require an unimproved grassed overflow parking area to be provided for peak use periods. Such overflow parking areas shall be accessible only from the interior driveways of the permanent parking lot. Overflow parking areas shall contain fencing to prevent vehicles from crossing adjoining properties or directly accessing adjoining roads.
8. The applicant shall furnish expert evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, noise, light, litter, dust and pollution.
9. The applicant shall submit and continuously implement a working plan for the cleanup of litter and other debris.
10. All service and/or repair activities shall be conducted within a completely enclosed building.
11. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directed toward any adjoining residentially-zoned property.
12. No outdoor storage of parts, equipment, lubricants, fuel or other materials used or discarded, as part of the service or repair operation, shall be permitted.
13. The demolition or junking of vehicles, trailers, boats and other machinery is prohibited.
14. The applicant shall furnish evidence that the disposal of all materials will be accomplished in a manner that complies with all applicable State and Federal regulations.
15. Any outdoor public address system and lighting shall be designed and arranged so as not to adversely affect adjoining properties and roads.
16. The applicant shall submit a traffic study prepared in accordance with Section 525 of this Ordinance and Article 4 of the Newberry Township Subdivision and Land Development Ordinance.

**SECTION 525.63 ARCHITECTURAL DESIGN STANDARDS**

1. Developers of commercial property in the Regional Commercial/Office (RCO) Zone are encouraged to design and construct buildings that complement the Township’s developing landscape. To that effect, the Township offers an optional set of architectural design standards that are tied with the granting of a conditional use. In this case, the underlying Zone stipulates the types of uses permitted and many applicable design standards; however, applicants may opt to obtain conditional use approval subject to specific architectural design standards. This carries a prescribed increase in permitted lot coverage as inducement to prospective developers. These optional standards may only be applied to property upon approval by the Board of Supervisors and written acceptance by the landowner of all requirements of this section, and any conditions of approval attached by the Board of Supervisors;
2. Buildings and sites shall be designed by registered architects and registered landscape architects, respectively, licensed to practice in the Commonwealth of Pennsylvania and constructed and maintained so that they meet the Newberry Township Architectural Design Standards.
3. Graphic elevations drawn to scale, with materials labeled and a color palette, shall be submitted as part of the conditional use review process;
4. In return for compliance with the above-described standards, the Township can award the following development bonuses as part of the conditional use approval:

Underlying Zone	Maximum Permitted Lot Coverage in Underlying Zone	Maximum Permitted Lot Coverage With Optional Architectural Design
RCO	60%	85%

5. Should any part of this Section 525.63 be declared invalid by the courts, the entire Section 525.63 shall be automatically repealed.”

Article  
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FORMITIES

6

**SECTION 601 CONTINUATION**

Except as otherwise provided in this section, any use, building or structure lawfully existing at the time of enactment of this Ordinance may be continued although it is not in conformity with the regulations specified by this Ordinance.

**SECTION 602 ABANDONMENT**

If a nonconforming use of land or of a building or structure ceases or is discontinued for a continuous period of one (1) year or more, subsequent use of such building, structure or land shall be in conformity with the provisions of this Ordinance.

**SECTION 603 EXTENSION OF A NONCONFORMING USE OF LAND**

Any lawful nonconforming use of land exclusive of buildings and structures and the use contained therein, may be extended upon the lot upon which it exists at the time of the effective date of this Ordinance but such extension shall conform to area and lot regulations and to the design standards of this Ordinance. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence on the effective date of this Ordinance.

**SECTION 604 EXPANSION OR ALTERATION**

**604.1**

Any nonconforming use may be expanded or altered through the obtainment of a special exception and subject to the following criteria and those contained in Article 7:

1. Expansion of the nonconformity shall be confined to the lot on which it was located on the effective date of this Ordinance, or any amendment thereto creating the nonconformity.
2. The total of all such expansions or alterations of use shall not exceed an additional fifty (50%) percent of the actual area of those buildings, structures, or land devoted to the nonconforming use as they existed on the date on which such buildings, structures, or land first became nonconformities. The applicant shall furnish conclusive evidence as to the extent of the nonconformity when it was created.
3. Provision for vehicular access, off-street parking and off-street loading shall be consistent with standards required by this Ordinance.
4. Provision for yards, building height and building area shall be consistent with the standards required for permitted uses in the zoning district in which the nonconformity in question is located.
5. Appearance should be harmonious with surrounding properties. This feature includes, but is not limited to, landscaping enclosure of principal and accessory uses, height control, sign control, architectural control and maintenance of all improvements and open spaces.
6. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes but is not limited to fences, walls, plantings and open spaces.
7. The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities.
8. No expansion of a nonconforming structure or a nonconforming use located outside of a structure existing on the effective date of this Ordinance shall be permitted in a floodplain.
9. Excluding expansion, any modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming use or structure located in a floodplain shall be permitted when either elevated above the base flood elevation or floodproofed. In no case shall any modification, alteration, repair, reconstruction or improvement cause unacceptable increases in flood height, velocities or frequencies.

## **604.2**

Any dimensional nonconformity may be reduced by permitted use. No extension or enlargement of a dimensional nonconformity shall be permitted.

## **SECTION 605 SUBSTITUTION OR REPLACEMENT**

Any nonconforming use may be replaced or substituted by another nonconforming use by special exception, if the Zoning Hearing Board determines that the proposed use is at least equally compatible with the surrounding area as the original nonconforming use. In addition, the

proposed nonconforming use shall not increase any dimensional nonconformities. The Zoning Hearing Board may attach reasonable conditions to the special exception to keep the use compatible within its surroundings.

## **SECTION 606 RESTORATION**

Any lawful nonconforming building or other structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm or other similar active cause may be reconstructed in the same location provided that:

### **606.1**

The reconstructed building or structure shall not exceed the height, area or volume of the damaged or destroyed building or structure and such reconstructed building or structure shall not increase any dimensional nonconformities.

### **606.2**

Reconstruction shall begin within one (1) year from the date of damage or destruction and shall be carried on without interruption.

## **SECTION 607 PREVIOUSLY EXPANDED NONCONFORMING USES AND STRUCTURES**

It is the express intent and purpose of this Ordinance that if a building, structure, sign or land was expanded or extended to the limits of expansion for a nonconforming building, structure, sign or use of land as authorized by a prior zoning regulation or ordinance, no further expansion of said building, structure, sign or land shall be authorized. In the event a nonconforming building, structure, sign or use of land was expanded to a portion of the limits of expansion authorized by a prior zoning regulation or ordinance, additional expansion if permitted by this Ordinance, shall only be authorized to the amount of expansion not previously utilized pursuant to said prior zoning regulation or ordinance.

## **SECTION 608 NONCONFORMING LOTS**

In any zoning district in which single-family detached dwellings are permitted, a single-family detached dwelling and customary accessory buildings may be erected on any lot of record in existence at the effective date of the Ordinance. For purposes of this section, when two (2) or more nonconforming lots for which a subdivision plan had not been recorded are contiguous and are in single ownership, they become held in common as one (1) parcel and require a variance from the Zoning Hearing Board to resubdivide the parcel. This shall apply regardless of the number of deeds held by the owner. This provision shall apply even though such lot fails to meet requirements of lot area and lot width requirements applicable in the zoning district in which the lot is located. All setback and lot coverage requirements shall be met.

## **SECTION 609 AMORTIZATION OF NONCONFORMING SIGNS**

Any sign that was legally existing as of the effective date of this Ordinance, that does not comply with the provisions listed in Section 517 of this Ordinance, shall be considered a nonconforming

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sign. All nonconforming signs may continue for a period of up to five (5) years from the effective date of this Ordinance. After the five (5) year continuance period, all nonconforming signs shall be removed, reconstructed and/or altered so that they comply with all of the provisions contained within Section 517 of this Ordinance. Any improvements, repairs, reconstructions, or any other alterations made to the nonconforming sign during the five (5) year continuance period shall not waive the requirements for elimination of the nonconforming signs at the end of the continuance period. This section shall not apply to any legally existing nonconforming billboards.

### **SECTION 610 DIMENSIONAL NONCONFORMITIES**

An existing structure which contains a permitted use and is nonconforming as to building setbacks or lot area may be expanded provided that:

1. The expanded portion of the structure will not extend nearer to any street right-of-way line or other property line than the part of the existing structure which is closest to the street right-of-way line or other property line.
2. All other yard requirements of the zoning district are met.
3. No expansion shall be permitted which may cause danger to vehicle or pedestrian traffic on a street by obscuring the view.
4. No expansion shall be permitted within five (5) feet of any street right-of-way line or property line.

### **SECTION 611 AMORTIZATION OF THE STORAGE OF JUNK ON RESIDENTIAL PROPERTIES**

Any external storage of junk (as defined herein) upon a property used as a principal residence that was legally existing as of the effective date of this Ordinance, shall be considered nonconforming. All such storage may continue for a period of up to six (6) months from the effective date of this Ordinance. After the six (6) month continuance period, all such storage shall be removed. Failure to remove such junk shall constitute a zoning violation. Any improvements, repairs, reconstructions, or any other alterations made to the area used to store junk during the continuance period shall not waive the requirements for elimination of the use at the end of the continuance period.

Article  
ZONING  
HEARING  
BOARD

7

**SECTION 701 ESTABLISHMENT AND MEMBERSHIP**

**701.1**

There shall be a Zoning Hearing Board which shall consist of five (5) members who shall be appointed by resolution by the Board of Supervisors. The membership of the Zoning Hearing Board shall consist of residents of the Township. Their terms of office shall be five (5) years and shall be so fixed that the term of office of one member shall expire each year. The Zoning Hearing Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in the Township. Any member of the Zoning Hearing Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

**701.2**

The Board of Supervisors may appoint by resolution at least one but no more than three (3) residents of the Township to serve as alternate members of the Zoning Hearing Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of Section 701, an alternate shall be entitled to participate in all proceedings and discussions of the Zoning Hearing Board to the same and full extent as provided by law for Zoning Hearing Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. Alternates shall hold no other office in the Township including membership on the Planning Commission and Zoning Officer. Any alternate may participate in any proceeding

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or discussion of the Zoning Hearing Board but shall not be entitled to vote as a member of the Zoning Hearing Board nor be compensated pursuant to Section 702, unless designated as a voting alternate member pursuant to Section 701 of this Ordinance.

## **SECTION 702 ORGANIZATION OF ZONING HEARING BOARD**

The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Zoning Hearing Board but the Zoning Hearing Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Zoning Hearing Board, as provided in Section 704. If by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Zoning Hearing Board shall designate as many alternate members of the Zoning Hearing Board to sit on the Zoning Hearing Board as may be needed to provide a quorum. Any alternate member of the Zoning Hearing Board shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Zoning Hearing Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with ordinances of the Township and laws of the Commonwealth. The Zoning Hearing Board shall keep full public records of its business, which records shall be the property of the Township and shall submit a report of its activities to the Board of Supervisors upon request.

## **SECTION 703 EXPENDITURES FOR SERVICES**

Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors. Alternate members of the Zoning Hearing Board may receive compensation as may be fixed by the Board of Supervisors, for the performance of their duties when designated as alternate members pursuant to Section 701 but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members by the Board of Supervisors.

## **SECTION 704 HEARINGS**

### **704.1**

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

1. Public notice (as defined herein) shall be provided. In addition, the Zoning Hearing Board shall notify by mail the Zoning Officer, Township Secretary, each member of the Board of Supervisors, Secretary of the Township Planning Commission and every other person or organization who shall have registered with the Zoning Hearing Board for the purposes of receiving such notices. Such

mailed notices shall state the location of the site and the nature of the request. It shall also state the time, date and location of the proposed hearing. 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:

2. The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs: and
3. The hearing shall be held within sixty (60) days from the date of the applicant's request unless the applicant has agreed in writing to an extension of time.

#### **704.2**

The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Zoning Hearing Board however the appellant or the applicant, as the case may be, in addition to the Township may, prior to the decision of the hearing, waive decision or findings by the Zoning Hearing Board and accept the decision or findings of the hearing officer as final.

#### **704.3**

The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board and any other person including civic or community organizations permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Zoning Hearing Board for that purpose.

#### **704.4**

The Chairman or Acting Chairman of the Zoning Hearing Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

#### **704.5**

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

#### 704.6

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

#### 704.7

The Zoning Hearing Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or hearing officer; or shall be paid by the person appealing the decision of the Zoning Hearing Board if such appeal is made and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

#### 704.8

The Zoning Hearing Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda or other materials, 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 surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

#### 704.9

The Zoning Hearing Board or the hearing officer, as the case may be shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the first hearing before the Zoning Hearing Board or hearing officer. Where the application is contested or denied each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of the Act or of this Ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Where the Zoning Hearing Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as hereinabove provided, the Zoning Hearing Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section 704.1 of this Ordinance. If the Zoning Hearing Board shall fail to provide

such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

#### **704.10**

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

#### **704.11 EFFECT OF BOARD'S DECISION**

1. If the variance or special exception is granted or the issuance of a permit is approved or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within six (6) months after the date when the variance or special exception is finally granted or the issuance of a permit is finally approved or the other action by the appellant is authorized, and the building or alteration as the case may be, shall be completed within twelve (12) months of said date. For good cause the Zoning Hearing Board may upon application in writing, state the reasons therefore to extend either of these deadlines.
2. Should the appellant or applicant fail to obtain the necessary permits within said six (6) months period, or having obtained the permit should he fail to commence work thereunder within such six (6) months period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his appeal or his application and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Zoning Hearing Board.
3. Should the appellant or applicant commence construction or alteration within said six (6) months period, but should he fail to complete such construction or alteration within said twelve (12) months period, the Zoning Hearing Board may upon ten (10) days notice in writing rescind or revoke the granted variance or special exception, or the issuance of the permit or permits or the other action authorized to the appellant or applicant if the Zoning Hearing Board finds that a good cause appears for the failure to complete within such twelve (12) months period, and if the Zoning Hearing Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action that revocation or rescission of the action is justified.

#### **SECTION 705 ZONING HEARING BOARD'S FUNCTIONS**

The Zoning Hearing Board shall have the exclusive jurisdiction to hear and render decisions in the following matters:

## **705.1 SUBSTANTIVE VALIDITY CHALLENGES**

Substantive validity challenges of the Zoning Ordinance, except those brought before the Board of Supervisors pursuant to Section 804.6, of this Ordinance,

1. If a challenge heard by a Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendment to the challenged Ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:
  - a. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
  - b. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map;
  - c. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources and other natural features;
  - d. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and,
  - e. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
2. Public notice of the hearing shall be provided as specified in Section 804.2 of this Ordinance.
3. The Zoning Hearing Board shall commence its hearings within sixty (60) days after the request is filed unless the landowner requests or consents to an extension of time.
4. The Zoning Hearing Board shall render its decision within forty-five (45) days after the conclusion of the last hearing. If the Zoning Hearing Board fails to act on the landowner's request within this time limit, a denial of the request is deemed to have occurred on the forty-sixth (46th) day after the close of the last hearing.

## **705.2 PROCEDURAL VALIDITY CHALLENGES**

Challenges to the validity of the Zoning Ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of the Ordinance.

### 705.3 SPECIAL EXCEPTIONS

Special exceptions as provided for in this Ordinance and subject to all applicable requirements including but not limited to:

1. Filing Requirements: In addition to the required zoning permit information (see Section 802) each special exception application shall include the following:
  - a. Ground floor plans and elevations of proposed structures.
  - b. Names and addresses of adjoining property owners including properties directly across a public right-of-way.
  - c. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance.
  - d. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance.
2. General Criteria: Each applicant must demonstrate compliance with the following:
  - a. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance.
  - b. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties.
  - c. The proposed use will not substantially change the character of the subject property's neighborhood.
  - d. Adequate public facilities are available to serve the proposed use (sewer, water and other utilities, vehicular access, etc.).
  - e. For development within the floodplain protection overlay, that the application complies with those requirements of Section 403 of this Ordinance.
  - f. The proposed use shall comply with those criteria specifically listed in Article 5 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations contained in this Ordinance.
  - g. The proposed use will not substantially impair the integrity of the Newberry Township Comprehensive Plan.
3. Conditions: The Zoning Hearing Board in approving special exception applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zoning district. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Article 8.

4. Site Plan Approval: Any site plan presented in support of the special exception pursuant to Section 705.3.1 shall become an official plan of the record for said special exception. Approval of any special exception will also bind the use in accordance with the submitted site plan. Therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan shall require the obtainment of another special exception approval.

#### **705.4 VARIANCES**

The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may by rule prescribe the form of application to the Zoning Officer. The Zoning Hearing Board may grant a variance provided that all of 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 this Ordinance in the neighborhood or zoning district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable reasonable use of the property.
3. That such unnecessary hardship has not been created by the applicant.
4. That the variance if authorized, will not alter the essential character of the zoning district or neighborhood in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property, not to be detrimental to the public welfare.
5. That the variance, if authorized will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue.
6. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Article 8.

## **705.5 APPEALS**

Appeals from the determination of the Zoning Officer, including but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

1. Appeals from a determination by a municipal engineer or the Zoning Officer with reference to the administration of any provisions contained within the floodplain protection overlay.
2. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the Zoning Ordinance.
3. Appeals from the Zoning Officer's determination under Section 916.2 (and any subsequent amendments) of the MPC.
4. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance with reference to sedimentation and erosion control, and/or storm water management for applications not involving a subdivision and/or land development, or a planned residential development as regulated in Articles V and VII of the MPC, respectively.

## **SECTION 706 PARTIES APPELLANT BEFORE THE BOARD**

Appeals under Sections 705.5.1-4, and proceedings to challenge this Ordinance under Sections 705.1. and 705.2. may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for a variance under Section 705.4 and for special exception under Section 705.3 may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner. Any appeal shall state:

### **706.1**

The name and address of the appellant and applicant.

### **706.2**

The name and address of the landowner of the real estate to be affected.

### **706.3**

A brief description and location of the real estate to be affected by such proposed change together with a plot plan drawn to scale with sufficient clarity to show the nature and character of the request.

### **706.4**

A statement of the present zoning classification of the real estate in question. The improvements thereon and the present use thereof: and.



## 706.5

A statement of the section of this Ordinance under which the request may be allowed, and reasons why it should or should not be granted.

## SECTION 707 TIME LIMITATIONS

### 707.1

No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final has been approved by the Zoning Officer or the agency responsible for granting such approval if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice or knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

### 707.2

The failure of anyone other than the landowner to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of this Ordinance or the Official Zoning Map pursuant to Section 916.2 of the Act, as amended shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative preliminary approval.

## SECTION 708 STAY OF PROCEEDING

### 708.1

Upon filing of any proceeding referred to in Section 706 and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged Ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case, the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court hearing, jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Zoning Hearing Board. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee but such waiver may be revoked by him if an appeal is taken from a final decision of the court. The question whether or not such petition

should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

**708.2**

If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

**SECTION 709 APPEAL**

Any person, taxpayer, or the Township aggrieved by any decision of the Board may within thirty (30) days after such decision of the Zoning Hearing Board, seek review by the Court of Common Pleas of such decision in the manner provided by the laws of the Commonwealth of Pennsylvania and Article X-A of the Act as amended.

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8

**SECTION 801 ADMINISTRATION AND ENFORCEMENT**

**801.1 ADMINISTRATION**

**A. ZONING OFFICER**

The provisions of this Ordinance shall be enforced by an agent, to be appointed by the Board of Supervisors, who shall be known as the Zoning Officer. The Zoning Officer shall be appointed at the first meeting of the Board of Supervisors in January to serve until the first day of January next following, and shall thereafter be appointed annually to serve for a term of one (1) year and/or until his successor is appointed. The Zoning Officer may succeed himself. He shall receive such fees or compensation as the Board of Supervisors may, by resolution, provide. The Zoning Officer shall not hold any elective office within the Township. The Zoning Officer may designate an employee of the Township as his Deputy, subject to the approval of the Board of Supervisors, who shall exercise all the powers of the Zoning Officer during the temporary absence or disability of the Zoning Officer.

**B. THE DUTIES OF THE ZONING OFFICER**

1. To receive, examine and process all applications and permits as provided by the terms of this Ordinance. The Zoning Officer shall also issue Zoning Permits for special exception and conditional uses, or for variances after the same have been approved.
2. To record and file all applications for Zoning Permits or Certificates of Use and Occupancy, and accompanying plans and documents and keep them for public record.

3. To inspect properties to determine compliance with all provisions of this Ordinance as well as conditions attached to the approval of variances, special exceptions, conditional uses and curative amendments.
4. To inspect nonconforming uses, structures, and lots and to keep a filed record of such nonconforming uses and structures together with the reasons why the Zoning Officer identified them as nonconformities, as a public record and to examine them periodically, with the view of eliminating the nonconforming uses under the existing laws and regulations.
5. Upon the request of the Board of Supervisors or the Zoning Hearing Board, present to such bodies facts, records and any similar information on specific requests to assist such bodies in reaching their decisions.
6. To be responsible for keeping this Ordinance and the Official Zoning Map up-to-date, including any amendments thereto.
7. To issue stop work orders when the Zoning Officer determines that a violation of this Ordinance exists or that construction is being commenced in a manner not authorized by a zoning permit or in a manner violating any approvals issued under this Ordinance. The Zoning Officer may issue stop work orders orally or in writing. If the Zoning Officer issues an oral stop work order, the Zoning Officer shall subsequently confirm the oral stop work order with a written notice within five (5) days.
8. Upon the approval by the Zoning Hearing Board of a special exception, or upon the approval of a conditional use by the Board of Supervisors for development located within a floodplain, written notice of the approval shall be sent by registered mail from the Zoning Officer to the Pennsylvania Department of Community and Economic Development.
9. To remain eligible for the National Flood Insurance Program, the Zoning Officer shall submit a bi-annual report to the Federal Insurance Administration concerning the status of the Program in the Township (the report form shall be provided by the Federal Insurance Administration).
10. To render a preliminary opinion regarding a proposed land use in accordance with Section 916.2. of the MPC.

## **801.2 ENFORCEMENT**

This Ordinance shall be enforced by the Zoning Officer of Newberry Township. No Zoning Permit or Certificate of Use and Occupancy shall be granted by him for any purpose except in compliance with the literal provisions of this Ordinance. The Zoning Officer may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within his scope of employment.

## **801.3 VIOLATIONS**

1. Failure to secure a Zoning Permit prior to a change in use of land or structure, or the erection, construction, alteration, or maintenance of any structure or portion

thereof, shall be a violation of this Ordinance. It shall also be a violation of this Ordinance to undertake other deliberate actions which are contrary to the terms of the Ordinance and any conditions placed upon the approval of special exceptions, variances and conditional uses. Each day that a violation is continued shall constitute a separate offense.

2. If it appears to the Zoning Officer that a violation of this Zoning Ordinance enacted under the MPC or prior enabling laws has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in the following:
  - a. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has, occurred to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
  - b. An enforcement notice shall state at least the following:
    - 1) The name of the owner of record and any other person against whom the Township intends to take action.
    - 2) The location of the property in violation.
    - 3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.
    - 4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
    - 5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the Ordinance.
    - 6) That failure to comply with the notice within the time specified unless extended by appeal to the Zoning Hearing Board, constitutes a violation with possible sanctions clearly described.

#### **801.4 ENFORCEMENT REMEDIES**

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance enacted under the MPC or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than five hundred dollars (\$500.00) 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 be 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 (5th) 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

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judgments, costs and reasonable attorney fees collected for the violation of the Zoning Ordinance shall be paid over to the Township.

### **801.5 CAUSES OF ACTION**

In case any building, structure, landscaping or land is, or is proposed to be erected, constructed, reconstructed, altered, repaired, converted, maintained, or used in violation of this Ordinance enacted under the MPC or prior enabling laws, the Board of Supervisors or, with the approval of the Board of Supervisors, an officer of 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 any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises any act, conduct, business or use constituting a 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 Board of Supervisors of Newberry Township. No such action may be maintained until such notice has been given.

### **SECTION 802 PERMITS**

#### **802.1 GENERAL REQUIREMENTS FOR ZONING PERMITS**

1. A Zoning Permit shall be required prior to a change in use of land or structure or the erection, construction, improvement or alteration of any structure or portion thereof, or the alteration or development of any improved or unimproved real estate, including but not limited to mining, dredging, filling, grading, paving, excavation or drilling operations or the erection or alteration of any signs specified in Section 517 of this Ordinance. Zoning Permits shall also be required for the construction or installation of animal waste impoundments, lakes, ponds, dams or other water retention basins. No Zoning Permit shall be required for repairs or maintenance of any structure or land provided such repairs do not change the use or the exterior dimension of the structure, or otherwise violate the provisions of this Ordinance.
2. Application for Zoning Permits shall be made in writing to the Zoning Officer.
3. Such Zoning Permits shall be granted or refused within ninety (90) days from date of application.
4. No Zoning Permit shall be issued except in conformity with:
  - a. All applicable regulations of this Ordinance.
  - b. Any conditions imposed on the site or upon the use by the Zoning Hearing Board of the Board of Supervisors.
  - c. Any recorded subdivision and/or land development plan.
5. In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all the requirements of this Ordinance, it will be

incumbent upon the applicant to furnish adequate evidence in support of his application. If such evidence is not presented, the Zoning Permit will be denied:

6. Application for a Zoning Permit shall be made by the Owner or Lessee of any building or structure or the agent of either. Provided, however, that if the application is made by a person other than the Owner or Lessee, it shall be accompanied by a written authorization of the Owner or the qualified person making an application that the proposed work is authorized by this Owner. The full names and addresses of the Owner, Lessee, Applicant and of the responsible officers, if the Owner or Lessee is a corporate body, shall be stated in the application:
7. The Zoning Officer may call upon other Township staff and/or Township-appointed consultants in the review of submitted materials for application:
8. The Zoning Officer may revoke a Zoning Permit or approval issued under the provisions of this Ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in the Zoning Ordinance.
9. No Zoning Permit shall be issued until the fees prescribed by the Board of Township Supervisors pursuant to the resolution shall be paid to the Zoning Officer. The payment of fees under this section shall not relieve the applicant or holder of said permit from payment of other fees that may be required by this Ordinance or by any other ordinances or law.
10. Issuance of Zoning Permits: Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing. If the application or plans do not conform to the provisions of all pertinent local laws, he shall reject such application in writing, stating the reasons therefore. He shall inform the applicant of his right to appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of the Zoning Ordinance and all laws and ordinances applicable thereto, and that the Certificate of Use and Occupancy as required herein has been applied for, he shall issue a permit therefore as soon as practical but not later than ninety (90) days from receipt of the application.
11. Reconsideration of Application: An applicant whose request for a Zoning Permit has been denied by the Zoning Officer may make a later application for a Zoning Permit provided all deficiencies which were the basis for the prior denial of the Zoning Permit have been eliminated. The Zoning Officer shall not be required to make a new inspection of the application if this condition is not met.
12. Expiration of Zoning Permit: The Zoning Permit shall expire after one (1) year from the date of issuance; provided, however, that the same may be extended every six (6) months for a period not to exceed an additional one (1) year.
13. Compliance with Ordinance: The Zoning Permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel or set

aside any of the provisions of the Zoning Ordinance, except as stipulated by the Zoning Hearing Board.

14. Compliance with Zoning Permit and Plot Plan: All work or uses shall conform to the approved application and plans for which the permit has been issued as well as the approved plot plan.
15. Display of Zoning Permit: All approved Zoning Permits shall be prominently displayed on the subject property during construction, renovation, reconstruction, repair, remodeling or the conduct of other site improvements. Such Zoning Permit displays shall occur within five (5) days of Zoning Permit issuance or prior to the commencement of actual work on the site, whichever occurs first. Such Zoning Permit display shall be continuous until the site receives its Certificate of Use and Occupancy.
16. Temporary Use Permit
  - a. It is recognized that it may be in accordance with the purpose of this Ordinance to permit temporary activities for a limited period of time, which activities may be prohibited by other provisions of this Ordinance. If such uses are of such a nature and are so located that at the time of petition of special exception, they will:
    - 1) In no way exert a detrimental effect upon the uses of land and activities normally permitted in the zoning district. or
    - 2) Contribute materially to the welfare of the Township, particularly in a state of emergency, under conditions peculiar to the time and place involved, then, the Zoning Hearing Board may, subject to all regulations for the issuance of special exception elsewhere specified, direct the Zoning Officer to issue a permit for a period not to exceed six (6) months. Such permits may be extended not more than once for an additional period of six (6) months.
  - b. Temporary use permits may also be issued by the Zoning Officer for a period not exceeding eighteen (18) months for temporary occupancy of a mobile home by an individual and his/her family during the construction of a single-family detached dwelling, subject to the requirements of Section 520 of this Ordinance.

## **802.2 APPLICATION FOR ALL ZONING PERMITS**

1. Applications shall contain a general description of the proposed work, development, use or occupancy of all parts of the structure or land and shall be accompanied by plans in duplicate drawn to scale and showing the following:
  - a. Actual dimensions and shape of lot to be developed.
  - b. Exact location and dimensions of any structures to be erected, constructed and altered.



- c. Existing and proposed uses, including the number of occupied units, businesses. etc., all structures are designed to accommodate.
  - d. Off-street parking and loading spaces.
  - e. Utility systems affected and proposed.
  - f. Alteration or development of any improved or unimproved real estate.
  - g. The size of structures and the number of employees anticipated.
  - h. Any other lawful information that may be required by the Zoning Officer to determine compliance with this Ordinance.
2. If the proposed development, excavation or construction is located within a floodplain, the following information is specifically required to accompany all applications:
- a. The accurate location of the floodplain and floodway
  - b. The elevation, in relation to the National Geodetic Vertical Datum of 1929 (NGVD) of the lowest floor, including basements
  - c. The elevation in relation to the NGVD to which all structures and utilities will be floodproofed or elevated.

**802.3 APPLICATION FOR ZONING PERMIT FOR USES IN ALL COMMERCIAL AND INDUSTRIAL ZONES**

- 1. A location plan showing the tract to be developed, zoning district boundaries, adjoining tracts, significant natural features, and streets for a distance of two hundred (200) feet from all tract boundaries.
- 2. A plot plan of the lot showing the location of all existing and proposed buildings, driveways, parking lots showing access drives, circulation patterns, curb cut accesses, parking stalls access from streets, screening fences and walls, waste disposal fields or other methods of sewage disposal, other construction features on the lot and the location of all topographical features.
- 3. A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, vibration, fire hazards, safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.
- 4. Engineering plans for treatment and disposal of sewage and industrial waste, tailings or unusable by-products.
- 5. Engineering plans for the handling of traffic, noise, glare, air pollution, water pollution, vibration, fire hazards or safety hazards, smoke or emission of any potentially harmful or obnoxious matter or radiation.
- 6. Designation of the manner by which sanitary sewage and storm water shall be disposed and water supply obtained.

7. The proposed number of shifts to be worked and the minimum number of employees on each shift.
8. Where use by more than one firm is anticipated, a list of firms that are likely to be located in the center, their floor area and estimated number of employees.

#### **802.4. CERTIFICATE OF USE AND OCCUPANCY**

1. It shall be unlawful to use and/or occupy any structure, building, sign, and/or land or portion thereof for which a permit is required herein until a Certificate of Use and Occupancy for such structure, building, sign and/or land or portion thereof has been issued by the Zoning Officer. The application for issuance of a Certificate of Use and Occupancy shall be made at the same time an application for a Zoning Permit is filed with the Zoning Officer as required herein.
2. The application for a Certificate of Use and Occupancy shall be in such form as the Zoning Officer may prescribe and may be made on the same application as is required for a Zoning Permit.
3. The application shall contain the intended use and or occupancy of any structure, building, sign and/or land or portion thereof for which a Zoning Permit is required herein.
4. The Zoning Officer shall inspect any structure, building, or sign within ten (10) days upon notification that the proposed work that was listed under the Zoning Permit has been completed and if satisfied that the work is in conformity and compliance with the work listed in the issued Zoning Permit and all other pertinent laws, he shall issue a Certificate of Use and Occupancy for the intended use listed in the original application.
5. The Certificate of Use and Occupancy or a true copy thereof shall be kept available for official inspection at all times.
6. Upon request of a holder of a Zoning Permit the Zoning Officer may issue a temporary Certificate of Use and Occupancy for a structure, building, sign and/or land, or portion thereof, before the entire work covered by the Zoning Permit shall have been completed, provided such portion or portions may be used and/or occupied safely prior to full completion of the work without endangering life or public welfare. The Zoning Officer shall also issue a temporary Certificate of Use and Occupancy for such temporary uses as tents, use of land for religious or other public or semi-public purposes and similar temporary use and/or occupancy. Such temporary certificates shall be for the period of time to be determined by the Zoning Officer, however, in no case for a period exceeding six (6) months.
7. A Certificate of Use and Occupancy shall not be issued for structures and buildings located in subdivision and/or land development requiring Improvement Guarantees until the structure or building abuts either a roadway which has been accepted by the Township for dedication or abuts upon a street which has been paved with a base wearing course.

8. In commercial and industrial zones in which operation standards are imposed, no Certificate of Use and Occupancy shall become permanent until thirty (30) days after the facilities are fully operational when upon a reinspection by the Zoning Officer, it is determined that the facilities are in compliance with all operation standards.

## **SECTION 803 FEES**

### **803.1 DETERMINATION**

The Board of Supervisors may, by resolution establish fees for the administration of this Ordinance. All fees shall be determined by a schedule that is made available to the general public. The Board of Supervisors may reevaluate the fee schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this Ordinance and may be adopted at any public meeting of the Board of Supervisors.

## **SECTION 804 AMENDMENTS**

### **804.1 POWER OF AMENDMENT**

The Board of Supervisors may from time to time, amend, supplement, change or repeal this Ordinance including the Official Zoning Map. Any amendment, supplement, change or repeal may be initiated by the Township Planning Commission, the Board of Supervisors or by a petition to the Board of Supervisors by an interested party.

### **804.2 HEARING AND ENACTMENT PROCEDURES FOR ZONING AMENDMENTS**

#### **A. PUBLIC HEARING**

Before hearing and enacting Zoning Ordinance and/or Zoning Map amendments, the Board of Supervisors shall conduct a public hearing to inform the general public of the nature of the amendment, and to obtain public comment. Such public hearing shall be conducted after public notice (as defined herein and listed below) has been given.

#### **PUBLIC NOTICE**

Before conducting a public hearing, the Board of Supervisors shall provide public notice as follows:

1. Notice shall be published once each week for two (2) successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first (1st) publication shall not be more than thirty (30) days, and the second (2nd) publication shall not be less than seven (7) days from the date of the hearing. Publication of the proposed amendment shall include either the full text thereof or the title and brief summary, prepared by the Township Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

- a. A copy of the full text shall be supplied to a newspaper of general circulation in the Township at the time the public notice is published. and
  - b. An attested copy of the proposed Ordinance shall be filed in the County Law library or other County office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said Ordinances.
2. For Zoning Map amendments, public notice shall also include the posting of a sign at conspicuous locations along the perimeter of the subject property; these sign(s) shall be posted at least one (1) week prior to the hearing and will exhibit the nature, date, time, and location of the hearing.
  3. For curative amendments, public notice shall also indicate that the validity of the Ordinance and/or map is in question, and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments may be examined by the public.
  4. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

**B. ENACTMENT NOTICE**

In addition to the public notice requirements defined herein, the Board of Supervisors must publish a reference to the time and place of the meeting at which passage of the Ordinance or amendment will be considered, and a reference to a place within the Township where copies of the proposed Ordinance or amendment may be examined without charge, or obtained for a charge not greater than the cost thereof. Enactment notice shall be published at least once in one (1) newspaper of general circulation in the Township neither more than sixty (60) days nor less than seven (7) days prior to passage. The published content of the enactment notice shall be the same as that required for public notice described in the preceding subsection B.

**C. TOWNSHIP PLANNING COMMISSION REFERRALS**

1. For amendments proposed by parties other than the Township Planning Commission, the Board of Supervisors shall submit each amendment to the Township Planning Commission at least thirty (30) days prior to the public hearing on such amendment.
2. A report of the review by the Township Planning Commission, together with any recommendations, may be given to the Board of Supervisors within thirty (30) days from the date of said referral. The recommendation of the Township Planning Commission may include a specific statement as to whether or not the proposed action is in accordance with the intent of this Ordinance and any officially adopted Newberry Comprehensive Plan.

**D. YORK COUNTY PLANNING COMMISSION REFERRALS**

All proposed amendments shall be submitted to the York County Planning Commission at least thirty (30) days prior to the public hearing on such amendments. The York County Planning Commission may submit recommendations to the Board of Supervisors; however, if the York County Planning Commission fails to act within thirty (30) days, the Board of Supervisors may proceed without its recommendations.

**E. ADJOURNMENT OF PUBLIC HEARING**

If during the public hearing process, the Board of Supervisors needs additional time to understand the proposal, inform the public, receive public comment, and/or render a decision, it may adjourn the public hearing to a certain time and place.

**F. DISTRIBUTION OF AMENDMENT**

Within thirty (30) days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the York County Planning Commission.

**804.3. AMENDMENTS INITIATED BY THE TOWNSHIP PLANNING COMMISSION**

When an amendment, supplement, change or repeal is initiated by the Township Planning Commission, the proposal shall be presented to the Board of Supervisors which shall then proceed in the same manner as with a petition to the Board of Supervisors which has already been reviewed by the Township Planning Commission.

**804.4 AMENDMENT INITIATED BY THE BOARD OF SUPERVISORS**

When an amendment, supplement, change or repeal is initiated by the Board of Supervisors, such amendment, supplement, change or repeal shall follow the procedure prescribed for a petition under Section 804.2.

**804.5 AMENDMENT INITIATED BY A PETITION FROM AN INTERESTED PARTY**

A petition for amendment, supplement, change or repeal for a portion of this Ordinance shall include an accurate legal description and surveyed plan of any land to be rezoned, and all of the reasons supporting the petition to be considered. The petition shall also be signed by at least one (1) record owner of the property in question whose signature shall be notarized attesting to the truth and correctness of all the facts and information presented in the petition. A fee to be established by the Board of Supervisors shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein. The Board of Supervisors may require duplicate sets of petition materials.

**804.6 CURATIVE AMENDMENT BY A LANDOWNER**

A landowner, who desires to challenge on substantive grounds the validity of the Ordinance or the Official Zoning Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Board of Supervisors (including all of the reasons supporting the request to be considered) with a written request that his challenge and proposed amendment be heard and decided as provided in Sections 609.1 and 916.1 of the MPC, as amended. The Board of Supervisors shall commence a hearing thereon within sixty (60) days of the request. The curative amendment shall be referred

to the Township Planning Commission and York County Planning Commission as provided for in Section 804.2. and public notice of the hearing shall be provided as defined herein.

1. In reviewing the curative amendment, the Board of Supervisors may deny the request, accept the request as submitted or may adopt an alternative amendment which will cure the challenged defects. The Board of Supervisors shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
  - a. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
  - b. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map.
  - c. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources and other natural features.
  - d. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
  - e. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
2. The Board of Supervisors shall render its decision within forty-five (45) days after the conclusion of the last hearing.
3. If the Board of Supervisors fails to act on the landowner's request within the time limits referred to in subsection 2, a denial of the request is deemed to have occurred on the forty-sixth (46th) day after the close of the last hearing.
4. Public notice of the hearing shall include notice that the validity of the Ordinance or map is in question and shall give the place where and the times when a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public.
5. The challenge shall be deemed denied when:
  - a. The Board of Supervisors fails to commence the hearing within sixty (60) days.
  - b. The Board of Supervisors notifies the landowner that it will not adopt the curative amendment.
  - c. The Board of Supervisors adopts another curative amendment which is unacceptable to the landowner. or

- d. The Board of Supervisors fails to act on the request forty-five (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and Township.
6. Where, after the effective date of the MPC, a curative amendment proposal is approved by the grant of a curative amendment application by the Board of Supervisors pursuant to this section or a validity challenge is sustained by the Zoning Hearing Board pursuant to Section 705.1., or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary or tentative approval for a subdivision, land development or planned residential development. Within the two (2) year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of Section 508 (4) of the MPC shall apply.
7. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have one (1) year within which to file for a Zoning Permit. Within the one-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

#### **804.7 CURATIVE AMENDMENT BY THE BOARD OF SUPERVISORS**

1. The Board of Supervisors, by formal action, may declare this Ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal, the Board of Supervisors shall:
  - a. By resolution, make specific findings setting forth the declared invalidity of the Ordinance or portions thereof which may include:
    - 1) references to specific uses which are either not permitted or not permitted in sufficient quantity.
    - 2) references to a class of use or uses which require revision. or
    - 3) references to the entire Ordinance which requires revisions.
  - b. Begin to prepare and consider a curative amendment to the Ordinance to correct the declared invalidity.
2. Within one hundred eighty (180) days from the date of the declaration and proposal, the Board of Supervisors shall enact a curative amendment to validate

or reaffirm the validity of this Ordinance: pursuant to the provisions required by Section 609 of the MPC in order to cure the declared invalidity of the Ordinance.

3. Upon the date of the declaration and proposal, the Board of Supervisors shall not be required to entertain or consider any curative amendment filed by a landowner. Nor shall the Zoning Hearing Board be required to give a report, upon request, for a challenge to the validity of the Ordinance under Section 705.1 subsequent to the declaration and proposal, based upon the grounds identical to or substantially similar to those specified in the resolution required by this section. Upon the enactment of a curative amendment to, or the reaffirmation of the validity of this Ordinance, no rights to a cure by amendment or challenge shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which the Board of Supervisors propose to prepare a curative amendment.
4. The Board of Supervisors, having utilized the procedures as set forth in this section, may not again utilize said procedures for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of the Ordinance. Provided however, that if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Township by virtue of a decision by any Court of competent jurisdiction, the Board of Supervisors may utilize the provisions of this section to prepare a curative amendment to the Ordinance to fulfill this duty or obligation.

#### **804.8 AUTHENTICATION OF OFFICIAL ZONING MAP**

Whenever there has been a change in the boundary of a zoning district or a reclassification of the zone adopted in accordance with the above, the change on the Official Zoning Map shall be made, and shall be duly certified by the Township Secretary and shall thereafter be refiled as part of the permanent records of the Township.

#### **SECTION 805 CONDITIONAL USES**

##### **805.1 FILING OF CONDITIONAL USE**

For any use permitted by conditional use, a conditional use must be obtained from the Board of Supervisors. In addition to the information required on the Zoning Permit application, the conditional use application must show:

1. Ground floor plans and elevations of proposed structures, except that only typical elevation drawings need to be submitted for proposed residences.
2. Names and addresses of adjoining property owners including properties directly across a public right-of-way.
3. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance.
4. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance.



## **805.2 GENERAL CRITERIA**

Each applicant must demonstrate compliance with the following to the satisfaction of a majority of the Board of Supervisors:

1. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance.
2. The proposed use will not effect a change in the character of the subject property's neighborhood as anticipated by its zoning designation(s).
3. Adequate public facilities are available to serve the proposed use (sewer, water, and other utilities, vehicular access, etc.).
4. For development within the floodplain protection overlay, that the applicant complies with those requirements listed in the Official Floodplain Ordinance of Newberry Township.
5. The proposed use shall comply with those criteria specifically listed in Article 5 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations of this Ordinance.
6. The proposed use will not substantially impair the integrity of the Newberry Township Comprehensive Plan.

## **805.3 CONDITIONS**

The Board of Supervisors in approving conditional use applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zoning district. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in this Article.

## **805.4 SITE PLAN APPROVAL**

Any site plan presented in support of the conditional use pursuant to Section 805.1 shall become an official part of the record for said conditional use. Approval of any conditional use will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan shall require the obtainment of another conditional use approval.

## **805.5 HEARING PROCEDURES**

1. Before voting on the approval of a conditional use, the Township Supervisors shall hold a public hearing thereon, pursuant to public notice. The Township Supervisors shall submit each such application to the Planning Commission at least thirty (30) days prior to the hearing on such application to provide the Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon application, the proposed application is revised, the

Township Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the application.

- 2. All public hearings shall be conducted in accordance with the requirements outlined in Section 705 of this Ordinance, except that any reference to the Zoning Hearing Board, shall be replaced with the Township Supervisors, and any reference to "special exception" shall be replaced with "conditional use."

**SECTION 806 REPEALER**

Any resolution, ordinance or part of any resolution or ordinance inconsistent herewith and any amendments thereof are hereby expressly repealed.

**SECTION 807 EFFECTIVE DATE**

This Ordinance shall become immediately effective upon its enactment by the Board of Supervisors of Newberry Township. This Ordinance is duly ordained and enacted this 25<sup>th</sup> day of July, 2006, by the Board of Supervisors of Newberry Township, York County, Pennsylvania, in lawful session duly assembled.

BOARD OF SUPERVISORS OF NEWBERRY TOWNSHIP

By:

\_\_\_\_\_ Chairman

\_\_\_\_\_ Vice-Chairman

\_\_\_\_\_ Member

\_\_\_\_\_ Member

\_\_\_\_\_ Member

ATTEST:

\_\_\_\_\_ Secretary

(SEAL)