

## CHAPTER 160

### ZONING

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**[HISTORY: Adopted by the Board of Supervisors of the Township of Paradise 3-2-1970 by Ord. No. 24 (Ch. 27 of the 1987 Code); amended in its entirety during codification (see Ch. 1, General Provisions, Art. III). Re-enacted 6-5-07 by Ord. No. 159. Subsequent amendments noted where applicable.]**

### GENERAL REFERENCES

Planning Commission -- See Ch. 21.  
Floodplain management -- See Ch. 65.  
Mobile homes -- See Ch. 80.  
Parks and recreation -- See Ch. 93.  
Stormwater management -- See Ch. 123.  
Streets and sidewalks -- See Ch. 127.  
Subdivision and land development -- See Ch. 131.

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### ARTICLE I

#### General Provisions

**Revised 4/20/05, Ordinance No. 152.**

#### **§ 160-1. Title.**

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

#### **§ 160-2. Community development objectives.**

This chapter is hereby adopted in accordance with the objectives of the Comprehensive Township Development Plan and is promulgated and set forth for the following purposes:

- A. To guide and regulate the orderly growth and development of the community; to promote public health, safety and general welfare; to provide for the most appropriate use of land; to protect the character and value of properties; to preserve the natural and scenic qualities of open land; to prevent undue concentration of population; and to lessen traffic congestion on public roads and highways.
- B. To seek to ensure that Paradise Township continues to be a desirable and tranquil location in which to reside and vacation.
- C. To provide updated zoning regulations that accommodate the community character desired by local residents, including the protection of existing neighborhoods, and to reasonably protect property values.
- D. To protect important natural features and natural areas for future generations to enjoy.

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- E. To ensure that new development is carefully coordinated with existing development, to ensure that the best use of land is achieved.
- F. To ensure that Paradise Township meets its legal obligations to provide opportunities to develop all legitimate land uses.
- G. To encourage appropriate development that will create jobs and increase the tax base, while avoiding development that would have an adverse impact on the township's existing economic base of tourism.
- H. To recognize that Paradise Township lacks a public water and sewer system and has limited capacity to serve intense development.
- I. To recognize that there are no limited access expressways within Paradise Township, and that the existing road system has many physical limitations that makes most roads unsuitable for heavy truck traffic.
- J. To seek to minimize potential hazards and nuisances, and to reasonably control the hours of operation of nuisance causing uses to meet the other objectives of this section.
- K. To seek to minimize traffic safety hazards, especially including hazards caused by high volume traffic.
- L. To assist in meeting the purposes stated in the Pennsylvania Noncoal Surface Mining Conservation and Reclamation Act, as amended.<sup>1</sup>
- M. To meet the purposes for zoning as stated in the Pennsylvania Municipalities Planning Code, as amended.<sup>2</sup>
- N. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains, riparian buffers, and wetlands, by setting them aside from development.
- O. To provide greater design flexibility and efficiency in the location of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development.
- P. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.

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<sup>1</sup> Editor's Note: See 52 P.S. § 3301 et seq.

<sup>2</sup> Editor's Note: See 53 P.S. § 10101 et seq.

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- Q. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained.
- R. To implement adopted Township policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Barrett-Mt. Pocono-Paradise Open Space Recreation Plan and the Paradise Township Strategic Plan, including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents.
- S. To implement adopted land use, transportation, and community policies, as identified in the Township's Comprehensive Plan.
- T. 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.
- U. To provide for the conservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreational use by residents.
- V. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties.
- W. To conserve scenic views and elements of the Township's character, and to minimize perceived density, by minimizing views of new development from existing roads.
- X. 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).

#### **§ 160-3. Interpretation.**

In the interpretation and application of the provisions of this chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter to repeal, abrogate, annul or in any way interfere with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises, nor is it intended to interfere with or abrogate or annul any easements, covenants or other legal agreements in effect between parties at the time of adoption of this chapter; provided, however, that where this chapter imposes a greater restriction upon the use of a building or lot or requires larger open spaces than are imposed or required by any other statute, ordinance, rule, regulation or permit, the provisions of this chapter shall prevail.

#### **§ 160-3. 1. Severability.**

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The provisions of this chapter shall be severable and if any of the provisions hereof shall be held to be unconstitutional, invalid or illegal by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this chapter.

#### **§ 160-3. 2. Savings.**

This chapter is neither intended to, nor should it be interpreted to, violate or conflict with, any applicable state or federal statute, ordinance or regulation. To the extent that any provision of this chapter, or portions thereof, shall conflict with or violate any portion of such applicable state or federal statute, ordinance or regulation, the relevant provisions such state or federal statute, ordinance or regulation shall control.

#### **§ 160-3.3. Definitions.**

The provisions of Article II of Chapter One of the Paradise Township Code of Ordinances, entitled "Definitions," as it may be amended, is incorporated herein by reference.

## **ARTICLE II Establishment of Zoning Districts**

#### **§ 160-4. Names of districts.**

Paradise Township is hereby divided into the following zoning districts.

OSC	Open Space Conservation District
RR	Rural Residential District
R-1	Low-Density Residential District
R-2	Moderate-Density Residential District
B-1	Neighborhood Business District
B-2	Business District

#### **§ 160-5. Zoning District intent.**

- A. General intent. Cluster developments and planned residential developments will be encouraged by the township as a means of preserving more meaningful tracts of open space preservation area. Industrial land use is to be provided in designated areas with access to major transportation systems and with proper separation from residential uses. Commercial areas are designated with regard to convenience of shopping as well as the safety and aesthetics of the environment. It is the intent of this chapter that all development follow standards for environmental protection while preserving a reasonable use for the property owner. Throughout the township, environmental protection will include:

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- (1) Floodplains. Floodplain development shall be discouraged. The greatest restrictions shall be imposed upon use of the floodway portion of the floodplain where the most frequent flooding and the most direct impact of floodwaters occurs.
- (2) Lakes, ponds and other watercourses. These areas shall be left as permanent open space. Special care should be taken in adjacent development to preserve the environmental quality of the lakes, ponds and watercourses. These areas shall not be subdivided.
- (3) Stormwater. All developments shall limit stormwater runoff so that water does not leave a newly developed site at a rate greater than the site in its current or natural condition. It is recognized that the preservation of floodplains, lakes, ponds and watercourses will help to control stormwater runoff.
- (4) Soil erosion and stream sedimentation. All developments shall protect streams, lakes and ponds from sedimentation and shall control erosion in accordance with the Clean Streams Law, P.L. 1987, Chapter 102, as amended.<sup>3</sup>
- (5) Agricultural preservation. Productive agricultural soils areas in the township and successful farms, regardless of soil category, should be retained as agricultural open space.
- (6) Forest. Existing forest land should be preserved. The degree of preservation should increase from the R-2 to the R-1 to the RR to the OSC Districts.
- (7) Steep slopes. Existing steep slopes over 15% should be very carefully developed so as not to excessively increase water runoff, cause soil erosion, stream sedimentation, stream siltation and mud slides or cause any other significant disruption of the environment. In general, steep slopes of 25% and higher should not be developed because of severe environmental problems.
- (8) Endangered species requirements. If there exists, in any zoning district, any species of flora or fauna that is designated as an endangered species by the United States Environmental Protection Agency (EPA) or other state or federal agencies, development in those areas shall be in strict accordance with and under approval of the EPA or any agency designated as having jurisdiction in this matter.

#### B. Zoning district intent.

- (1) Open Space Conservation District (OSC). The OSC District has been designated in areas where one or more environmental constraints exist. It has been established, in part, to protect the rural atmosphere of the township in this district. Such development would include low-density permanent and seasonal residences as well as open recreational areas that conserve the natural environment. This district is critical for

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<sup>3</sup> Editor's Note: See 35 P.S. § 691.1 et seq.



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protection of wetlands, steep slopes and poor soils which are dominant in this district. In addition, this district contains parcels designated "clean and green" under Act 319.<sup>4</sup>

- (2) Rural Residential District (RR). The RR District consists of lands similar to those found in the OSC District. The district allows for the development of these lands on a low-density basis to ensure and uphold the rural characteristics of the township. Also, the RR District has similar environmental constraints to development and requires a larger lot size to safeguard the life support systems or water consumption and sanitary sewage disposal.
- (3) Low-Density Residential District (R-1). The R-1 District is primarily designed to provide low-density development in areas where public sewer and water are not available and to provide diverse housing in the township. Such uses might include low-density permanent and seasonal residences as well as open recreational areas, membership clubs, camps, wildlife preserves and other types of uses that would be compatible with the surrounding environment.
- (4) Moderate-Density Residential District (R-2). The R-2 District comprises areas of the township that are basically rural in character and which are or may be used for permanent and seasonal residence, at a moderate density as well as for other purposes that are in keeping with the rural nature of the area.
- (5) Neighborhood Business District (B-1). The B-1 District is primarily intended to permit the logical development of land for business uses designed to meet the daily needs of surrounding residents, as well as the area needs of visitors, vacationers, transients or tourists and to assure the suitable development of such businesses in order to protect the surrounding environment.
- (6) Business District (B-2). The B-2 District is primarily intended to permit the logical development of land for general business uses. It is intended that any nonresidential development within this district provide adequate separation and buffering to protect adjacent residences and lands zoned for residential use from adverse influences relative to noise, light, invasion of privacy and other incompatible influences.

#### **§ 160-6. Zoning Map.<sup>5</sup>**

- A. District boundaries. The location and boundaries of the above described zoning districts are hereby established as shown on the Zoning Map of Paradise Township. The Zoning Map is hereby made a part of this Zoning Ordinance, together with all future notations, references and amendments.

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<sup>4</sup> Editor's Note: See 72 P.S. § 5490.1 et seq.

<sup>5</sup>Editor's Note: The current Zoning Map is on file in the township offices.

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#### B. Official Zoning Map.

- (1) The Official Zoning Map shall be identified by the signature of the Chairman of the Board of Supervisors, attested by the Township Secretary, and shall bear the adoption date of this chapter and the seal of the township under the following words: "This is to certify that this is the Official Zoning Map of Paradise Township."
- (2) Regardless of the existence of copies of the Zoning Map, which may be made from time to time, the Official Zoning Map shall be located in the township office and shall be the final authority on boundaries and districts.

#### C. Zoning Map changes.

- (1) Changes of any nature to the Official Zoning Map shall be made in conformity with the amendment procedures set forth in this chapter as well as with the Municipalities Planning Code.<sup>6</sup> All changes shall be noted by date with a brief description of the nature of the change.
- (2) Unless the prior Zoning Map has been lost or has been totally destroyed, the prior map or any part or parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

#### D. Zoning boundary interpretation.

- (1) Boundaries drawn approximately following the center line of streams, drainageways, streets, alleys, railroads or other rights-of-way shall be construed to follow such center line.
- (2) Boundaries drawn approximately following lot lines shall be construed to follow such lot lines and to be located upon the land through competent land survey of those lot lines.
- (3) Boundaries drawn approximately following the center line of streams shall be construed to follow such center line and, in the event of change in the center line, shall be construed as moving with the actual center line.
- (4) Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- (5) Where physical features existing on the ground vary with those shown on the Official Zoning Map or in other circumstances not described above, the Zoning Officer shall interpret the district boundaries. Any person aggrieved by such boundary interpretation may appeal to the Zoning Hearing Board.

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<sup>6</sup>Editor's Note: See 53 P.S. § 10101 et seq.

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#### **ARTICLE III**

##### **Zoning District Use Regulations**

**Revised 8/21/01, Ordinance No.128; Revised 5/20/02, Ordinance No. 131; Revised 10/1/02, Ordinance No. 136; Revised 2/18/03, Ordinance No.142; Revised 12/16/03, Ordinance No. 142; Revised 8/3/04, Ordinance No. 146; Revised 5/20/05, Ordinance No. 152; Revised 1/3/06, Ordinance 153; Revised 10/21/08, Ordinance No. 167; Revised 6/15/10, Ordinance No. 181; Revised 3/1/11, Ordinance No. 189; Revised 3/15/11, Ordinance No. 191; Revised 3/15/11, Ordinance No. 192; Revised 8/16/11, Ordinance No. 195; Revised 2/27/12, Ordinance No. 200; Revised 3/17/14, Ordinance No. 215; Revised 7/21/14, Ordinance No. 220; Revised 8/4/14, Ordinance No. 221; Revised 3/16/15, Ordinance No. 227; Revised 5/20/15, Ordinance No. 232; Revised 11/16/15, Ordinance No. 236; Revised 4/3/27, Ordinance No. 242; Revised 8/21/17, Ordinance No.248.**

#### **§ 160-7. Application of district regulations.**

- A. The regulations set by this chapter shall apply uniformly to each use or type of structure or land, except as provided for in this chapter.
- B. No building or structure shall hereafter be erected, moved, altered, rebuilt or enlarged nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and controls specified in this chapter for the district in which such building or land is located.
- C. No part of a yard or other open space or off-street parking or loading space required or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
- D. No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

#### **§ 160-8. Types of uses.**

- A. Permitted uses. Uses listed as permitted uses in Schedule I in each district shall require no special action by the Supervisors or Zoning Hearing Board before a zoning permit is issued by the Zoning Officer.
- B. Conditional uses. Uses listed as conditional uses in Schedule I in each district shall require individual consideration in each case because of their unique characteristics. Such

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conditional uses shall be referred to the Planning Commission for review and recommendation and shall be permitted only after a public hearing and determination by the Supervisors that such uses meet the standards in this chapter.

- C. Continuation of existing uses. Any legally established existing use of a building or structure, lot or parcel of land or part thereof as of the effective date of this chapter may be continued.

#### **§ 160-9. District bulk regulations.**

- A. Minimum requirements. The minimum regulations governing the size of lots, yards and height of buildings within each zoning district are set forth in Schedule III and Schedule IV.<sup>7</sup>
- B. Supplemental regulations. The minimum regulations are subject to the provisions of the Supplementary Regulations, Article IV, of this chapter.

#### **§ 160-10. Conditional and special exception uses.**

- A. General standards. All conditional uses:

- (1) Shall not cause substantial injury to the value of other property where it is to be located.
- (2) Shall conform with regulations applicable to the district where located and shall conform to the more specific standards listed in §§ 160-11 and 160-12 of this chapter.
- (3) Shall be compatible with adjoining development.
- (4) Shall provide adequate buffers, landscaping and screening to protect and enhance adjoining areas.
- (5) Shall provide off-street parking and loading and access in keeping with this chapter<sup>8</sup> so as to minimize interference with traffic on all streets.
- (6) Shall not jeopardize the public health, safety, welfare, quality of life or convenience of township residents.
- (7) Shall be designed and constructed such that vehicular and pedestrian traffic does not create undue congestion or hazards prejudicial to the general area.

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<sup>7</sup>Editor's Note: Schedule III and Schedule IV are included at the end of this chapter.

<sup>8</sup>Editor's Note: See Schedule II included at the end of this chapter.

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- (8) May be subject to any other conditions, requirements or safeguards, established by the Supervisors or Zoning Hearing Board, which may be warranted by the character of the area in which such use is proposed or by other special factors which may be necessary to implement the purposes of this chapter.
- (9) May require the applicant to prepare and submit, at his expense, any additional information such as an environmental impact statement, a traffic impact analysis, a community impact analysis, an historical and cultural analysis or any other report or study as the Supervisors may deem necessary for their review and consideration of the application.
- (10) Shall demonstrate that all other regulations within the Township Code of Ordinances have been complied with and that all required permits from the federal, state or other local agencies will be obtained and provided to the township.

#### B. Special standards.

- (1) Conditional uses authorized by the Supervisors may be subject to any additional conditions and safeguards established by the Supervisors in each case which may be warranted by the character of the areas in which such uses are proposed or by other special factors and which are necessary to implement the purposes of this chapter.
- (2) Special exception uses authorized by the Zoning Hearing Board may be subject to any additional conditions and safeguards established by the Zoning Hearing Board in each case which may be warranted by the character of the areas in which such uses are proposed or by other special factors and which are necessary to implement the purposes of this chapter.

#### C. Plan requirements.

- (1) All applicants shall submit 4 copies of all plans and documentation to the Zoning Officer when making application for a conditional or special exception use permit.
- (2) The plans shall comply with all of the requirements for a site development plan in accordance with § 160-30. All proposed uses must be accurately and prominently labeled on the plans.
- (3) Plans shall be processed in accordance with the provisions of Article VI of this chapter.
- (4) Applicants shall demonstrate that the proposed use complies with all general, special and specific requirements of this chapter.

### **§ 160-11. Land uses.<sup>9</sup>**

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<sup>9</sup>Editor's Note: See Schedule I, Regulations Governing the Use of Land, included at the end of this chapter.

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A. The following is a general listing of land uses:

- (1) Accessory structure and uses.
  - (1.A) Accessory dwelling unit.
- (2) Adult entertainment business.
- (3) (Reserved)
- (4) Airport or heliport.
  - (4.A) Automotive dealership.
- (5) Auto repair or body shop.
- (6) Bed-and-breakfast.
- (7) Bus station.
  - (7.A) Bus terminal.
- (8) Campground.
- (9) Care facility: dependent, family or group.
  - (9.A) Care facility- placement.
- (10) Cellular tower.
- (11) Cemetery.
- (12) Child care.
- (13) College or school.
- (14) Commercial agricultural: animal husbandry, dairy, livestock production.
- (15) Commercial fishery.
  - (15.A) Commercial Water Extraction
  - (15.B) Community Sewage System.
- (16) Concrete or asphalt plant.

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- (17) Conversion to two-family dwelling.
- (18) Correctional facility or halfway house.
- (19) Crematory.
- (20) Cultural facility: library, museum, art gallery or community center.
- (21) Day-care facility or nursery school.
- (22) Drive-in or drive-through facility.
- (23) Eating or drinking establishment.
- (24) Financial, insurance, real estate, business or personal service.
- (24.5) Fireworks.
- (25) Flea market, commercial.
- (26) Flea market, nonprofit.
- (27) Forestry or timbering.
- (28) Fraternal, civic or social club.
- (29) Funeral home or mortuary.
- (30) Gasoline station.
- (31) Governmental facilities and uses.
- (32) Greenhouse or plant nursery.
- (32.A) Greenway land.
- (32.B) Group home.
- (33) Heavy equipment storage and office.
- (34) Home occupation.
- (35) Hospital or medical clinic.
- (36) House of worship.

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- (37) Hunting or fishing club, camp or association/private only.
- (38) Indoor shooting range.
- (39) Indoor theater or indoor recreational use.
- (40) Institutional residence: convent, monastery, dormitory or fraternity.
- (41) Junkyard or salvage yard.
- (42) Kennel or animal hospital.
- (43) Laundromat.
- (43.A) Lot clearing.
- (43.B) Master Development.
- (44) Manufacturing: food, metal, plastic, chemical, petroleum.
- (45) Mobile home park.
- (46) Model airplane facility.
- (47) Motor freight terminal.
- (48) Multiple dwelling/apartments.
- (48.A) Non-conforming, non-residential use expansion.
- (49) Off-track betting establishment.
- (49.A) Oil or Gas Development.
- (50) Outdoor recreational use (excluding public and/or nonprofit parks).
- (51) Outdoor recreation - high-impact.
- (52) Outdoor shooting range.
- (53) Park and ride facility.
- (54) Parsonage.
- (54.A) Planned Community Office Parks and Shopping Centers.



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- (55) Planned residential development.
- (56) Playground, park or picnic area.
- (57) Professional office.
- (58) Public utility.
- (59) Repair services: jewelry, televisions, clocks, furniture, shoe.
- (60) Resort, hotel or motel.
- (61) Retail sales.
- (62) Retirement facility.
- (63) Riding or boarding stable (commercial).
- (64) Rooming or boarding home.
- (65) Single-family dwelling.
- (65.A) Solar energy systems.
- (66) Special event, temporary: commercial or nonprofit.
- (67) Surface mining.
- (68) Tavern, nightclub or dance hall.
- (69) Taxi service.
- (70) Two-family dwelling.
- (71) Veterinary or animal hospital.
- (72) Warehouse/self storage facility.
- (73) Reserved.
- (74) Wild game/hunting preserve.
- (75) Zoological park.

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#### **§ 160-12. Special land use requirements.**

A. Specific requirements for each land use are as follows:

- (1) Accessory structures and uses. See § 160-15 and the following:
  - (a) Private garage, garden house, toolhouse, playhouse, incidental to the residential use of the lot.
  - (b) (Reserved)
  - (c) Private outdoor swimming pools in accordance with § 160-15D hereof.
  - (d) The storage of vehicles and boats in accordance with § 160-15E hereof.
  - (e) No signs shall be permitted except in accordance with the provisions of and subject to the procedural requirements of the Township Sign Ordinance (Chapter 114).
- (1.A) Accessory dwelling unit. One accessory dwelling unit (such as barn, stable, carriage house, spring house, guest cottage) shall be permitted on the same lot with and customarily incidental to any permitted residential use and shall not be conducted as an independent principal use.
  - (a) Accessory dwelling units used for purposes such as servant quarters, guest quarters, or family members shall not be rented.
  - (b) Issuance of permits for an Accessory dwelling unit shall be contingent upon the Township's Sewage Enforcement Officer approval for any on-site sewage disposal systems needed.
  - (c) The minimum lot area for a primary residential use to include an accessory dwelling unit is 175% of the minimum required lot area for a single-family dwelling.
  - (d) All parking areas shall be within the interior of the property.
- (2) Adult entertainment business.

Legislative Findings and Intent. Numerous studies indicate that sexually-oriented businesses present negative secondary impacts on neighboring properties and their owners/occupiers. Potential negative secondary impacts of certain sexually-oriented land uses include: prostitution, anonymous sexual contact, the emission

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and/or exchange of bodily fluids, drug sales or use, and the spread of communicable diseases. Studies from other jurisdictions have shown that there is a basic incompatibility between sexually-oriented land uses and any land use or activity that regularly includes youth. Further, studies in Indianapolis and Rochester show that sex businesses are likely to have negative effects on the property values of residences and similar uses within 500 to 1,000 feet. The Board of Supervisors adopts the legislative findings of the Pennsylvania General Assembly regarding the potential negative secondary impacts of certain sexually-oriented businesses, set forth at 68 Pa. C.S.A. Section 5501. The Board of Supervisors of Paradise Township seeks to impose reasonable content-neutral regulations on sexually-oriented land uses within the Township to minimize negative secondary impacts so as to protect the health, safety and welfare of all Township residents, including the employees, patrons, owners and customers of sexually oriented businesses operating within the Township. It is not the intent of the Board of Supervisors to deny any persons the rights of speech protected by the constitutions of Pennsylvania or the United States. Further, by enacting this ordinance, the Board of Supervisors does not intend to deny or restrict the rights of any adult to obtain or view, or both, any sexually-oriented materials protected by the constitution of Pennsylvania or the United States, or both, nor do they intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of sexually-oriented materials may have to sell, distribute or exhibit these materials.

- (a) Adult entertainment businesses are allowed as a conditional use in the business district (B-2) zones only.

- [1] Individual Consideration of Applications for Conditional Use – Pursuant to Chapter 160-8, conditional uses shall require individual consideration in each case because of their unique characteristics. Conditional Use applications shall be made in compliance with Chapter 160-29 of this Code of Ordinances. Any applicant who is dissatisfied with the Township's decision may appeal to the Court of Common Pleas, as per the Municipalities Planning Code, in addition to any other remedies at law or equity.

- (b) Standards. Conditional Use shall be granted, if recommended by the Planning Commission and the Board of Supervisors, unless any of the following standards are not met:

- [1] All applicants must meet the general standards for all conditional uses found in Chapter 160-10; and

- [2] All applicants for adult entertainment business use must be at least eighteen years of age; and

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- [3] Applications must be made to the Zoning Officer on a form provided by the Township, intended for such use; and
- [4] Any application must be signed by at least one owner and one operator of the proposed adult entertainment business; and
- [5] If the applicant is a business entity, then each person having ten percent (10%) or greater interest in the entity must sign the application and provide their home address and phone number; and
- [6] If the applicant is a partnership, then the partnership shall state its complete name, and names of all partners, whether the partnership is general or limited and shall submit a copy of the partnership agreement, if any exists; and
- [7] If the applicant is a corporation, the corporation shall state the corporate name, the date of its incorporation, the type or classification of corporation, the names and capacities of all its officers, directors and principal stockholders and the name of the registered corporate agent and address of the agent for service of process and shall submit evidence that the corporation is in good standing under the laws of the state of its incorporation and qualified and authorized to conduct business in Pennsylvania; and
- [8] If the applicant intends to operate the adult entertainment business under a name other than that of the applicant, he or she must provide:
  - [a] the adult entertainment businesses' fictitious name; and
  - [b] the required registration documents;
- [9] Applications shall include the name, address and phone number of a responsible on-site manager with the authority to ensure compliance with this Chapter; and
- [10] Proposed location for Adult entertainment use must not be within 500 feet of any existing adult entertainment business; and
- [11] Proposed location for the adult entertainment business must not be within 1,000 feet of the following protected uses:
  - [a] Any day-care center;
  - [b] Any house of worship, meetinghouse or other actual place of regularly scheduled religious worship established prior to the proposed adult entertainment business;

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- [c] Any school or educational institution, public or private;
  - [d] Any public park, recreation area or playground;
  - [e] Any library, museum or other public buildings;
  - [f] Any enterprise, commercial or not-for-profit, that caters to persons under 18 year of age; and
- [12] The proposed location of the adult entertainment business must not be within 500 feet of any occupied residence, unless said occupants sign a waiver that they do not object to the proposed location of the adult entertainment business; and
- [13] Separation distances shall be measured from the edge of the building proposed to be used for adult entertainment to the lot line of the protected use; and
- [14] Any false information provided or failure to provide information requested on application shall be basis for denial; and
- [15] Premises proposed for location of adult entertainment business must meet all applicable local, state and federal codes and/or rules within 30 days of conditional use approval under this Chapter; and
- [16] All Applicants/owners must not be overdue in his or her payment to the Township of taxes, fees, fines or penalties assessed against him or her in relation to the adult entertainment business; and
- (c) License Required. No adult-entertainment business shall operate in Paradise Township without first obtaining a business license. All applicants for a conditional use to operate an adult business must at the time of application for conditional use, also apply for a business license to operate such business. Any adult entertainment business operating without a business license, or with an expired or revoked business license is guilty of violation of this Chapter. Any existing adult-entertainment businesses, operating at the time of adoption of this ordinance have 180 days after its effective date to apply for and obtain an adult-entertainment business license under this Chapter. All Adult entertainment businesses must comply with the provisions of Chapter 14 on Adult-Entertainment Business Licenses.
- (d) Prohibitions. The following shall be unlawful:
- [1] Touching: It is the responsibility of the Owner and/or Operator to make sure that no touching occurs between patrons or between patrons and

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performers/models/employees at any adult-entertainment business, except for hand-to-hand contact for the purpose of giving monetary gratuity to employees, or models or performers; and

- [2] Alcohol: It is the responsibility of the Owner and/or Operator to make sure that no alcohol is sold, served or consumed on the premise of any adult-entertainment business or massage parlors; and
- [3] Signage: It is the responsibility of the Owner and/or Operator to make sure that no sexually oriented material, signs, display or word is visible at any time from outside the building of any adult entertainment business or massage parlor. Exterior signs shall comply with Chapter 114 of this Code of Ordinances. Contents of signs shall include only the text of the name of the business and the hours of operation; and
- [4] Gambling: It is the responsibility of the Owner and/or Operator to make sure that no gambling occurs on the premises of any adult-entertainment business; and
- [5] Knowing Violations: Knowing violations of any of the above-stated provisions are prohibited and constitute a violation of this act; and
- [6] "Massage Parlors": It is the responsibility of the Owner and/or Operator to make sure that "Specified Sexual Activities" do not occur at massage parlors;
- [7] Minors: It is the responsibility of the Owner and/or Operator to make sure that no one under age 18 is on the premises of any adult-entertainment business during hours of operation;
- [8] Hours of Operation: It is the responsibility of the Owner and/or Operator to make sure that the business does not operate on Sundays or U.S. Government holidays;
- [9] Window Displays: It is the responsibility of the Owner and/or Operator to make sure that no sexually-oriented materials is displayed in windows or otherwise made visible to casual passersby;
- [10] Visibly Intoxicated Persons: It is the responsibility of the Owner and/or Operator to make sure that no visibly intoxicated persons are admitted into any adult-entertainment business;
- [11] Stage: It is the responsibility of the Owner and/or Operator to make sure that performers/models/employees are on a stage at least five feet away from the audience and performances occur in an area designated as a stage at least 500 square feet in size;

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[12] No Closed Booths: It is the responsibility of the Owner and/or Operator to make sure that there are no closed booths in the adult entertainment business as per PA law and this Chapter;

[13] No Material In Bathrooms: It is the responsibility of the Owner and/or Operator to make sure that no adult material is displayed or permitted in the bathrooms;

[14] No Openings Between Booths: It is the responsibility of the Owner and/or Operator to make sure that there are no openings between any partitions or viewing booths; and

[15] No Child Pornography: It is the responsibility of the Owner and/or Operator to make sure that child pornography is not sold, displayed or possessed in the adult entertainment business.

#### (3) Agricultural uses.

(a) Agricultural uses - crops: Use of land for the cultivation of crop production, for commercial use shall be a permitted use in all zoning districts.

[1] A retail sales structure is permitted on property used for commercial agriculture, providing it does not exceed 600 square feet of floor area and that it meets the minimum building setbacks for an accessory structure in the underlying zoning district;

[2] Signage shall comply with Chapter 114 (Signs);

[3] Retail sales on property used for commercial agriculture shall be permitted to sell only produce or comestibles grown/raised on the property.

(b) Agricultural uses – livestock: The keeping, breeding and/or raising of livestock shall require a minimum lot size of three acres for the first two animals, and an additional acre per every additional Animal Unit, as defined in Chapter 1. The keeping, breeding and/or raising of fowl shall require a minimum lot size of two acres.

[1] Barns, silos, sheds and related structures shall conform to the setback requirements for principal structures in the underlying zoning district;

[2] Stables, pens, coops or similar housing for animals or fowl, or for the storage of manure or other odor- or dust-producing substances, or use of manure or other odor- or dust-producing substances shall not be permitted within 100 feet of any street or lot line. This shall not prohibit spraying, dusting or

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spreading of materials to fertilize or to protect vegetation in any area of the lot.

- (c) Agricultural uses - household pets: The keeping of outdoor household pets shall be permitted in all zoning districts provided it is conducted in a manner such that it does not generate noise, odor or safety issues that constitute a nuisance. At any time, by complaint of neighboring property owners or violation found by the Zoning Officer or certified state or federally appointed official, a landowner shall be notified and given 30 days to resolve such disorder(s). Such disorders not resolved within that period shall constitute a violation of this ordinance.

- [1] Outdoor housing, pens, runs shall meet the setback requirements for a residential accessory structure in the underlying zoning district;
- [2] Animal waste shall be stored and disposed of in a manner which creates no offensive odors beyond the property line;
- [3] Animal noises which produce complaints from neighboring properties shall require the property owner to take necessary steps to correct the noise.
- [4] Any commercial breeding (including the sale of more than one set of offspring per year) shall comply with standards for a kennel.
- [5] Household pets shall not be left outdoors unattended between the hours of 10 p.m. and 5 a.m.
- [6] Owners shall comply with Chapter 40 (Animals).

- (d) Agricultural uses - exotic animals:

- [1] No exotic animal may be kept, raised or possessed upon any lands within the Township without prior registry with the Township Zoning Officer.
- [2] All state or federal permits, licenses or import documents shall be submitted with the registry application.
- [3] No more than one specimen of any exotic animal may be kept upon any parcel of land within the Township by a private owner, with the exception of permitted zoological parks.
- [4] Cages, pens, and holding areas for exotic animals shall meet the setback requirements for a primary structure and shall be adequate to prevent the release of any exotic animal at all times. The escape of any exotic animal shall be adequate evidence that the cage, pen, or holding area for such animal is not secure and violates this chapter.



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- (e) Agricultural uses - private game preserves or hunting preserves: Fenced land dedicated to free-ranging animals for either display or hunting shall be located only in the OSC Zone, on parcels no less than two hundred (200) acres in size. Private game preserves or hunting preserves are prohibited from stocking any exotic animals, or any game species not native to the Commonwealth of Pennsylvania.
- (4) Airport or heliport:
- (a) Refer to Article XII, Airport Zoning Regulations; lot size 50 acres.
  - (b) Copies of all required federal and state permits shall be submitted to the township.
  - (c) The fly zone shall be situated to meet the performance standards within this chapter.
  - (d) A private airport or heliport is a principal use and all areas used for landings, takeoffs and ground circulation shall be at least 1,000 feet from any property line.
- (4.A) Automotive dealership:
- (a) Automotive dealerships shall be conditional uses in the B-1 and B-2 districts only.
  - (b) Minimum lot size is one (1) acre.
  - (c) Minimum street frontage shall be one hundred fifty (150) feet.
  - (d) No gasoline pump, oil pump, air, and/or water hose stand shall be permitted within thirty- five (35) feet of any property line or street right-of-way line.
  - (e) All lighting facilities shall comply with § 160-17.
  - (f) Screening is required in compliance with § 160-18.
  - (g) No vehicle shall occupy any part of any street right-of-way whether public or private, required customer parking area, or paved area setback.
  - (h) Applicants shall supply the Township a proof of a valid and current Pennsylvania State license to sell automobiles prior to the issuance of a conditional use permit and annually thereafter.

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- (i) One parking space shall be provided for each vehicle for sale with a twenty (20) foot setback from the road right-of-way, and must conform with all other standards outlined in § 160-16.
  - (j) Any area used for the parking and/or storage of vehicles shall be paved.
  - (k) For automotive dealerships which also contain a garage and/or fueling station on-site, the standards outlined in § 160-12(A)(5) and § 160-12(A)(30) shall apply, as appropriate.
  - (l) All automotive dealerships shall be kept free of paper and rubbish. No abandoned or nuisance vehicles shall be stored on-site.
- (5) Auto repair or body shop:
- (a) All disabled, inoperable or damaged vehicles shall be stored in an area which cannot be seen from public view.
  - (b) Screening and or stockade fencing is required. No vehicles shall be stored in the minimum building setback areas.
  - (c) Normal repairs must be done inside a building.
  - (d) (Reserved)
  - (e) No vehicle is allowed to be stored on grass or natural area.
  - (f) Automobile parts, junk, petroleum, paint products or other hazardous material shall be stored outside.
  - (g) Welding or painting shall be done within the premises.
- (6) Bed-and-breakfast.
- (a) The business must reflect a residential appearance.
  - (b) Only signage shall indicate a business use.
  - (c) A maximum of six units or rooms are allowed per parcel.
  - (d) The minimum lot size must be two times the required minimum lot size for the district in which it is located.
- (7) Bus station.

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- (a) The minimum lot size shall be two acres.
  - (b) Setbacks from all property lines shall be at least 50 feet.
  - (c) All activity shall occur on the property, not on any public right-of-way or private street.
  - (d) Access must be directly to a collector or arterial street.
  - (e) The storage of petroleum or other fuel must be in-ground, screened or within a building.
  - (f) Public rest rooms are required (but not taxi services).
- (7.A) Bus terminal. Refer to §160-12(A)(47) Motor freight terminals.
- (8) Campground.
- (a) A person or occupant shall not occupy any campsite within the campground longer than six months over a consecutive twelve-month period.
  - (b) The owner of the property must supply any relevant information sought by the Zoning Officer in his official capacity.
  - (c) Fifty (50) acres is the minimum lot size.
  - (d) A one-hundred (100) foot buffer with screening must surround the entire perimeter of the site. Screening is required to comply with §160-18.
  - (e) All structures, activity areas or buildings shall be set back at least one hundred fifty (150) feet from all contiguous residential property lines, except that activities involving music and/or public address systems shall be setback at least two hundred (200) feet from all contiguous residential property lines.
  - (f) All parking must be at least thirty five (35) feet from the property line.
  - (g) Thirty percent (30%) is the maximum lot coverage.
  - (h) Evidence of adequate potable water supply and sanitary sewage disposal for the use in question on the property shall be provided by the applicant.
  - (i) All outdoor lighting and any public address system on the property shall meet the requirements of §160-17 and §160-19, respectively.
- (9) Care facility, dependent, family, or group.

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- (a) At least 60% of the residents receive nursing or personal care.
- (b) A copy of any federal and state certificates shall be provided to the township.
- (c) Maximum lot coverage is 30%.
- (d) Minimum lot size is two acres.

#### Number of Beds

0 to 4

5 to 8

9 to 14

>14

#### Minimum Lot Size

2 acres

2.5 acres

3 acres

An additional 5,000 square feet for each  
bed/person

- (e) All principal buildings must be set back at least 50 feet.
  - (f) An outdoor recreation area shall be provided for the residents of the facility and properly secured if necessary.
  - (g) A tested and suitable primary absorption area and a tested and suitable secondary absorption area shall be provided for any on lot sewage disposal system.
- (9.A) Care facility – Placement.

- (a) Facility must comply with all applicable state and/or federal laws and be licensed, where required, by an appropriate state and/or federal government agency.
- (b) A copy of any federal and state certificates shall be provided to the Township.
- (c) Facility must comply with all other zoning requirements for the underlying zoning district.
- (d) Adequate off-street parking must be provided for caregivers and visitors.
- (e) Maximum lot coverage is 30%.
- (f) An outdoor recreation area shall be provided for the residents of the facility and properly secured if necessary.

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(g) A tested and suitable primary absorption area and a tested and suitable secondary absorption area shall be provided for any on lot sewage disposal system.

(h) Minimum lot size shall be two acres.

Number of Beds	Minimum Lot Size
0 to 4	2 acres
5 to 8	2.5 acres
9 to 14	3 acres
>14	An additional 5,000 square feet for each bed/person

(i) All principal buildings must be set back at least 50 feet.

(10) Cellular tower; communication towers, antennas and communication equipment buildings.

(a) Antennas and communication equipment buildings.

- [1] Building-mounted antennas shall not be located on any single-family dwelling or two-family dwelling.
- [2] Antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- [3] Antennas shall not cause radio frequency interference with other communications facilities located in Paradise Township.
- [4] A communications equipment building shall comply with the height and setback requirements of the applicable zoning district for a principal structure.
- [5] The owner or operator of antennas shall be licensed by the Federal Communications Commission to operate such antennas.

(b) Communication towers.

- [1] All applications for communication towers shall be submitted as a conditional use application under §§ 160-30 and 160-31 of this chapter and shall include the following information and documentation:

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- [a] A proposal for a new communication tower shall not be approved unless the Board of Supervisors finds that the communications equipment planned for the proposed communication tower cannot be accommodated on an existing or approved communication tower, public utility tower, building or other structure within Paradise Township or within a one-mile search radius of the proposed tower if such one-mile search radius would include other municipalities, due to one or more of the following reasons:
  - [i] The planned equipment would exceed the structural capacity of the existing or approved public utility tower, communication tower, building or other structure, as documented by a qualified and licensed professional engineer and the existing or approved public utility tower, communication tower, building or other structure cannot be reinforced, modified or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
  - [ii] The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the public utility tower, communication tower, building or other structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
  - [iii] Existing or approved public utility towers, communication towers, buildings and other structures with Paradise Township (or within the one-mile search radius of the proposed site for the communication tower if applicable) cannot accommodate the planned equipment at a height necessary to function reasonably.
  - [iv] Addition of the planned communications equipment would result in electromagnetic radiation from such existing or approved public utility towers, communication towers, buildings and other structures exceeding applicable standards established by the FCC governing exposure to electromagnetic radiation.
  - [v] After a bona fide, diligent attempt, a commercially reasonable agreement could not be reached with the owners of such public utility towers, communication towers, buildings or other structures.
- [b] The proposed communication tower in the specific location desired must be necessary for the efficient operation and provision of the wireless communications service to the neighborhood, area or region for which it is proposed.

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- [c] The design of the proposed communication tower and related facilities and equipment shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of the properties owned by other property owners in the zoning district in which it is located.
- [2] Design requirements.
- [a] Any proposed communication tower shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the communication tower is over 100 feet in height or for at least one additional user if the communication tower is over 60 feet in height. Communication towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
  - [b] Communication towers and antennas shall be designed to blend in to the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
  - [c] Communication towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. Any other exterior lighting at the communication tower site shall be directed away from all adjacent properties and shall be in conformance with all performance standards associated with direct or indirect glare.
  - [d] All communication equipment buildings and structures accessory to a communication tower shall be architecturally designed to blend in with the surrounding environment and shall meet the principal building minimum setback requirements of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetation screening better reflects the architectural character of the neighborhood.
  - [e] The use of any portion of a communication tower for signs other than warning or equipment signs is prohibited.
  - [f] Access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of 20

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feet in width and shall be improved to a width of at least 10 feet with a dust-free all-weather surface for its entire length.

- [g] Drainage facilities shall be provided in accordance with Chapter 123, Stormwater Management, regulations.
  - [h] All communication towers shall be surrounded by a twelve-foot nonclimbable fence with barbed wire extending in an outward direction around the top of the fence.
  - [i] Adequate off-street parking, but no less than one space, shall be provided to accommodate the needs of the communication tower and communication tower equipment building, which off-street parking shall be paved of stone or other suitable materials.
  - [j] Land development approval shall be required for all proposed communication towers.
  - [k] All guy wires associated with any communication tower shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
- [3] Interference with public safety.
- [a] No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new antennas and/or communication towers shall be accompanied by an intermodulation study, which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service, changes in existing service or additions of new antennas, telecommunication providers shall notify Paradise Township at least 10 days in advance of such changes and allow Paradise Township to monitor interference levels during the testing process.
  - [b] Wireless communication facilities shall be maintained and kept in a state of repair so that the same shall not constitute a nuisance or hazard to the health or safety of the community or nearby residents or properties.
- [4] Abandoned or unused communication towers or portions of communication towers.
- [a] Abandoned or unused communication towers or portions of communication towers shall be removed as follows:



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- [i] All abandoned or unused communication towers and associated facilities shall be removed within 180 days of cessation of operations. A copy of the relevant portions of any signed lease, license or other agreements which requires the applicant to remove the communication tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a communication tower is not removed within 180 days of the cessation of operations at a site, the communication tower and associated facilities may be removed by Paradise Township and the cost of removal assessed against both the applicant and the owner of the property on which the communication tower and associated facilities exist.
  - [ii] Financial security in a form and amount acceptable to the township shall be provided to the township prior to erection of a communication tower, to address the removal of a tower(s).
  - [iii] Unused portions of communications towers above the manufactured connection shall be removed within 180 days of the time of antenna relocations. The replacement of portions of a communication tower previously removed requires the issuance of a new conditional use zoning permit.
- [5] Setbacks. The setback of the base of a communication tower from all adjacent properties and/or lot lines shall be a distance equal to 100% of the antenna height or the building setback requirements for the underlying zoning district, whichever is greater. For purposes of this section, the building setback for the principal structure shall be in accordance with Schedule III<sup>10</sup> to determine setback requirements in B-1, B-2 and OSC Districts.
- [6] Lot size. The minimum lot area requirement for a communication tower shall be in accordance with Schedule III<sup>11</sup> for the applicable zoning district or the minimum area necessary to comply with the setback requirements of Subsection A(10)(b)[5] above, whichever is greater.
- [7] Antenna height. The maximum antenna height shall not exceed 150 feet in any zoning district.

(c) Plan requirements.

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<sup>10</sup>Editor's Note: Schedule III is included at the end of this chapter.

<sup>11</sup>Editor's Note: Schedule III is included at the end of this chapter.

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- [1] All applications for communications towers, antennas and communications equipment buildings shall be submitted as a conditional use application in accordance with the provisions of this chapter.
- [2] All plans shall be prepared in accordance with the requirements for a major land development plan in accordance with the provisions of Chapter 131, Subdivision and Land Development.
- [3] Any applicant proposing an antenna to be mounted on a building or other structure shall submit evidence from a Pennsylvania professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location. A Pennsylvania registered engineer for the township will review and comment upon the engineering design and details supplied by the applicant.
- [4] Any applicant proposing an antenna to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antenna will be mounted on the structure for review by the Township Engineer or the Township Consultant.
- [5] Any applicant proposing an antenna to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antenna is to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.
- [6] Any application proposing a communications tower shall include the following information and documentation:
  - [a] A report from a qualified and licensed professional engineer which:
    - [i] Describes the communication tower height and design, including a cross-section and elevation.
    - [ii] Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas.
    - [iii] Describes the communication tower's capacity, including the number and type of antennas that it can accommodate.
    - [iv] Documents what steps the applicant will take to avoid interference with established public safety telecommunications.
    - [v] Includes an engineer's license/registration number and seal.

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- [b] A letter of intent committing the communication tower owner and his, her or its successors to allow the shared use of the communication tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- [c] As part of the conditional use application, the following supplemental information shall be submitted:
  - [i] A copy of the FAA's response to the submitted Notice of Proposed Construction or Alteration (FAA Form 7460-1) shall be submitted to the Paradise Township Board of Supervisors; and
  - [ii] Proof of compliance with applicable Federal Communications Commission, Federal Aviation Administration, Commonwealth Bureau of Aviation and any applicable airport zoning regulations.
- [d] One copy of typical specifications for the proposed structures and antenna, including description of design characteristics and material.
- [e] A site plan drawn to scale showing property boundaries, power location, communication tower height, guy wires and anchors, existing structures, elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan and existing and uses on adjacent property.
- [f] Name and address of the owners of all antenna and equipment to be located at the site as of the date of the application.
- [g] Written authorization from the site owner for the application, as well as a copy of any written agreement or other documentation pursuant to which the applicant has obtained the right to use the proposed site.
- [h] Copy of the valid FCC license for the proposed activity or proof that the applicant is the winning bidder for an FCC license at auction and that the final issuance of the FCC license purchased at auction is pending.
- [i] A written agreement to remove the communication tower within 180 days of cessation of use, which written agreement, including the necessary financial guaranties, shall be in form acceptable to the township, which agreement shall be signed by the applicant and the owner of the property where the communication tower is proposed.
- [j] Written certification by the applicant and the applicant's engineer that the proposed antenna and equipment could not be placed on an

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existing facility under the control of the applicant and function under applicable regulatory and design requirements without unreasonable modification.

- [k] A letter of intent committing the communication tower owner and the common carrier(s) utilizing the communication tower and their respective heirs, personal representatives, successors and assigns to allow Paradise Township and any other governmental agency to utilize the communication tower in the case of an emergency, upon reasonable terms and conditions.
- [l] Any and all permits and/or approvals required from any and all local, state and federal authorities shall be obtained by the applicant and copies of such permits and/or approvals forwarded to the township upon receipt. Failure to obtain all required local, state and federal permits and/or approvals within one year of the issuance of the zoning permit shall result in said zoning permit becoming null and void with no further action on the part of the township.
- [m] The applicant shall submit a certification from a Pennsylvania registered professional engineer that the proposed communications tower will be designed and constructed in accordance with the Current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association. The Township Engineer or a consultant for the township will review all documentation that is part of the application.

#### (11) Cemetery.

- (a) Lot size shall be at least five acres; total building coverage is 20%.
- (b) All graves, buildings or structures and/or driveways shall be at least 50 feet from all property lines.
- (c) Interior drives shall be at least 12 feet in width and shall provide adequate access of at least 100 feet to any grave site and are part of lot coverage calculations.

#### (12) Child care.

- (a) The care of up to three children not related to the caregiver and provided in the home of the caregiver shall not require a permit.
- (b) Care for four to six unrelated children requires a home occupation permit.

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- (c) Over six children unrelated to the caregiver is a day care or nursery school.
- (13) Colleges or schools.
  - (a) All buildings or activity areas shall be at least 50 feet from all property lines or right-of-way lines.
  - (b) Building lot coverage shall not exceed 30%.
  - (c) For each 100 persons or fraction thereof, one acre shall be added to the minimum lot size.
  - (d) Lot coverage, including all improvements, shall not exceed 50%, parking and drives included.
  - (e) The principal access must be on to a collector or greater street.
- (14) Commercial agricultural: animal husbandry, dairy, livestock production.
  - (a) A retail sales building is permitted on the property, provided that it does not exceed 1,000 square feet of floor area and must meet the minimum building setbacks for the district.
  - (b) (Reserved)
  - (c) All of the requirements stated in the agricultural barn or commercial horse barn use also apply.
- (15) Commercial fishery.
  - (a) Minimum lot size is five acres.
  - (b) All buildings and structures must be set back 50 feet from all property lines or right-of-way lines.
- (15.A) Commercial Water Extraction.
  - (a) All required permits from the Delaware River Basin Commission and/or the Pennsylvania Department of Environmental Protection, including all required supplementary permit application documentation, shall be provided to the Township.
  - (b) Access to the site shall be to a collector street or greater.

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- (c) If water is treated, processed or packaged for retail distribution on-site the applicant shall also comply with requirements for manufacturing. Treatment/processing shall include any filtering, disinfection or conditioning.
- (d) Applicant shall provide a traffic study in compliance with §160-20.
- (e) Site operations shall be screened in accordance with §160-18.
- (f) Applicant shall comply with § 160-19(B) regarding noise
- (g) Applicant shall comply with § 160-17 regarding Exterior Lighting.
- (h) Applicant shall comply with § 160-21-A regarding Haul Roads.
- (i) Applicant shall provide a Site Development Plan in compliance with § 160-30.

#### **(15.B) Community Sewage System.**

- (a) All required state and federal permits shall be provided to the Township as a condition of approval.
- (b) Any new Community Sewage System, or any parts thereof, must obtain an approved Act 537 Planning Module.
- (c) The owner of a Community Sewage System must supply a copy of any draft and final National Pollution Discharge Elimination System (NPDES) permit, as well as any modifications to the permit, where applicable, to the Township sewage enforcement officer.
- (d) Prior to the construction of any Community Sewage Systems, or any parts thereof, the Applicant shall prepare and receive Municipal approval of a Major Land Development Plan in accordance with the procedures in Chapter 131, and specifically in compliance with §131-28 of Chapter 131 and §160-12(A)(15.A) of Zoning.
- (e) Any Community Sewage Systems, or parts thereof, that constitute a principal use of a lot shall require a Conditional Use Permit in compliance with §160-12(A)(15.A) of Zoning, reviewed and approved by the Paradise Township Board of Supervisors in accordance with the procedures in §160-29 of Zoning.
- (f) Any Community Sewage System that serves uses outside the borders of Paradise Township shall be a Public Sewage Facility.

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- (g) Community Sewage Systems are prohibited from treating or disposing of any wastewater not generated within the community it is designed and approved to serve.
- (h) Screening is required in compliance with § 160-18.
- (i) All earth disturbance associated with land-based wastewater disposal systems shall be set back a minimum of one hundred (100) feet from all water supply wells, wetlands, streams, ponds or lakes and property lines, with the exception of access drive(s) and solid piping associated with collection of raw sewage or distribution of treated effluent. All drip or perforated piping associated with distribution of treated effluent of land-based disposal shall meet this one hundred (100) foot setback. The design spray trajectory limit of a spray irrigation system used for disposal of treated effluent shall also meet this one hundred (100) foot setback.
- (j) The Major Land Development Plan shall show the limits of land application of any wastewater or treated wastewater, and shall show location and size of all trees within that area whose trunk exceeds six (6) inches in diameter at four (4) feet above the ground. Any trench distribution system, drip system, and/or spray irrigation system used for effluent disposal shall be constructed in such a way as to minimize the need for removal of any of these identified trees, and at a minimum, should be designed to preserve and protect at least fifty percent (50%) of the trees so identified.

Removal of these trees, prior to Plan submission, for the purposes of avoiding this requirement shall constitute a violation of this Ordinance. Standing trees that are dead should be separately identified. The fifty percent (50%) requirement shall pertain solely to the protection of live trees.

Owners of Sewage Facilities requiring protection of fifty percent (50%) of trees shall be required to provide a biannual report prepared by a qualified forest management professional, identifying the positive or negative impacts that have resulted from the operation of the Sewage Facilities.

If this report indicates that the effluent from the Sewage Facilities is causing degradation of the protected trees, the report shall contain recommendations for tree protection or tree replacement, so that the degradation, if identified, is offset by vegetation improvements. In the twelve (12) months following the issuance of this report, the Owner of the Sewage Facilities shall comply with the recommendations of this forest management professional.

- (k) Any new Community Sewage System, or any parts thereof, must comply with wellhead protection standards in §160-21(C)(10) of Zoning. Alternatively, an Applicant for a new Community Sewage System, or any parts thereof, may provide a study, prepared by a hydrogeologist registered in

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the Commonwealth of Pennsylvania, demonstrating, to the satisfaction of the Township, that the proposed Community Sewage System, or any parts thereof, including any/all treatment, disposal, conveyance equipment and all associated appurtenances will pose no threat to any private or public water supply well.

- (l) Discernable odors beyond the property line associated with the handling and/or disposal of wastewater shall constitute a public nuisance and a violation of this chapter. Discernable odors beyond the property line associated with the handling and/or disposal of wastewater shall require immediate remediation by the owner and/or operator. All tanks used for equalization, wastewater treatment or sludge holding or treatment and all sludge handling facilities shall be housed or covered to provide odor control.
- (m) A minimum of two (2) monitoring wells, designed to Pennsylvania DEP standards for identification of water quality in the “first encountered” water table, shall be constructed down gradient from each effluent disposal area and a minimum of one (1) such monitoring well shall be provided for each ten (10) acres of effluent disposal area for each direction of groundwater flow identified.

Any/all predevelopment groundwater test results required by DEP shall be provided to the Township.

If the Pennsylvania DEP Regulations require additional monitoring wells, the more restrictive requirement shall apply.

The Owner of any Sewage Facility requiring monitoring wells shall provide an annual Operations and Maintenance Report to the Township, which report shall include the results of an annual groundwater monitoring water quality tests. The water quality parameters to be tested would be identical to the parameters required by DEP and/or as modified by the DEP in the future.

If the DEP does not establish parameters for testing of monitoring wells, the applicant shall provide to the Township predevelopment groundwater test results for the following parameters:

- E. coli bacteria
- Nitrates
- MTBEs

Two (2) samples shall be tested from each monitoring well.

The owner of any Sewage Facility requiring monitoring wells shall provide groundwater test results for these same parameters on an annual basis to the Township with two (2) samples tested at each monitoring well. The owner



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shall provide a report prepared by an Engineer registered in the Commonwealth of Pennsylvania providing an interpretation of the results and an opinion as to whether or not any changes in the results of the groundwater testing are attributable to the utilization of property for land application of treated or untreated wastewater. Further, the report shall provide the Engineer's recommendation for mitigation of impact that he or she would recommend for protection of any downgradient wetland, pond, lake, stream or private/public water supply.

Within one (1) year of the date of issuance of that report, the owner and operator shall implement the recommendations of their Engineer and provide a report from their Engineer that this mitigation work has been satisfactorily completed.

Owners of any Sewage Facility discharging less than five thousand (5,000) gallons per day are exempt from this subsection (M) of § 160-12(A)(15.A) of this Ordinance. Any future expansion of any Sewage Facilities resulting in a discharge in excess of five thousand (5,000) gallons per day will require compliance with this section.

- (n) The owner of a Community Sewage System, or any parts thereof, must supply the Township with a copy of the Discharge Monitoring Report as provided to DEP on the schedule required by DEP and any other report required by DEP or enforcement notice issued by DEP within 15 days.

#### (16) Concrete or asphalt plant.

- (a) Shall be located on the same site as a surface mining operation.
- (b) Shall be subject to and comply with all applicable requirements for a surface mining operation and any other requirements for the district where located.
- (c) No structure, equipment, activity, etc., shall exceed 35 feet in height measured from the original ground surface at the location of such structure, equipment, activity, etc.
- (d) Setbacks for asphalt and concrete plants and all activities related to their operation shall be the same as for the excavation location of the surface mining use as contained in this section.
- (e) Noise level for asphalt and concrete plants shall also be the same as for surface mining operations.

#### (17) Conversion to a two-family dwelling.

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- (a) Lot size minimum is 175% of the minimum lot size required for a single-family unit in that district.
- (18) Correctional facility.
- (a) The minimum lot size is 100 acres.
  - (b) All setbacks are at least 100 feet from any property lines for all buildings, fences, structures or outdoor activity areas.
  - (c) Screening and landscaping are required for any outdoor confinement area.
  - (d) Access must be on to a collector street or greater.
  - (e) Full compliance with all state/federal guidelines.
- (19) Crematory.
- (a) All activities related to the crematory process must be in an enclosed building.
- (20) Cultural activities: library, museum, art gallery, community center.
- (a) The minimum lot size is two acres.
  - (b) The minimum setback for the principal building is 75 feet front and 50 feet for the rear and side setbacks.
  - (c) Any outdoor recreational areas must be set back 50 feet from the property lines and screened from any residential use.
- (21) Day-care facility or nursery school.
- (a) All federal, state and other appropriate permits shall be provided to the township.
  - (b) Screening is required when adjacent to any residential use.
  - (c) The outdoor play area shall be limited to the hours between 9:00 a.m. and 6:00 p.m. It shall be surrounded with a fence at least six feet in height and well maintained.
  - (d) Vehicular traffic must be separated from pedestrian traffic.
- (22) Drive-in or drive-through facility.

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- (a) Examples of this use are a car wash, drive-through bank, drive-through restaurant or any type of drive-through window use or facility. Any use where a transaction occurs without leaving the vehicle applies.
  - (b) A traffic study must be approved by the Board of Supervisors and reviewed by the Planning Commission.
  - (c) The drive-through shall not cause any traffic congestion or interfere with the flow of vehicular traffic on or off the site.
- (23) Eating or drinking establishment.
  - (a) Points of vehicular ingress and egress shall be limited to a total of one on any street, unless a one-way traffic pattern is established, in which event two points of ingress or egress shall be allowed.
  - (b) Any outdoor eating or drinking area shall be screened from adjacent residential properties.
  - (c) Outdoor seating shall be included in the sewage analysis as permanent seats. Public toilets, one for men and one for women, must be provided. Outdoor waste containers shall be provided for all paper or other solid waste when takeout or outdoor seating is provided.
- (24) Financial, insurance, real estate, retail or personal business: Refer to Professional Offices (160-12(A)(57)).
- (24.5) Fireworks.

Manufacture, sale, and discharge of Consumer Fireworks and Display Fireworks shall be regulated as follows:

  - (a) The manufacture of fireworks is prohibited within Paradise Township.
  - (b) The sale, exposing for sale, and the offering for sale of consumer fireworks shall be authorized as a conditional use to a facility licensed by the Pennsylvania Department of Agriculture in accordance with the provisions of the Pennsylvania Fireworks Law found at 35 P.S. §1271 et. seq., as it currently exists or may be amended from time to time, in the B-2 zoning district.
- (25) Flea market: commercial (indoor or outdoor).
  - (a) Public toilets, one for men and one for women, must be provided.

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- (b) A land development plan and a traffic study must be submitted and approved by the Board of Supervisors.
  - (c) The property owner must grant written consent for a flea market.
  - (d) The minimum lot size is three acres.
  - (e) The setback for all buildings shall be 100 feet and all other improvements, structures or parking areas shall be at least 50 feet from all lot lines.
  - (f) A litter control plan and solid waste management program shall be included in the land development plan.
  - (g) Any flea market held by a commercial business shall be considered a commercial flea market even though a portion of the proceeds benefit a nonprofit organization.
- (26) Flea market, bazaar, fair, festival, outdoor fundraiser, craft show tent sale, etc., for a nonprofit group, organization, or resort.
- (a) This is a permitted accessory use in all districts.
  - (b) The total days of the events above shall not exceed seven for each occurrence and shall occur only twice in any one calendar year.
  - (c) Temporary buildings, structures or tents shall obtain a permit. Temporary parking in an open field is permitted.
  - (d) A temporary zoning permit is required and adequate chemical toilets shall be required.
- (27) Reserved.
- (28) Fraternal, civic or social club.
- (a) Minimum lot size is five acres.
  - (b) Setbacks for all buildings shall be at least 100 feet minimum.
  - (c) No more than one permanent single-family unit shall be developed as part of the facilities.
  - (d) The property shall be principally used for the purpose of a fraternal, civic or social club.
  - (e) Screening shall be provided adjacent to all residential uses.

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- (29) Funeral home or mortuary.
  - (a) A traffic study is required.
  - (b) Pedestrian and vehicular traffic shall be separated.
  - (c) All activities shall be conducted within a closed building.
- (30) Gasoline station or convenience store with fuel sales to motor vehicles.
  - (a) A traffic study is required.
  - (b) All activities shall be performed indoors, except those activities related to pumping petroleum.
  - (c) No vehicles may be stored outdoors for more than two weeks.
  - (d) Access points shall be limited to two per street.
  - (e) All driveways and parking areas shall be paved.
- (31) Governmental facilities and uses.
  - (a) Total lot coverage shall not exceed 50%.
  - (b) Pedestrian traffic shall be separated from vehicular traffic.
  - (c) Landscaping, buffers and screening may be required, with a minimum width of 25 feet from all property lines.
- (32) Greenhouse or plant nursery.
  - (a) Outdoor storage and equipment shall be within the building setback areas.
  - (b) No inventory for resale may be placed or grown within 20 feet of setback lines.
- (32.A) Greenway Land. The following uses are permitted in greenway land areas provided earth disturbance in primary conservation areas is limited to passive recreation and stormwater conveyances in compliance with Chapter 123:
  - (a) Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow);

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- (b) Agricultural and horticultural uses, including raising crops and wholesale nurseries, associated buildings (excluding residences), that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations, and/or concentrated animal feeding operations.
- (c) Forestry, in keeping with established best management practices for selective harvesting and sustained yield forestry and Section 160-12(A)(27).
- (d) Neighborhood uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized vehicle use, rifle ranges, and other uses similar in character and potential impact as determined by the Board of Supervisors.
- (e) Active recreation areas, such as play fields, playgrounds, courts, pastureland for horses, equestrian facilities, hunting, fishing, golf courses and bikeways, provided such areas do not consume more than half of the minimum required greenway land. Play fields, playgrounds, and courts shall not be located within 100 feet of abutting properties. Parking spaces for the facilities shall also be permitted in compliance with Section 160-16.
- (f) Water supply and sewage disposal systems, and stormwater best management practices designed, landscaped, and available for use as an integral part of the Greenway.
- (g) Easements for drainage, access, sewer or water lines, or other public purposes.
- (h) Underground utility rights-of-way. Aboveground utility and street rights-of-way may traverse conservation areas, but shall not count toward the minimum required greenway land.

#### (32.B) Group home.

- (a) Care must be provided to individuals subject to protection under the Fair Housing Act of 1988, as amended and/or the Americans with Disabilities Act, as amended.
- (b) Facility must comply with all applicable state and/or federal laws and be licensed, where required, by an appropriate state and/or federal government agency.
- (c) Approval is deemed withdrawn in the event of a change of use, or if care is provided to any individuals not subject to protection under the Fair Housing Act of 1988, as amended and/or the Americans with Disabilities Act, as amended.

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- (d) Facility must comply with all other zoning requirements for residential use contained in this chapter.
  - (e) Adequate off-street parking must be provided for caregivers and visitors.
- (33) Heavy equipment storage and office.
- (a) No equipment may be stored in any of the setback areas.
  - (b) The site shall have direct access to a collector street or greater.
  - (c) Parking and storage of equipment or vehicles shall be on a durable dustless surface whenever a permanent area is used.
  - (d) No junk or nonoperable, dismantled equipment shall be stored outside.
  - (e) Screening may be required.
- (34) Home occupation.
- (a) Home occupation shall be conducted by one or more permanent residents of the dwelling and by not more than one nonresident.
  - (b) The applicant shall set forth the maximum number of customers, visitors or clientele expected to be served by the home occupation during any one hour and one-day period and the hours of operation.
  - (c) No more than two vehicles per hour, on the average, are permitted for the home occupation, including visitors, clients, deliveries or customers.
  - (d) There shall be no change to the outside appearance of the home or lot. Outdoor storage related to the home occupation is prohibited.
  - (e) Additional off-street parking shall be required per this chapter.
  - (f) The home occupation shall not exceed 30% of the total habitable floor area of the residential dwelling unit.
  - (g) The home occupation may be within the principal residential building or an accessory building.
  - (h) The following uses shall not be deemed home occupations: auto repair, auto body repair or paint shop, a motorcycle shop, welding, heavy machinery repairs or any use that will detract from the residential character of the neighborhood.

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- (i) A home occupation may include the following: trades, i.e., a painter, plumber, electrician, carpenter, art or musician's studio with a maximum of four students or educating or tutoring of up to a maximum of four persons in a small class, custom dressmaking, tailoring, beautician, barber, home cooking.
  - (j) Lawyer, doctor, architect, minister, accountant and other home offices (computer, real estate, etc.) are home occupations.
  - (k) Adequate sewage facilities must be provided and approved for all home occupations. Any temporary structure as part of the home occupation is prohibited.
- (35) Hospital or medical clinic.
- (a) Minimum lot size for a hospital is five acres with setbacks of 150 feet.
  - (b) Screening shall be provided if the facility abuts a residential district or a residential use.
- (36) House of worship.
- (a) The minimum lot area is two acres.
  - (b) Any additional use (parsonage, cemetery, nursery school, etc.) shall require the additional lot area for each use as per this chapter.
  - (c) All activities of the house of worship shall not adversely impact adjacent property owners.
- (37) Hunting or fishing club, camp or association/private only.
- (a) Minimum lot size is 20 acres.
  - (b) No building, activity area or recreation area shall be located within 50 feet of a right-of-way line or 100 feet of a lot line.
  - (c) All parking lots shall be at least 50 feet from all lot lines.
  - (d) All facilities and services shall be for the exclusive use of members or their guests. No identification sign shall exceed six square feet.
  - (e) Any shooting range must meet the requirements for outdoor ranges.<sup>12</sup>

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<sup>12</sup>Editor's Note: See § 160-12A(52).



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(38) Indoor shooting range.

- (a) The owner and/or operator must comply with all national and state indoor firearms safety guidelines and regulations, if any.
- (b) All ammunition storage must be in a secured area and general access by the public is prohibited.
- (c) Only one person may utilize each shooting station at a time.

(39) Indoor theater or indoor recreational use.

- (a) A traffic study is required for any public theater.
- (b) The minimum lot size is two acres.
- (c) All structures shall be set back a minimum distance of 50 feet from the property lines and the road right-of-way.
- (d) All activity shall occur indoors.

(40) Institutional residence: convent, monastery, dormitory, fraternity, etc.

- (a) Minimum lot area is five acres, with one-hundred-foot setbacks.
- (b) There shall be no more than one bedroom for every 5,000 square feet of lot area.

(41) Junkyard or salvage yard.

- (a) All materials stored outdoors shall not be visible from a public or private street or any adjacent properties. Screening at least six feet in height shall surround the perimeter of the facility. (Refer to § 160-18.)
- (b) Adequate proof shall be provided that no contaminants shall leach into the surface water, groundwater or ground at the site.
- (c) The minimum lot size is seven acres.
- (d) Storage of organic material is prohibited.
- (e) Burning or incineration of materials is prohibited.
- (f) The minimum front setback shall be 100 feet sides and rear 50 feet. No material shall be stored in a setback area.

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- (g) The maximum height of stored junk shall be 12 feet.
  - (h) A land development plan and screening plan shall be required.
- (42) Kennel or animal hospital/private or commercial.
- (a) The minimum lot size shall be three acres, plus the minimum lot size required in the zoning district for any additional use on the lot.
  - (b) All animals shall be housed within an enclosed building.
  - (c) The kennel or animal hospital shall be at least 100 feet from all property lines, right-of way lines, streams, ponds, wetlands or drainage channels and at least 200 feet from any residential use on adjacent properties.
  - (d) All liquid and solid waste must be properly disposed of and shall not detract or impact surrounding property owners or residents. The property shall be properly screened. (Refer to § 160-18.)
  - (e) Continuous barking heard beyond the property lines is prohibited.
  - (f) All access drives shall be at least 20 feet in width, and if the property is a corner parcel, the driveway must be at least 60 feet from any street intersection.
- (43) Laundromat.
- (a) The facility must have a sewage reserve area if on-lot sewage is proposed.
  - (b) A traffic study is required based upon the size and location of the facility.
  - (c) All activity must be within an enclosed building.
- (43.A) Lot Clearing—Any portion of any lot being cleared of vegetation for either a principal or accessory use, or for the creation of driveways, utilities, stormwater structures or lawns and gardens shall be limited by the following conditions:
- (a) OSC/RR Zoning Districts
    - [1] Existing trees and vegetation shall be preserved within the first seventy five feet of the front yard setback for residential uses.
    - [2] Existing trees and vegetation shall be preserved within side and rear yard setback areas.

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(b) B1/B2/R1/R2 Zoning District

[1] Existing trees and vegetation shall be preserved within the first thirty five feet of the front yard setback for residential uses.

[2] Existing trees and vegetation shall be preserved within side and rear yard setback areas.

(c) Non-residential uses in all districts shall preserve existing trees and vegetation within all building setback areas with the exception of utility easements and areas required to be cleared for construction of ingress/egress drives.

(d) Lot clearing standards for residential uses do not apply to areas required to be cleared for construction of driveways, septic facilities, stormwater facilities and other, permitted accessory uses, or for removal of invasive, diseased, dangerous, or dead material.

(e) Compliance with 160-21(C)(7) pertaining to conservation of riparian buffers and 160-21(C)(8) pertaining to conservation of sloping lands is required.

(43.B) Master development.

(a) Master developments are permitted as conditional uses within the Resort Development Area Overlay District described in Article XIII of this chapter.

(b) Master developments require a minimum of 60 contiguous acres for development. All owners of record must join in the application for development.

(c) Master developments shall be evaluated in the same manner as Option 1 conservation subdivisions to establish adjusted tract acreage and minimum greenway lands as described in Sections 160-21-C(B) and (C).

(d) Greenway land design, ownership and maintenance shall comply with Section 160-21-C(D), (E) and (F).

(e) Master development tracts shall have frontage along and direct access to a road or highway controlled by the Pennsylvania Department of Transportation.

(f) The master development tract may be composed of a combination of residential and non-residential uses. Not less than one half of the development area of the tract shall be dedicated to resort use(s).

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- (g) Within the development area, lot coverage may not exceed eighty percent (80%).
- (h) The following uses are permitted within an area proposed for a master development plan:
  - [1] Uses permitted within the underlying Zoning District.
  - [2] Resorts, hotels and resort amenities described in Section 160-12(A)(60) and subject to the standards therein.
  - [3] Timeshares in compliance with Article IX of this chapter.
  - [4] Planned community office parks and shopping centers in compliance with Section 160-12(A)(54-A) and subject to the standards therein.
- (i) Area/Bulk Standards. Residential uses within a Master Development Plan shall comply with standards for an Option One Conservation Subdivision contained in Schedule IV. Non-residential uses within a Master Development Plan shall comply with the following standards:
  - [1] Minimum lot area 2 acres
  - [2] Minimum lot width 150 feet
  - [3] Minimum side and rear building setback when abutting a non-residential use 15 feet
  - [4] Minimum side and rear building setback when abutting a residential use 150 feet
  - [5] Minimum building setback from local street right of way 10 feet
  - [6] Minimum building setback from collector street or greater right-of-way 30 feet
  - [7] Minimum building setback when across any street from a residential use 30 feet
  - [8] Minimum parking/service setback 30 feet\*
  - [9] Maximum impervious coverage 75%

\*This requirement may be waived when shared parking between separately owned, multiple uses are contemplated so long as the shared

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parking and circulation is located adjacent to a shared common property line. In addition, appropriate declarations of cross easement for the benefit of each use and lot for the purposes of parking, access, surface and sub-surface utilities and storm water management shall be required.

- (j) Parking and loading requirements shall comply with §160-16.
- (k) All building groups shall be arranged so that adequate access is provided to all structures by emergency vehicles. Resorts and hotels are exempt from height restrictions contained in Schedule III and Schedule IV of this chapter, not to exceed 6 stories or 80 feet, provided that fire protection facilities and fire fighting capabilities are considered adequate by the Board of Supervisors. The Board shall consult with state, county and local fire and emergency management officials to make this determination.
- (l) The master development tract may be subdivided for separate ownership or lease (or as otherwise required by the Municipal Planning code or Chapter 131 of the Paradise Township Code of Ordinances), but only if the subdivision does not interfere with the development or use of the master development tract in accordance with the approved master development conditional use permit.
- (m) Once the master development conditional use is approved, permits may be issued only pursuant to approved Land Development or Subdivision Plans consistent with Chapter 131 of the Paradise Township Code of Ordinances.
- (n) A master development conditional use permit application shall include an Existing Resources Site Analysis Plan consistent with §131-38 of the Paradise Township Subdivision and Land Development Regulations.
- (o) A master development conditional use permit application shall include a community impact analysis which includes an evaluation of the potential impacts of the proposed master development upon the following community facilities:
  - [1] Emergency services and fire protection;
  - [2] Solid waste disposal
  - [3] Recreation;
  - [4] Transportation and surrounding roadway systems;
  - [5] School facilities and school district budget;

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- [6] Water supply;
  - [7] Sewage disposal;
  - [8] Public utilities;
  - [9] Township revenues and expenses.
- .
- (44) Manufacturing: food, metal, plastic, chemical, petroleum, etc.
    - (a) The use of a trailer for temporary or permanent storage requires a zoning permit.
    - (b) A one-hundred-foot-wide natural buffer is required along the rear and sides of the property. As an alternative, a protective screening strip of at least 30 feet in width may be used. No outdoor storage shall be visible from the adjacent properties.
    - (c) All manufacturing must be within an enclosed building.
    - (d) All access must be to an arterial or collector road.
  - (45) Mobile home park. Refer to Chapter 80, Paradise Township Mobile Home Ordinance.
  - (46) Model airplane facility.
    - (a) The fly zone must be within the property limits.
    - (b) The minimum lot size is 10 acres.
    - (c) A setback of 50 feet for all uses, structures and buildings is required.
  - (47) Motor freight terminal.
    - (a) The minimum lot size is 10 acres.
    - (b) All setbacks, parking areas, storage or loading areas must be at least 50 feet from all property lines.
    - (c) The site shall have direct access to a collector street or greater.
    - (d) Screening is required along all property lines.
    - (e) Parking on a public right-of-way or private right-of-way is prohibited.

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- (f) No fuel or petroleum shall contaminate the environment. Adequate safeguards are required.
- (48) Multiple dwelling/apartments. Multiple dwellings, townhouses, condominiums, and apartments, proposed as part of a conservation subdivision, shall comply with lot, yard and height restrictions in Schedule IV of this chapter. Multiple dwellings, townhouses, condominiums, and apartments not proposed as part of a conservation subdivision shall comply with the requirements below:
- (a) The minimum lot area for the first dwelling unit shall not be less than 175% of the minimum required lot area for a single-family dwelling.
  - (b) For additional dwelling unit(s), the minimum lot area per dwelling unit shall be equivalent to not less than 75% of the minimum lot area for a single-family dwelling in the appropriate zoning district. Not more than six units may be within one building.
  - (c) An additional recreation area of 1/2 acre per six units is required.
  - (d) Screening is required if adjacent to a residential use.
  - (e) All parking areas shall be within the interior of the property.
  - (f) All vehicular access shall be to a collector street or greater.
- (48.A) Non-conforming, non-residential use expansion.
- (a) Expansion of non-conforming use must be based on business necessity;
  - (b) Expansion must be reasonable;
  - (c) Expansion must not create any non-conforming structure, or increase the extent of non-conformity if structure is already non-conforming.
  - (d) Expansion must not create a threat to the public health, safety or welfare;
  - (e) Expansion must not create a nuisance.
- (49) Off-track betting establishment.
- (a) Legal gambling or off-track betting establishments includes any and all legal gambling uses, including but not limited to off-track betting establishments, but excluding small games of chance (see 10 P.S. § 311 et seq.), whether or not including a restaurant, nightclub, bar or similar use, which shall comply with the following (in regard to which the applicant shall have both the

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burden of proof and the duty to move forward with the evidence to demonstrate that his particular proposed establishment does so comply):

- [1] Such establishment shall not be located within 200 feet of any residential district and shall not be located within 200 feet of any structure whose use is principally residential.
- [2] Such establishment shall not be located within 300 feet of any structure or use of land which contains one or more of the following specified land uses:
  - [a] Amusement park.
  - [b] Camp (for minors' activity).
  - [c] Child-care facility.
  - [d] Church, synagogue or mosque or other similar religious facility.
  - [e] Community center.
  - [f] Public library.
  - [g] Nonprofit museum.
  - [h] Park.
  - [i] Playground.
  - [j] School or educational facility.
- [3] The distance between any such legal gambling or off-track betting establishment and any of the protected land use specified at Subsection A(49)(a)[1] and [2][i] through [x] above shall be measured in a straight line, without regard to intervening structures, from the closest point of the structure in which such establishment is located to the closest point on the property line or structure (depending on the applicable section) of such protected land use.
- [4] Off-street parking shall be provided at the rate of three spaces for each 100 square feet of all public areas, including but not limited to related dining, restaurant, bar and snack bar areas, and an additional one space per each employee of the largest shift.



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- [5] The proposed establishment will not be detrimental to the use of adjoining properties and must meet the following performance standards:
  - [a] Hours of operation: 9:00 a.m. to 2:00 a.m.
  - [b] Lighting in accordance with current zoning requirements.
  - [c] All litter on the grounds shall be prohibited except in solid waste containers.
  - [d] All parking areas shall be screened and include at least a ten-foot buffer from all private properties adjacent to the site.
- [6] The proposed establishment will not constitute a nuisance due to noise or to loitering outside of the building.
- [7] The applicant is required to obtain approval of a major land development plan under the Subdivision and Land Development Ordinance<sup>13</sup> and all other local land use regulations that are appropriate within the Code of Ordinances.
- [8] All other federal, state and other permits must be obtained prior to the issuance of the certificate of occupancy and use permit.
- [9] All legal gambling and off-track betting establishments shall comply with all laws, rules and regulations of the United States of America, the Commonwealth of Pennsylvania and their respective agencies and instrumentalities and of this township pertaining thereto.

(49.A) Oil or Gas Development. The following standards apply to all Oil or Gas Development, as defined in Chapter 1:

- (a) The applicant shall present a copy of all Federal, State and County permits associated with Oil or Gas Development, including permits from the Pennsylvania Department of Environmental Protection and any docket from the Delaware River Basin Commission, as part of the application.
- (b) The applicant shall comply with all applicable Federal, State, and local laws.
- (c) Minimum lot size. Minimum lot size for the Oil and Gas Development site shall be 20 acres. Multiple property owners may combine adjoining parcels to achieve the minimum 20 acres required. Nothing herein shall preclude adjoining property owner(s) from utilizing a written license agreement to achieve the minimum lot

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<sup>13</sup>Editor's Note: See Ch. 131, Subdivision and Land Development .

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size or required setbacks. The license shall be recorded at the Monroe County Office of the Recorder of Deeds, indexed to all properties subject to the license agreement, and shall be effective for the duration of the natural gas drilling, compression or processing activity. Leases and easements must comply with Chapter 131 (Subdivision and Land Development).

- (d) This ordinance applies to all oil or gas development that will be permitted or constructed after the effective date of this ordinance. Any modification to an existing and permitted oil or gas development site that materially alters the size, location, number of wells or accessory equipment or structures shall require a modification of the permit under this ordinance. Like-kind replacements shall not require a permit modification.
- (e) Lighting shall comply with §160-17.
- (f) All oil or gas development sites shall comply with all other zoning requirements, including other required approvals in § 160-21.
- (g) All oil or gas development sites shall include a buffer seventy-five (75) feet in width around the entire exterior perimeter of the site and screening in compliance with 160-18.
- (h) Applicant shall comply with Nuisance control § 160-19.
- (i) A Transportation Plan is required to identify compliance with Federal, State and Township rules and regulations, including parking standards in § 160-16, haul road design and construction standards in §160-21-A, traffic study standards in § 160-20, and weight restriction standards in Chapter 142. The plan shall show proposed truck routes to be utilized for all oil and gas operations. The Township reserves the right to designate reasonable required truck hauling routes consistent with the Pennsylvania Motor Vehicle Code and Pennsylvania Department of Transportation throughout the Township.
- (j) All vehicles involved in hauling materials into and out of the development site shall be registered, licensed and insured at levels compliant with State law.
- (k) All employees, contractors and subcontractors involved in any site activities shall be covered by at least the State minimum in Workers Compensation insurance.
- (l) A site plan is required in compliance with §160-30.
- (m) Prior to initiation of construction activities applicant shall provide the Township and all Emergency Responders with a copy of an approved Preparedness, Prevention and Contingency Plan. The Township and all Emergency Responders shall be provided with any modifications to the Plan within 24 hours of such modifications being made.

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- (n) At least 30 days prior to commencement of oil or gas development, the applicant shall provide an appropriate site orientation and training course of the Preparedness, Prevention and Contingency Plan for all Emergency Responders. The cost and expense of the orientation and training program and related materials shall be the sole responsibility of the applicant. The applicant shall be required to hold, at a minimum, one site orientation and training course annually. During all construction and drilling operations the Township Engineer, Township Zoning Officer, Township Building Code Official, Pocono Mountain Regional Volunteer Fire Company and Pennsylvania State Police shall have access to the site to determine continuing compliance with the Conditional Use approval.
- (o) Access to any oil or gas development site shall be to a collector street or greater. Access to a PennDOT road shall require a PennDOT Highway Occupancy Permit. Access to a Township street shall require a Township Driveway Permit.
- (p) No oil or gas development, or addition to an existing oil or gas development site, shall be constructed or located within Paradise Township unless a Stormwater Management Plan has been approved by the Township.
- (q) No dwelling units, including, but not limited to, houses, mobile homes, or trailers used for temporary living quarters shall be permitted on lots used for oil and gas development.
- (r) A chain link security fence at least eight (8) feet in height shall be installed at the oil or gas development site to secure well heads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and structures on the site. Fencing shall be equipped with lockable gates at every access point and having openings no less than 12 feet wide. The means to access the oil or gas development site shall be provided to Emergency Providers in the event of an emergency. Warning signs shall be placed on the fencing surrounding the oil or gas well site providing notice of the potential dangers and the contact information in the event of an emergency.
- (s) No oil and gas drilling structures or equipment shall be placed in any 100 year floodplain.
- (t) Structures associated with an oil and gas development site, both principal and accessory, shall comply with the height regulations for the zoning district in which the oil and gas development site is located. There shall be an exemption to the height restrictions contained in this section for the temporary placement of drilling rigs, drying tanks, and other accessory uses necessary for the actual drilling or re-drilling of an oil or gas well. The duration of such exemption shall not exceed the actual time period of drilling or re-drilling of an oil or gas well, and in no event longer than one year.
- (u) Abandoned or unused oil and gas drilling rigs, compressor stations, natural gas processing plants, buildings, drilling pads, storage tanks and associated equipment shall be removed as follows:

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[1] All abandoned or unused oil and gas drilling rigs, compressor stations, natural gas processing plants, buildings, drilling pads, storage tanks and associated equipment shall be removed within 180 days of cessation of operations. A copy of the relevant portions of any signed lease, license or other agreements which requires the applicant to remove the oil and gas drilling rigs, compressor stations, natural gas processing plants, buildings, drilling pads, storage tanks and associated equipment upon cessation of operations at the site shall be submitted at the time of application. In the event that oil and gas drilling rigs, compressor stations, natural gas processing plants, buildings, drilling pads, storage tanks and associated equipment are not removed within 180 days of the cessation of operations at a site, the oil and gas drilling rigs, compressor stations, natural gas processing plants, buildings, drilling pads, storage tanks and associated equipment may be removed by Paradise Township and the cost of removal assessed against both the applicant and the owner of the property on which the facilities exist.

[2] Financial security in a form and amount acceptable to the township shall be provided to the township prior to the initiation of construction activities, to address the removal of abandoned or unused oil and gas drilling rigs, compressor stations, natural gas processing plants, buildings, drilling pads, storage tanks and associated equipment.

(v) Oil or gas wells, including buildings, drilling rigs, drilling pads, storage tanks and associated equipment are permitted as Conditional Uses in the OSC and B-2 Zoning Districts.

1. All oil or gas development buildings shall meet the setback requirements of the zoning district in which the operations are located. All drilling rigs, drilling pads, storage tanks, impoundments and associated limits of disturbance shall be set back 300 feet from any lot line.

(w) Natural gas compressor stations and natural gas processing plants are permitted as Conditional Uses in the B-2 Zoning District.

1. Natural gas compressor stations and natural gas processing plants shall be located three hundred (300) feet from any lot line, and at least seven hundred fifty (750) feet from any existing building.

(50) Outdoor Arenas.

(a) All parking must comply with § 160-16.

(b) All outdoor lighting on the property shall meet the requirements of §160-17.

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- (c) Complete visual separation is required in compliance with Chapter 131 (SALDO), Section 131-34(I).
  - (d) Noise levels shall comply with the requirements of §160-19.
  - (e) A traffic study is required in compliance with §160-20.
  - (e) Evidence of adequate potable water supply and sanitary sewage disposal for the use in question on the property shall be provided by the applicant.
  - (f) The Applicant must obtain Conditional Use approval pursuant to the provisions of this chapter.
  - (g) Any additional uses on the lot and all accessory uses shall comply with all additional applicable requirements of this chapter.
  - (h) Access shall be to a Collector Street or greater.
  - (i) Minimum lot size shall be forty (40) acres.
  - (j) Tracks, seating and other related activity areas except parking shall be setback a minimum of two hundred (200) feet of any property line.
- (51) Outdoor Recreation:
- (a) All parking must comply with § 160-16.
  - (b) All outdoor lighting on the property shall meet the requirements of §160-17.
  - (c) Screening is required in compliance with § 160-18.
  - (d) Noise levels shall comply with the requirements of §160-19.
  - (e) A traffic study is required in compliance with §160-20 if the use will generate traffic that meets the criteria established by PennDOT for a low volume driveway or greater.
  - (e) Evidence of adequate potable water supply and sanitary sewage disposal for the use in question on the property shall be provided by the applicant.
  - (f) The Applicant must obtain Conditional Use approval pursuant to the provisions of this chapter.
  - (g) Any additional uses on the lot and all accessory uses shall comply with all additional applicable requirements of this chapter.

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(h) Access shall be to a Collector Street or greater.

(52) Outdoor shooting range.

- (a) Outdoor shooting ranges shall comply with all standards associated with Outdoor Arena in §160-12(A)(50) above.
- (b) Any projectile must remain on the property of the shooting range and shall not create a hazard for anyone. The range must meet current NRA guidelines.
- (c) Each shooter must have a designated station, and only one shooter per station is permitted.
- (d) The shooting range must be at least one hundred fifty (150) yards from all property lines and public use right of-way lines.
- (e) A perimeter of 300 feet around the shooting range must be posted with signs that state, "DANGER, SHOOTING RANGE, KEEP OUT" in a manner and at intervals reasonably likely to come to the attention of any persons approaching that perimeter.
- (f) The single projectile shooting station shall have an overhang so as to prevent the shooter from shooting over the horizon.

(53) Park and ride facility.

- (a) The minimum lot area shall be two acres.
- (b) A traffic study and land development plan is required.
- (c) A buffer of 50 feet shall be maintained adjacent to any residential use or district.
- (d) All access must be to a collector or greater street.
- (e) Lighting is required and must be approved by the Supervisors.
- (f) All dropoff or pickup areas must be approved by the Supervisors.

(53.A) Parking garages.

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- (a) Parking garages shall be permitted uses in the B-1 and B-2 Zoning Districts and Master Developments and prohibited in all other districts.
  - (b) Parking garages are prohibited as principal uses, and shall only serve the uses to which they are accessory and on the same lot as the principal use.
  - (c) Parking garages shall be setback a minimum of the height of the structure, or the minimum setback for a principal structure in the underlying zoning district, whichever is greater.
  - (d) Parking garage facades facing any public street shall not have open decks, external lighting or signage. External facades facing any public street shall not be constructed of a single color or texture. Such facades shall consist of a green wall containing vegetation, which vegetation shall also extend a minimum of twenty-five (25) feet on the adjoining side facades, or a wall constructed in a pattern of colors, textures and/or offsets to interrupt the visual appearance at intervals of at least one hundred (100) feet, similarly extending a minimum of twenty-five (25) feet on the adjoining side facades.
- (54) Parsonage.
- (a) If there are two or more uses on the property, each use must meet the minimum lot size.
  - (b) Setbacks for detached buildings must also meet the requirements for each use per the appropriate schedule.
- (54.A) Planned community office parks and shopping centers.
- (a) Planned community office parks and shopping centers are permitted as part of a master development plan within the Resort Development Area Overlay District provided they have direct access to, and a valid highway occupancy permit for, a road or highway controlled by the Pennsylvania Department of Transportation.
  - (b) Uses not part of a master plan in the resort development area overlay district must comply with Schedule 1 and the underlying zoning district.
  - (c) Parking for community office parks and shopping centers shall comply with Section 160-16.
  - (d) The following uses are permitted within a planned community office park and shopping center proposed as part of a master development plan: uses permitted in the underlying Zoning District, fraternal, civic or social clubs, cultural facilities, libraries, museums, art galleries, community centers, theaters, indoor recreational facilities, cellular towers, day care facilities,

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drive-in/drive-through facilities, financial, insurance, real estate, business or personal services, medical clinics, Laundromats, professional offices, repair services (excluding automobile and machinery repair), bus stations, taxi services, retail sales, eating or drinking establishments, and commercial special events.

- (e) When abutting a residential use, planned community office park and shopping centers shall comply with screening and buffer requirements described in Section 160-18.
- (55) Planned Residential Development (PRD). Refer to Article VIII of this chapter.
- (56) Playground, park or picnic area (excluding public and/or nonprofit parks).
  - (a) Minimum setbacks are 50 feet for structures and/or activity areas.
  - (b) Maximum lot coverage is 35% and includes parking and driveways.
  - (c) Screening may be required in all districts.
- (57) Professional offices.
  - (a) Minimum lot size is two acres.
  - (b) Total lot coverage shall not exceed 50%.
  - (c) Pedestrian traffic shall be separated from vehicular traffic.
  - (d) Parking facilities shall comply with §160-16.
  - (e) Exterior lighting shall comply with §160-17.
  - (f) Landscaping, buffers and screening may be required, with a minimum width of 25 feet from all property lines. Screening shall comply with §160-18.
- (58) Public utilities.
  - (a) Screening is required in all districts.
  - (b) An eight-foot fence shall be provided for security.
  - (c) The external design of the building shall be in conformity with the buildings in the district.
- (59) Repair services, jewelry, televisions, clocks, furniture, shoe.



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- (a) All business or repair must be within a closed building.
- (b) Any outdoor storage must be screened from public view or within a building.
- (60) Resort, hotel or motel.
  - (a) Minimum lot area for a resort is twenty-five (25) acres in the OSC and RR Districts; ten (10) acres in all other districts.
  - (b) Minimum lot area for a hotel or motel is ten (10) acres in OSC and RR Districts; five (5) acres in all other districts.
  - (c) No building, activity area or recreational facility shall be erected within 50 feet of a road line or any lot line.
  - (d) All off-street parking shall be at least 50 feet from all side or rear lot lines.
  - (e) There shall be no more than one guest room for every 5,000 square feet of lot area.
  - (f) The use of exterior light facilities and the lighting plan and/or public address system, if any, shall be subject to the expressed criteria set forth in this chapter.
  - (g) Resort and hotel amenities may include conference centers, eating and drinking establishments, off-track betting and legal gambling establishments, retail sales, spas, beauty salons, barber shops, indoor and outdoor recreation facilities, health centers, day care centers, commercial special events, and employee living quarters.
- (61) Retail sales.
  - (a) No merchandise or outdoor display shall be placed in a right-of-way, easement or parking area.
  - (b) All business transactions must be within a closed building.
- (62) Retirement facility. Refer to § 160-12A(40), institutional residence requirements.
- (63) Riding or boarding stable.
  - (a) Refer to § 160-12A(3), Agricultural uses.
  - (b) A natural buffer of at least 25 feet shall surround the property.
- (64) Rooming or boarding home.

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(a) Refer to § 160-12A(6), Bed-and-breakfast, for additional requirements.

(65) Single-family dwelling.

(a) Single family dwellings not proposed as part of a conservation subdivision shall comply with lot, yard and height restrictions in accordance with Schedule III of this chapter.

(b) Single family dwellings proposed as part of a conservation subdivision shall comply with lot, yard and height restrictions in accordance with Schedule IV of this chapter.

(65.A) Solar energy systems.

(a) New solar energy systems, or any upgrade, modification, or structural change that alters the size or placement of an existing solar energy system, shall comply with the provisions of this section.

(b) A solar energy system shall be a permitted use in any zoning district as an accessory to a principal use herein and subject to specific criteria as set forth below.

(c) A solar energy system shall be a conditional use in any zoning district as a principal use herein and subject to specific criteria as set forth below.

(d) A solar energy system may be roof mounted or ground mounted.

(e) In no instance shall any part of a roof mounted solar energy system extend beyond the edge of the roof.

(f) The surface of a ground mounted solar energy panel(s), regardless of the mounted angle, shall be calculated as part of the overall lot coverage.

(g) Ground mounted solar energy systems and associated mechanical equipment shall meet the setback requirements for an accessory structure.

(h) All ground mounted solar energy mechanical equipment shall be screened from any adjacent property that is used for residential purposes in accordance with § 160-18.

(i) Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways. Panels shall be covered by an anti-reflective coating or glass, and a glare study shall be conducted by a qualified professional to demonstrate compliance with this

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section. Glare from any solar panels directed onto nearby properties in violation of this section shall constitute a public nuisance.

- (j) Solar panels shall not be placed in the vicinity of any airport in a manner that would interfere with airport flight patterns. The applicant shall provide acknowledgement from the Federal Aviation Administration that no such interference will occur.
  - (k) No solar energy system shall be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers' and equipment information, warning, or indication of ownership shall be allowed on any equipment of a solar energy system so long as the information is not visible from off the property.
  - (l) Solar energy systems require a Certificate of Habitability in accordance with 160-26(d) of this Chapter.
  - (m) If a ground mounted solar energy system is removed, any earth disturbance as a result of the removal shall be graded and reseeded.
  - (n) If a ground mounted solar energy system is defective or is deemed to be unsafe by the Building Code Official, the solar energy system shall be repaired by the owner to meet the then current federal, state and local safety standards., Alternatively, the solar energy system shall be removed by the property owner within the time period allowed by the Building Code Official. If the owner fails to remove or repair the defective or abandoned solar energy system, the Township may pursue a legal action to have the system removed at the owner's expense.
- (66) Special event, temporary: commercial or nonprofit.
- (a) A zoning and certificate of use and occupancy permits are required.
  - (b) Refer to § 160-12A(25) or (26).
  - (c) No such use or activity shall be considered grandfathered.
- (67) Surface mining.
- (a) Submissions to Pennsylvania Department of Environmental Protection. The applicant shall present a duplicate set of the plans, specifications, applications and any other supporting data that has been or was presented to PADEP for its review in issuing mining permits.

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- (b) Compliance with State and Federal Law. The applicant shall comply with all applicable state and federal laws, including but not limited to the following:

- [1] The Act of June 22, 1937, P.L. 1987, as amended, known and referred to as the "Clean Streams Law."
- [2] The Act of January 8, 1960, P.L. 2119, as amended, known and referred to as the "Air Pollution Control Act."
- [3] The Act of November 26, 1978, P.L. 1375, as amended, known and referred to as the "Dam Safety and Encroachments Act."
- [4] The Act of July 7, 1980, P.L. 380, known and referred to as the "Solid Waste Management Act."
- [5] The Act of December 19, 1984, P.L. 1093, known and referred to as the "Noncoal Surface Mining Conservation and Reclamation Act."
- [6] National Pollution Discharge Elimination System permits or requirements as outlined under 40 CFR Protection of Environment.
- [7] Mine Safety and Health Administration requirements as outlined under 30 CFR - Mineral Resources.

- (c) Minimum lot size. The minimum lot size for a surface mining operation shall be 50 acres.

- (d) Minimum setback requirements. The following minimum setbacks shall be maintained between the regulated activity or use and all property lines and public rights-of-way:

- [1] Excavations for surface mining operations shall be set back a minimum of 200 feet from all property lines and public road rights-of-way and 300 feet from all zoning district boundaries, existing residences, wetlands and stream banks.
- [2] All structures shall be set back a minimum distance equal to the height of such structures unless a greater distance is required by other municipal, state or federal regulations.
- [3] Surface mining operations, including stockpiles, shall not be conducted within 200 feet of any property line, existing public right-of-way, park, cemetery, wetland or bank of any stream.
- [4] Structures used for the processing of quarried material and all parking, loading and unloading areas shall be set back a minimum of 200 feet

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from all property lines, road right-of-way lines, wetlands and stream banks.

(e) Setback areas and setback standards.

[1] Within the minimum setback areas, a perimeter landscaping shall be established and maintained for a minimum width of 150 feet. Such landscaping shall consist of hybrid poplars (or their equivalent) on eight-foot spacing's with an inner planting of evergreens also spaced at eight-foot intervals but with each evergreen planting being centered between each planting of hybrid poplar. Any dead trees shall be replaced within one growing season.

[2] Fencing. Chain link fencing and gates shall be erected around all surface mining excavation areas. Such fencing and gates shall have a minimum height of eight feet and shall be located not less than 50 feet from the property line or street right-of-way. Such fence shall be of such construction so as to prevent the unauthorized entry of any persons onto the tract. Such fence shall be screened from view by a vegetative screen which shall provide year-round screening of the operation from view by any person on neighboring property or traveling on any public streets or roadways adjacent to the proposed operation. Signs shall be placed appropriately on the perimeter of the fence so as to provide a warning of mining activity. The Board of Supervisors may require that opaque-type fencing be installed where residential or other uses abut the mining property.

(f) Monumenting. The owner/operator shall construct monuments conforming to the requirements of the Paradise Township Subdivision and Land Development Ordinance (Chapter 131) along all setback areas in such a manner as to be

clearly visible upon inspection. Said monuments shall be permanently installed and surveyed by a registered surveyor. A legal description and plot plan shall be submitted to the Township, sealed by a registered surveyor.

(g) Maximum height. The maximum height for buildings, structures or equipment shall not exceed 35 feet. Said height shall be measured from the original surface level, prior to any excavation and shall not prevent taller structures, buildings or equipment from being located within mined or excavated areas, so long as the permitted height above the original surface is not exceeded. Stockpiles shall not exceed 50 feet in height above the original grade prior to any site grading, surfacing mining or development.

(h) Erosion and sedimentation pollution control plan. The applicant shall prepare an erosion and sediment pollution control plan, which has been approved by

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the Monroe County Conservation District and any other agency with jurisdiction and which is acceptable to the Board of Supervisors.

- (i) Stormwater drainage plan. The applicant shall present an approved stormwater drainage site plan consistent with the Paradise Township Stormwater Management and Earth Disturbance Ordinance (Chapter 123, Stormwater Management).
- (j) Traffic. A traffic impact study shall be completed in accordance with the requirements of 160-20.
- (k) Accessory uses. The following uses shall be permitted as conditional accessories to a lawful surface mining operation:
  - [1] Retail and wholesale sales of stone excavated on site.
  - [2] Manufacture of stone-related products from material excavated on site, not including products made from or with asphalt, cement or concrete.
  - [3] The storage and minor maintenance of vehicles and equipment necessary to the internal extraction operation.
  - [4] Offices for the surface mining operation.
  - [5] The storage of explosive material provided all of the requirements of Section 160-21.H, Storage and Use of Explosives, are met.
- (68) Tavern, nightclub or dance hall.
  - (a) All requirements for an eating or drinking establishment apply.
- (69) Taxi service. Refer to §160-12(A)(7), Bus station.
- (69.A) Timber Harvesting.

This section shall apply to all timber harvesting, tree harvesting or logging operations performed in the Township.

- (a) A logging plan shall be prepared by a Professional Forester for each regulated timber harvesting operation within the Township. No timber harvesting shall occur until the logging plan is reviewed and approved by the Zoning Officer. The logging plan shall be provided a minimum of 20 business days prior to commencement of operations. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25 Pennsylvania Code, Chapter 102, shall also satisfy the requirements for the logging plan and associated map set forth in subparagraphs (c) and (d)

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below, provided all the information required by those subparagraphs is included or attached.

- (b) The owner/operator shall provide written notification to the Zoning Officer that activities are ending a minimum of 10 business days before the operation is complete.
- (c) At a minimum the logging plan submission shall include the following:
  - [1] Design, construction, maintenance and retirement of the access system, including haul roads, skid roads, skid trails and landings.
  - [2] Design, construction and maintenance of stormwater control measures and structures, such as culverts, broad-based dips, filter strips and water bars.
  - [3] Design, construction and maintenance of stream and wetland crossings.
  - [4] The general location of the proposed operation in relation to Township Streets.
  - [5] A description of the project location, including total area of earth disturbance..
  - [6] A copy of the written Erosion and Sediment Control Plan applicable to the proposed timber harvesting operation.
  - [7] A timber harvesting permit fee as set by resolution of the Board of Supervisors.
  - [8] A map showing the 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. The map shall also show the location of any/all riparian buffers (including the watercourses, wetlands and/or floodplains contained therein), steep slopes, and moderate slopes within the logging operation area. The map shall also show the location of all earth disturbance activities such as roads, water/wetland crossings, landings and water control measures and structures.
- (d) The logging plan shall address and comply with the requirements of all applicable federal, state and outside agency requirements/regulations, including but not limited to the following

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[1] Erosion and sedimentation control regulations contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to The Clean Streams Law (35 P.S. §691.1 et seq.); and

[2] Stream crossing and wetlands protection regulation contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. §693.1 et seq.).

Any permits or approvals required by any/all outside agencies shall be attached to and become part of the logging plan.

(e) General operation requirements applicable to all timber harvesting operations in the Township:

[1] If clear cutting of any tract is proposed, the logging plan shall describe the best forestry practice(s) that supports this activity, including the species to be clear cut and the area of clear cut.

[2] Felling or skidding on or across any street owned or controlled by the Township or PennDOT is prohibited without the express consent of the Township or PennDOT, whichever is responsible for the maintenance of the street.

[3] No tops or slash shall be left within twenty-five (25) feet of any public street, private street, or adjoining property. All tops and slash between twenty-five (25) and fifty (50) feet from a public roadway or private roadway providing access to adjoining residential property, or within fifty (50) feet of adjoining residential property shall be lopped to a minimum height of four (4) feet above the surface of the ground.

[4] Unless waived in writing by owners of adjacent properties, a twenty-five (25) foot buffer zone shall be maintained between the cutting site and the property boundaries, and between the cutting site and the legal right-of-way of all public and private roads. No tracked or wheeled machinery shall be operated within this buffer zone.

[5] Timber harvesting and related activity covered by an approved logging plan shall be conducted only between the hours of 7:00 a.m. and 6:00 p.m. Operation during other hours is prohibited.

[6] No timber shall be transported upon any Township street from March 15 through May 15 of any year.

[7] No temporary or permanent living quarters for workmen shall be placed upon the worksite, or upon neighboring properties.



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- [8] After a road opening has been established, no loading or unloading of vehicles, equipment, or timber may take place upon any Township or PennDOT controlled street.
  - [9] All soil washed or carried on to public streets during the tree harvesting operations shall be cleaned up each day.
  - [10] Trash and litter resulting from any logging operation shall be cleaned up and removed from the site before it is vacated by the operator. All reseeded shall be done with approved native species.
- (f) Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49; and Title 67 Pennsylvania Code, Chapter 189, the landowner and operator shall be jointly and severally liable for repairing any damage to Township streets caused by traffic associated with the timber harvesting operation to the extent that it causes damage in excess of that caused by normal traffic, regardless of the amount of any bond. The landowner and operator (permit holder) may be required to furnish a bond to guarantee the repair of such damages.
- (70) Two-family dwelling.
- (a) Minimum lot size for a two-family dwelling not proposed as part of a conservation subdivision shall be 175% of the area required in the underlying Zoning District and shall comply with the yard and height restrictions of Schedule III.
  - (b) Two-family dwellings proposed as part of a conservation subdivision shall comply with lot, yard and height restrictions in accordance with Schedule IV of this chapter.
- (71) Veterinary or animal hospital. Refer to § 160-12A(42) for kennel/animal hospital requirements.
- (72) Warehouse/self-storage facility.
- (a) All material must be stored within a building.
  - (b) A screening plan is required.
  - (c) Each unit shall have separate ingress and egress and be secured by a locking device.
  - (d) Outdoor storage shall be limited to recreational vehicles, campers and boats on trailers parked on a dustless, durable surface.

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- (e) All such items must be licensed and inspected (if applicable) and in operable condition.
  - (f) Trash, garbage, refuse, explosive or flammable materials, hazardous substances, animal carcasses or skins or similar items shall not be stored.
  - (g) Nothing shall be stored in interior traffic aisles, off-street parking areas, loading areas or driveway areas.
  - (h) Servicing or repairing of boats, vehicles, trailers, lawn mowers or any similar equipment shall not be permitted.
  - (i) Aisle widths shall conform with the requirements of the Off-Street Parking Schedule.<sup>14</sup>
- (73) Reserved.
- (74) Wild game/hunting preserve. Refer to § 160-12(A)(3) Agricultural uses.
- (75) Zoological parks:
- (a) Property owner shall provide evidence of a current permit issued by the Pennsylvania Game Commission – State Wildlife Management Agency.
  - (b) Owner and operators shall provide plans for adequate housing, care, treatment, feeding and sanitation of all wild animals.
  - (c) Owners and operators are prohibited from releasing any wild animal not native to the Commonwealth of Pennsylvania back into the wild.
  - (d) Minimum lot size for a zoological park is 100 acres.
  - (e) Minimum setback for all pens, cages, housing and treatment facilities shall be a minimum of 200 feet.

## ARTICLE IV

### Supplementary Regulations

**Revised 5/20/02, Ordinance No. 131; Revised 8/3/04, Ordinance No. 146; Revised 5/20/05, Ordinance No. 152; Revised 10/21/08, Ordinance No. 167; Revised 3/1/11, Ordinance No. 189; Revised 8/16/11, Ordinance No. 195; Revised 11/19/12, Ordinance No. 204; Revised 4/3/17, Ordinance No. 244; Revised 5/17/17, Ordinance No. 245; Revised 3/18/19, Ordinance No. 259.**

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<sup>14</sup> Editor's Note: Said schedule is included at the end of this chapter.

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#### **§ 160-13 Applicability.**

The intent of the Supplementary Regulations contained in this Article IV is to ensure that all development occurs in such a manner as to protect the health, safety and general welfare of residents, and to protect the natural and cultural amenities of the Township. These regulations contained in this Article IV shall apply to all uses, unless otherwise specified.

#### **§ 160-13-A. Exceptions to yard and height requirements.**

- A. Entries and porticoes. A roofed-over or unenclosed projection in the nature of an entry or portico, not more than eight feet wide and extending not more than six feet out from the wall of the building, shall be exempt from front yard requirements when the building otherwise complies with all other yard requirements of this chapter.
- B. Porches. A roofed-over porch, not in excess of 16 feet wide, may project not more than 12 feet out from the wall of the building into the required rear yard, provided that such projection is not located closer than 15 feet from any rear or side lot lines.
- C. Lots between two improved lots. When an unimproved lot is situated between two improved lots, each having a principal building within 20 feet of the side lot line of the unimproved lot, the front yard may be reduced to a depth equal to that of the greater front yard of the two adjoining lots but not less than 20 feet in residential districts and 10 feet in nonresidential districts. A nonconforming residential use only may be expanded, provided that there is no greater encroachment into the established setback.
- D. Front yards on narrow roads. On roads having a right-of-way width less than that required by the road classification provided in Chapter 131, Subdivision and Land Development, the required front yard setback shall be increased to provide for potential future roadway widening and conformance with the road classifications as set forth.
- E. Expansion of nonconforming residential buildings. Nonconforming residential buildings may be expanded into a required front yard, provided that said encroachment is no greater than that of the existing building.
- F. Height regulations. District height limitations shall not apply to church spires, cupolas, domes, water towers, chimneys, smoke stacks, silos, flagpoles, utility poles, residential radio and television antennas, utility towers and parapet walls extending not more than four feet above the limiting height of the building.

#### **§ 160-13-B. Architectural standards for non-residential structures.**

Roofs on all new or substantially improved non-residential buildings shall be pitched at least 25 degrees. Flat roofs shall be permitted only if they are green roofs, as defined.

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#### **§ 160-14. Supplementary lot, yard and height regulations.**

A. Corner lots.

- (1) Obstructions at road intersections. At the intersection of two or more streets, no obstruction to vision (other than an existing building, post, column or tree) exceeding 30 inches in height above the curb level shall be erected, planted or maintained within that triangular area formed by the intersecting right-of-way lines and a line drawn between points each 30 feet distant from the point of intersection.
- (2) Rear and side yards. Corner lots shall require a front yard on both road frontages and one yard other than the front yards shall be deemed to be a rear yard. All other lines shall be deemed to be side yards.

B. Through lots. Where a lot extends through from road to road, the applicable front yard regulations shall apply on both road frontages.

C. Driveways.

- (1) No driveway shall provide access to a lot located in another district, if such lot is used for purposes prohibited in the district in which the driveway is located.
- (2) All new driveways shall be constructed to ingress and egress on to the lowest street classification, if possible.

D. Fence setback exception. No front, side or rear yard setback shall be required for any fence. However, no fence shall interfere with any required sight distance.

E. Sewage facility setback. All on-site sewage disposal systems, at the toe of berm, permitted for single-family residential use shall be located a minimum of five (5) feet from any property or right-of-way line. All on-site sewage disposal systems permitted for multifamily, resort or commercial uses, having 20 units or fewer, shall be located a minimum of 50 feet from any property line. All other on-site sewage disposal systems shall be located a minimum of 75 feet from any property line. All sewage treatment plants or central sewage disposal facilities shall be located at least 100 feet from any property line.

F. Well location setback. Any well drilled on a property shall be located at least 10 feet from any side or rear property line, 10 feet from any road right-of-way line and at least 100 feet from any existing or permitted sewage disposal bed.

G. No structure or building shall be erected closer than five feet from the toe of any elevated sand mound berm nor closer than 10 feet from any disposal area.

#### **§ 160-15. Accessory structures and uses.**

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Accessory structures and uses shall be located as follows:

- A. Attached accessory buildings. An accessory building attached to a principal building used for residential purposes shall be considered to be part of the principal building.
- B. Detached accessory buildings or structures. Buildings, accessory to residential buildings, that are not attached to the principal building may be located as follows:
  - (1) Such buildings shall comply with all front yard setback requirements. They shall be a minimum of 25 feet from any side or rear property line in a residential district and a minimum of 20 feet from a side or rear property line in a business district or on any resort property. On nonconforming lots, side and rear yard setbacks may be reduced to the minimum for nonconforming lots as specified in § 160-22A(1).
  - (2) Such buildings shall be separated from the principal building by at least 10 feet.
  - (3) Such buildings shall not exceed 35 feet in height.
  - (4) All fuel storage tanks and air-conditioning units shall be a minimum of 10 feet from any property line.
- C. Nonresidential accessory buildings. Such buildings shall comply with front and side yard requirements for the principal building and shall have a rear yard of at least 20 feet. The outdoor storage of fill or such other type materials shall meet the setbacks of § 160-15B(2) and adequate access, surface runoff and lot coverage must be complied with.
- D. Private outdoor swimming pools. A single private outdoor swimming pool is permitted on the same lot with a residence, subject to the following conditions:
  - (1) Such pool is for the private use of the residents of the dwelling unit or their guests.
  - (2) Setback requirements for such pool shall meet the requirements of § 160-15B.
  - (3) All building setbacks pertaining to pools shall be measured to the vertical wall of the pool.
- E. Storage of vehicles and boats.
  - (1) Commercial vehicles over 25 feet in length shall be parked in a residential district only if fully screened from adjoining properties.
  - (2) Any boat, not over 25 feet in length, may be stored, but not used for any purpose, on an occupied lot in a residential district, provided that such boat is not stored within the setback areas.

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- (3) No trailer, camper or other recreational vehicle shall be parked or stored in any residential district within the building setback lines.

#### **§ 160-16. Off-street parking and loading.**

##### A. Off-street parking requirements.<sup>15</sup>

- (1) Off-street parking facilities shall be provided in accordance with the following provisions for each building or use which is erected or established within the township after the effective date of this chapter. These provisions apply to new uses and to any enlargement or changed portions of existing uses.
- (2) All required parking shall be located outside the limits of any street right-of-way, whether public or private.
- (3) Parking spaces shall be provided in the number set forth in Schedule II<sup>16</sup> for the uses listed. Reasonable and appropriate parking requirements for uses not listed herein shall be determined by the Planning Commission after due consideration is given to the parking needs of such uses. The intent of this section is to provide adequate parking for all residents, clients, customers and employees.
- (4) When the computation of parking spaces results in a fraction, the required number of spaces shall be decreased to the last whole number.
- (5) When a proposed use contains or includes more than one use, the required number of parking spaces shall be computed by adding together the required number of spaces for each separate use. For uses that require review of new land development plans in compliance with Chapter 131, parking may be shared between different uses only if an applicant can demonstrate that adequate parking exists for both uses when in use.
- (6) The requirements of this section shall not apply to any legally existing building or use, unless such building or use is enlarged, rebuilt, reconstructed, altered or remodeled. In these instances, the requirements of this section shall be met to the extent possible without increasing the degree of nonconformance above that which existed on the effective date of this chapter.
- (7) Required parking facilities shall be on the same lot or premises as the principal use served, except as follows below.

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<sup>15</sup>Editor's Note: See diagram at end of chapter.

<sup>16</sup>Editor's Note: Said Schedule II is included at the end of this chapter.

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- (8) The collective provision of parking facilities by two or more buildings or uses located on contiguous lots is permitted. The total number of spaces provided shall not be less than the sum of the spaces required for each building or use individually unless an applicant can demonstrate that adequate parking exists for both uses when in use.
- (9) All required parking facilities shall be dedicated as such and shall not be used for any other purpose which interferes with its ability to provide parking for the use that it serves.
- (10) All required parking facilities shall be provided and maintained as long as the use which it serves continues to exist. Said parking facilities shall not be encroached upon or reduced in any manner. Any reduction in the number of required spaces shall be cause for revocation of the zoning permit.
- (11) Guest parking for single-family attached and multifamily residential uses and for mobile home parks shall be within 300 feet of the use which it serves.
- (12) Garages may be included as required parking spaces, provided that their use is restricted to the storage of motor vehicles.
- (13) Garages must be situate so that they meet all building setback requirements.
- (14) Design standards.
  - (a) Parking facilities shall be designed so that their use does not constitute a nuisance, a hazard or an unreasonable impediment to traffic.
  - (b) Parking facilities shall be arranged and marked for orderly safe movement.
  - (c) All parking spaces shall have a minimum stall width of 10 feet and a minimum stall length of 20 feet, except parallel parking spaces which are a minimum of eight feet by 22 feet.
  - (d) All parking areas shall provide adequate aisles and drives to provide access to the parking spaces. Vehicles should be able to proceed to and from any parking space without requiring the movement of other vehicles.
  - (e) Aisles within parking areas shall have the following minimum widths:

Parking Angle	One-Way	Two-Way
90°	22 feet	24 feet
60°	18 feet	21 feet

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45°	15 feet	18 feet
30°	12 feet	18 feet
Parallel	12 feet	18 feet

(f) Entrance and exit drives shall have the following minimum widths:

Use	Travelway	Shoulder
Single-family residence	10 feet	N/A
Other use, one-way	12 feet	4 feet
Other use, two-way	20 feet	5 feet

(g) No entrance or exit for any off-street parking or loading area shall be located within 40 feet of any road intersection.

(h) Parking spaces shall be within 150 feet of the residential use which it serves.

(i) Parking facilities for three or more vehicles shall not be designed to require or encourage vehicles to back into a street in order to leave a space.

(j) All parking areas, aisles and drives shall be surfaced with a dustless, durable material, be properly graded to dispose of all surface water and shall be maintained at all times.

(k) Buffers shall be provided in accordance with Chapter 131 (Subdivision and Land Development), Section 131-34.

#### B. Off-street loading and unloading.

- (1) Every business or building which requires the receipt or distribution of materials or merchandise, by vehicle, shall provide and permanently maintain adequate space for standing, loading and unloading services. One off-street loading space shall be provided for each 15,000 square feet of gross building area or major part thereof.
- (2) Access to truck standing, loading and unloading space shall be provided directly from a public street so as to not interfere with public convenience and to permit the orderly and safe movement of truck vehicles.
- (3) All loading spaces shall have direct access to the point of entry into the building being served.



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- (4) Loading spaces required by this section shall be provided in addition to off-street parking space and shall not be considered as supplying off-street parking space.
- (5) The minimum size of all such loading spaces shall be 12 feet by 30 feet with a minimum vertical clearance of 14 feet.

#### **§ 160-17. Exterior lighting.**

##### **A. Lighting objectives.**

- (1) No light source should create glare.
- (2) No light source should be exposed to the eye except those covered by globes.
- (3) Lighting should be indirect or surrounded by a shade to hide the light source.
- (4) Excess glare will be measured by its nuisance value to adjacent residences.
- (5) Lighting design should be an inherent part of the architectural design.
- (6) Lighting requirements apply to both area lighting and illuminated signs.

##### **B. Lighting plan.** When exterior lighting is proposed in connection with a use, other than single-family residential, a lighting plan shall be submitted to the township for approval together with the land use application. All such plans shall be prepared in accordance with the recommendations of the Society of Illuminating Engineers.

##### **C. Glare.** No lighting shall produce glare beyond the property on which the lighting is located. "Glare" is defined as illumination in excess of 0.5 footcandles on adjacent commercial properties and streets and 0.2 footcandles on adjacent residential properties.

##### **D. Measurement.** Lighting levels shall be measured in footcandles with a direct reading, portable light meter. The meter sensor shall be mounted in a horizontal position, not more than six inches above the ground. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading. Measurements shall be made after dark with the light source in question on and then with the same source off. The difference between the two readings shall be compared to the maximum permitted illumination at the property line at ground level. This procedure eliminates the effects of moonlight and other ambient light.

(b) All outdoor lighting on the property shall meet the requirements of § 160-17.

(c) Screening is required in compliance with § 160-18.

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- (d) Noise levels shall comply with the requirements of §160-19.
- (e) A traffic study is required in compliance with §160-20 if the use will generate traffic that meets the criteria established by PennDOT for a low volume driveway or greater.
- (e) Evidence of adequate potable water supply and sanitary sewage disposal for the use in question on the property shall be provided by the applicant.
- (f) The Applicant must obtain Conditional Use approval pursuant to the provisions of this chapter.
- (g) Any additional uses on the lot and all accessory uses shall comply with all additional applicable requirements of this chapter.
- (h) Access shall be to a Collector Street or greater.

#### **§ 160-18. Buffers.**

- A. Purpose. Where required, Buffers shall be used to aid in the transition between neighboring uses that may differ in development intensity and density. Buffers shall be of different types, based upon the relationship between two adjacent land uses. The width of the buffer and the density of required plantings increase as the difference between adjacent land uses increases.
- B. Applicability.
  - (1) Buffer requirements shall apply to all new construction projects that include (a) non-residential development and/or (b) multi-family development (three or more dwelling units) and shall comply with the requirements in Chapter 131 (Subdivision and Land Development), Section 131-34.
  - (2) The following are exempt from Buffer requirements:
    - (a) Agricultural uses in §160-12(A)(3);
    - (b) Any use of a building or structure for which only a change of use is requested, and which requires no structural modifications which would increase its volume, scale or intensity or change of use as defined in Chapter 131 (Subdivision and Land Development, Section 131-34(C)(3) to a higher use class;
    - (c) One-Family and Two-Family Dwelling Units on individual lots.

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- (3) Public Streets created as part of a subdivision of land are required to comply with the Street Tree requirements in Chapter 131 (Subdivision and Land Development), Section 131-34.

C. Classes of land uses. There are six different classes of land uses for purposes of determining the type of Buffer required. Classes of land uses and required Buffers are described in Chapter 131 (Subdivision and Land Development), Section 131-34(C)(3).

#### **§ 160-19. Nuisance control.**

- A. Purpose. To ensure adequate protection of the residents of the Township against possible negative effects of certain uses, processes or activities applicable to all districts, but particularly to those that permit industrial uses.
- B. Noise Control. No person shall operate or cause to be operated on private or public property any source of continuous sound (any sound which is steady, fluctuating or intermittent with a recurrence greater than one time in any fifteen-second interval) in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in the following table when measured at or beyond the property boundary of the receiving land use.

#### THIS AREA INTENTIONALLY LEFT BLANK Continuous Sound Levels by Receiving Land Use

Receiving Land Use Category	Time	Sound Level Limit
Residential, public space, open space, agricultural or industrial	1. 6:00 a.m. to 9:00 p.m.	60 dBA
	2. 9:00 p.m. to 6:00 a.m. plus Sundays and legal holidays	50 dBA
Commercial or business	1. 6:00 a.m. to 9:00 p.m.	65 dBA
	2. 9:00 p.m. to 6:00 a.m. plus Sundays and legal holidays	60 dBA
Industrial	At all times	70 dBA

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- (1) For any source of sound which emits a pure tone, the maximum sound level limits set forth in the above table shall be reduced by five dBA. For any source of sound which emits an impulsive sound (a sound of short duration, with an abrupt onset and rapid decay and an occurrence of not more than one time in any fifteen-second interval), the excursions of sound pressure level shall not exceed 20 dBA over the ambient sound pressure level regardless of time of day or night or receiving land use, using the fast meter characteristic of a Type II meter, meeting the ANSI specifications S1.4-1971.
- (2) The maximum permissible sound levels by the receiving land use category as listed in the previous table shall not apply to any of the following noise sources:
  - (a) The emission of sound for the purpose of alerting persons to the existence of an emergency.
  - (b) Emergency work to provide electricity, water or other public utilities when public health or safety are involved.
  - (c) Domestic power tools between the hours of 6:00 a.m. and 9:00 p.m.
  - (d) Construction operations between the hours of 6:00 a.m. and 9:00 p.m.
  - (e) Agriculture.
  - (f) Motor vehicle operations.
  - (g) Public celebrations specifically authorized by the township.
  - (h) Surface carriers engaged in commerce by railroad.
  - (i) The unamplified human voice in residences.
  - (j) Periodic school activities.
- C. Fumes and gases. No use shall emit fumes or gases in excess of levels permitted by the United States Environmental Protection Agency (USEPA), PADEP or other appropriate regulatory agency.
- D. Dust and other emissions. The emissions of dust, smoke, refuse matter, odor or similar substances or conditions which can cause any spoiling, staining, irritation or damage to persons or property at any point beyond the property line of the use creating the emission are hereby prohibited. A water wagon or other appropriate device shall be used to keep dust to a minimum during mining operations. Any area not accessible by a water wagon shall control dust by other means.

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- E. Vibration. No use shall produce physical vibrations in excess of the maximum safe levels established by the PADEP or the United States Bureau of Mines, including the criteria published in the November of 1980 USBM Report of Investigation RI-8507.

The applicant shall supply information to the Township, including the type of equipment to be used, operating times and parameters, etc., to verify proposed compliance with this requirement.

- F. Storage of overburden. No overburden materials shall be stored off-site within the Township. Upon movement of overburden, said overburden shall be immediately either removed entirely from the property where it was generated, placed in berms or placed adjacent to said berms on the interior side of the berm for storage. All such storage areas shall be promptly seeded in such a manner as to prevent erosion and in total compliance with the requirements of PADEP as they may from time to time exist.
- G. Use and storage of explosives. All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices as detailed and specified by the laws of the Commonwealth of Pennsylvania. Any explosive material shall conform to the requirements of Chapter 211, Title 25, Rules and Regulations, Pennsylvania Department of Environmental Protection, for storing, handling and use of explosives.

- (1) Blasting schedule publication. Public notice of blasting schedule to be completed prior to initiation of blasting.

- (a) All blasting shall be conducted in strict conformity with the requirements of the Department of Environmental Protection as they may from time to time be altered and shall occur only between the hours of 10:00 a.m. to 4:00 p.m., prevailing local time, Monday through Friday, except in extraordinary circumstances such as intervening electrical storms resulting in delay to blasts originally scheduled between the aforesaid hours; in the event of such extraordinary circumstances, the Township shall be promptly notified.

- (b) Copies of any routine schedule shall be provided directly or by mail to the Township. Each resident within 1,500 feet of the blasting site who has prior thereto requested blasting notifications in writing shall be notified by telephone of scheduled blast at least two hours prior to such blast.

- (c) Any routine blasting schedule shall be republished every 12 months.

- (2) Blasting schedule contents.

- (a) The blasting schedule shall contain, at a minimum, the following:

[1] Dates and time periods when explosives are to be detonated.

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- [2] The types of audible warning and all-clear signals to be used before and after blasting.
  - [3] Methods to be used to control access to blasting area.
  - [4] A description of possible emergency situations that might prevent blasting at times announced in the blasting schedule, such as rain, lightning, other atmospheric conditions or operator or public safety which may require unscheduled detonation.
- (b) Copies of records to be kept in accordance with PADEP Chapter 211.4.6, Storage, Handling and Use of Explosives, shall be provided promptly to the Township upon request. Specifically, the following information may be requested for each blast:
- [1] Location, date and time of blast.
  - [2] Name, signature and license number of blaster in charge.
  - [3] Type of material blasted.
  - [4] Number of holes, burden and spacing.
  - [5] Diameter and depth of holes.
  - [6] Types of explosives used.
  - [7] Total amount of explosives used.
  - [8] Maximum amount of explosives per delay period of eight milliseconds or greater.
  - [9] Method of firing and type of circuit.
  - [10] Direction and distance, in feet, to nearest occupied structure, neither owned nor leased by the person conducting blasting or the surface mining operator/owner.
  - [11] Scaled distance.
  - [12] Weather conditions.
  - [13] Direction of wind.
  - [14] Height or length of stemming.

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[15] Type of delay electric blasting caps used and delay periods used.

- H. Portable toilets required. New residential home construction, and any commercial construction sites where a functional lavatory is not already available, shall be served by a functional and permitted portable toilet.

#### **§ 160-20. Traffic impact study.**

Where otherwise required by this chapter, a traffic impact study shall be performed in accordance with the following requirements:

- A. Purpose.

- (1) To identify traffic and transportation problems associated with the adequacy of the existing transportation network and facilities with regard to safety, volume and capacity and the provision of access to and from and through the site in light of the character and volume of traffic expected to be generated by the proposed use or uses.
  - (2) To delineate solutions to such problems or facilities, including the prescription of improvements to be provided by or at the expense of applicant.

- B. Preparation of study. The study shall be prepared by a Professional Traffic Engineer or Transportation Planner registered in the Commonwealth of Pennsylvania with sufficient prior traffic study experience to qualify him or her to perform the study and render any opinions and recommendations set forth therein.

- C. The individual responsible for preparing the traffic impact study shall certify to the following:

- (1) That in the preparation of the study the Township Comprehensive Plan and any pertinent Township or other traffic or transportation plan or study, as identified by the Township, has been considered in the traffic study;
  - (2) That the preparer has consulted with and received information pertaining to the streets and traffic data and projections from PennDOT and from the Monroe County Planning Commission;
  - (3) That in the professional opinion of the preparer the completed Traffic Impact Study is a true and accurate study which has given adequate consideration to available information and includes reasonable projections and represents the best opinion of the preparer on the traffic impact of the proposed development;

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- (4) That, if it has not been possible to fully analyze all relevant factors, then those factors not analyzed shall be identified, together with the reasons for the exclusion from the study.
- D. The Traffic Impact Study shall be reviewed by the Planning Commission, Board of Supervisors, Township Engineer or other professional reviewer designated by the Board of Supervisors. The Planning Commission and/or the Board of Supervisors may request additional data or information to clarify the findings set forth in the study.
- E. Study area characteristics. The limits for the study area should be based upon engineering judgment and a knowledge of the existing traffic conditions in the vicinity of the proposed site. The area must be of sufficient size to include the key roadway corridors and critical intersections which may be impacted by the proposed site traffic. Designation of the study area boundaries shall be a cooperative effort between the applicant, township officials and PennDOT, when applicable. In those instances where agreement cannot be reached on the boundaries, the township will establish the boundaries to be used for this study. Designation of the future design year(s) as the basis for the study will be made by the township dependent on the timing and/or phasing of the proposed development.
- F. Contents. The study shall be prepared in accordance with the Institute of Transportation Engineers' recommended practice entitled "Traffic Access and Impact Studies for Site Development - Final Report," dated 1991 and as amended; and PennDOT Publication 201, Engineering and Traffic Studies, current edition, and with the requirements contained herein.
- (1) General site description. The site description shall include the size, location, proposed land uses, current and proposed zoning, construction staging and completion date of the proposed land use and/or development. A brief description of other major existing and proposed land development within the study area shall be provided.
- (2) Transportation facilities description.
- (a) Proposed internal transportation system. This description shall show proposed vehicular and pedestrian circulation, all proposed ingress and egress locations, all existing or proposed internal roadways, including the widths of all cartways and rights-of-way, parking conditions, traffic channelization and any other traffic control devices within or near the site proposed for use.
- (b) External transportation system. This report shall describe the entire external roadway system within the study area of the proposed use. Key intersections in the study area shall be identified and described. All future highway improvements, including proposed construction and traffic signalization, shall be noted. This information shall be obtained from PennDOT and the



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township. Any proposed roadway improvements resulting from proposed surrounding developments shall also be recorded.

- (c) Existing traffic conditions. Existing traffic conditions shall be determined for all roadways and intersections in the study area. Existing traffic volumes for average daily traffic by vehicle class, peak highway hour(s) traffic and peak development generated hour(s) traffic shall be collected. Manual traffic counts at key intersections in the study area shall be conducted, encompassing the peak highway and development generated hour(s).
- (d) Background traffic. Background traffic growth and projected adjacent land development shall be included in the projection of future traffic volumes.
- (e) Transportation impact. Estimation of vehicular trips to result from the proposed development shall be completed for the average daily, peak highway hour(s) and peak development generated hour(s). Vehicular trip generation rates to be used for this calculation shall be based on the Institute of Transportation Engineers' publication entitled "Trip Generation," current edition, and/or actual trip data collected at sites with similar trip generation characteristics. Also, provide an estimate of anticipated truck traffic by vehicle class. These development generated traffic volumes shall be provided for the inbound and outbound traffic movements, and the reference source(s) and methodology followed shall be documented. All turning movement shall be calculated. These generated volumes shall be distributed to the study area and assigned to the existing roadways and key intersections throughout the study area. Document all assumptions used in the distribution and assignment phase in a manner which permits the duplication of these calculations. Any characteristics of the site that will cause particular trip generation problems shall be noted.
- (f) Traffic analysis. The study area roadway network is to be analyzed for safety and capacity sufficiency for three separate conditions: existing network conditions, future network conditions without the proposed development and the future network conditions with the proposed development. For each of the three conditions, the following analyses shall be completed:
  - [1] The effectiveness of the traffic control devices at all key intersections shall be evaluated by approach in terms of vehicle stops and/or delays.
  - [2] Gap studies shall be conducted at the proposed site access points and key intersections to evaluate the need for signal control, turn prohibitions or additional site access points.
  - [3] Queue length studies shall be completed to evaluate the potential for a backup of traffic from controlled intersections which could impact other intersections.

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- [4] An analysis of the volume and capacity of the network and all key intersections shall be conducted using the methodologies presented in the Transportation Research Board's Highway Capacity Manual, current edition. Levels of service will be determined for all roadways and key intersections.
- [5] Available and required sight distances shall be field measured and calculated at all key intersections.
- [6] Turn lane warrant and length analysis shall be conducted.
- [7] The analysis of the existing roadway and intersection conditions in the study area will be based upon the current geometric conditions. The analysis of the future conditions without the proposed development must include a full consideration of all committed roadway improvements to the study area network when determining the expected levels of service.

#### G. Traffic impact analysis for haul roads.

- (1) A pavement structural analysis shall be completed which shall evaluate the following elements for all haul roads:
  - (a) The requirements of Chapter 201 of Title 67 of the Pennsylvania Code, Subchapter G, Weight, Size and Load Restrictions and Alternate Routes.
  - (b) Recording of existing pavement conditions through the use of a videocassette recorder or similar device to assist in future evaluation of the impact of the facility on existing roads. A copy of the videotape shall be provided to the Township.
  - (c) The results of the evaluation shall be presented in a report with a list of recommendations, a preliminary cost estimate a funding methods and an implementation schedule, all for the purpose of preventing and/or reducing the extraordinary adverse impact of vehicular hauling traffic on public roads.
  - (d) Areas likely to be disturbed by the haul road.
- (2) All aspects of the haul road traffic study which indicates that the proposed operation will decrease the capacity of existing roadways or could create hazards to public health or safety shall be alleviated by installation of appropriate devices as set forth in the traffic study and as determined by the Township. Such devices include, but are not limited to, traffic signals, acceleration and deceleration lanes, additional turning lanes and such other off-site improvements necessary to maintain public health, safety, access and use at the current level of service.

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- H. Conclusions and recommended improvements. Levels of service for all key intersections shall be presented in tabular and graphic form. All roadways and/or key intersections showing a level of service below D for signalized intersections and below E for unsignalized intersections shall be considered deficient and specific recommendations for the elimination of these deficiencies shall be listed. This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site access location and design, external roadway and intersection design and improvements and traffic signal installation and operations. All physical roadway improvements shall be shown on the site plan. For each recommended improvement, provide a schematic drawing of existing and proposed conditions and a narrative description of the improvement, including the cost and funding method of the improvement and an implementation schedule for the improvement.
- I. The applicant, to the extent legally permissible or as may be otherwise agreed, will be responsible for the guarantee of payment for the proportionate share of all traffic control devices or for the construction of public facilities applicable to the proposed development, which are required as a result of the traffic impact generated by the proposed development project.

#### **§ 160-21. Other required approvals.**

- A. Access. All proposed uses shall provide adequate and safe access to the proposed facilities. Driveway connections to state and township roads will require a highway occupancy permit from either PennDOT or the township, as appropriate.
- B. Water supply and sewage disposal. All proposed uses shall provide adequate and safe water supply and sewage disposal facilities for the proposed facilities. Such facilities shall be in accordance with PADEP and township requirements.
- C. Natural and cultural features preservation. All uses and activities established after the effective date of this chapter shall comply with the following standards. Site alterations, regrading, filling or clearing of vegetation prior to the submission of applications for buildings permits or the submission of plans for subdivision or land development shall be a violation of this chapter. In the event that two or more resources overlap, the resource with the greatest protection standard (the least amount of alteration, regrading, clearing or building) shall apply to the area of overlap. In assessing compliance with these standards, the Township may take into account the extent to which the property owner is taking other remedial or compensatory actions which would fulfill the same basic intent as the conservation standards.
  - (1) Floodplains. Areas identified as within a flood-prone area shall not be altered, regraded, filled or built upon except in conformance with the Paradise Township Floodplain Management Ordinance.

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- (2) Streams, watercourses, wetlands, lakes and ponds. Such areas shall not be altered, regraded, developed, filled, piped, diverted or built upon except in accordance with the regulations of the Pennsylvania Department of Environmental Protection, the United States Corps of Engineers and Paradise Township. Any activity requiring a federal or state permit shall obtain such permit before final approval by the Township.
  - (a) Creeks, streams, rivers, ponds and lakes are included in and regulated by the Riparian Buffer Overlay District found at Article XIV.
  - (b) Construction, earth disturbance, filling, or removal of natural vegetation within fifty (50) feet of any intermittent or perennial water course or natural drainage swale not shown on the Official Zoning Map of Paradise Township is prohibited, except for horticultural practices used to maintain the health of native vegetation, passive recreation, stormwater conveyances in compliance with Chapter 123, removal of invasive species and/or trees that are dead, diseased or dangerous, and the exempt/permitted activities listed in subparagraphs B, C and D of § 160-90.
  - (c) With the exception of Temporary Structures, if any proposed area of construction, earth disturbance, filling, or removal of natural vegetation, including driveways, parking areas and utilities, is within one hundred twenty (120) feet of an area that includes hydric soils listed in Schedule VII the Zoning Officer shall require the applicant to provide a report from a Qualified Wetland Professional delineating any/all water resources protected by this chapter.
- (3) Stormwater management/Erosion and sedimentation control. All site modifications shall conform with the requirements of the Paradise Township Stormwater Management Ordinance. Where applicable, accompanying erosion and sedimentation control plans shall be submitted to the Monroe County Conservation District for review and comment.
- (4) Site Disturbance.
  - (a) Protection of vegetation for excavations.
    - [1] When digging trenches for utility lines or similar uses, disturbance to the root zone of all woody vegetation shall be minimized.
    - [2] If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible, avoiding soil compaction.
  - (b) Protection of topsoil.

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- [1] No topsoil shall be removed from a site unless a sufficient amount is retained to provide at least four inches of topsoil cover over all of the site's exposed earth surfaces.
  - [2] Topsoil removed by grading operations shall be redistributed and permanently stabilized as quickly as possible following the completion of a project or project phase in accordance with an approved Erosion and Sedimentation Pollution Control Plan.
- (5) Wetlands and vernal pools. Construction, earth disturbance, filling or removal of natural vegetation within any wetland or vernal pool, or within fifty (50) feet of the edge of any wetland or within one hundred twenty (120) feet of the edge of any vernal pool as determined using the method as set for in Section (c), below, is prohibited, except for horticultural practices used to maintain the health of native vegetation, removal of invasive species and/or trees that are dead, diseased or dangerous and the exempt/permitted activities listed in sub-paragraphs B, C and D of § 160-90.
- (a) Wetlands and vernal pools, including the setbacks described above, are hereby included within and protected by the Riparian Buffer Overlay District described in Article XIV.
  - (b) Determination and Delineation of Wetlands.
    - [1] When the National Wetlands Inventory (NWI), United States Geological Survey (USGS), and/or the United States Natural Resource Conservation Service (NRCS) Maps indicate wetlands on a site or when a site/development area contains hydric soils (refer to Schedule VII - Hydric Soils of Monroe County, PA) or an area with a predominance of wetlands vegetation (refer to Schedule VIII - Wetland Plant List and current plant indicator lists by the United States Fish and Wildlife Service and/or the United States Army Corps of Engineers), an on-site investigation shall be conducted by a Qualified Wetland Professional to determine if wetlands are present on the site and to delineate wetland boundaries. The Qualified Wetland Professional shall certify that the methods used to investigate the site correctly reflect currently accepted technical concepts, including the presence of wetland vegetation, hydric soils, and/or hydrologic indicators in accordance with currently accepted and applicable State and Federal regulations and guidance. The landowner or applicant shall be responsible for obtaining the wetland determination and delineation. The study must be approved by the Township Engineer. If the Township Engineer disagrees with the study the landowner or applicant shall be required to provide a Jurisdictional Determination by the United States Army Corps of Engineers. In the event that a wetland delineation validated by the United States Army Corps of Engineers is shown to vary from the wetlands

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boundary provided by the landowner's or applicant's Qualified Wetland Professional, the Corps delineation shall govern.

- (c) The Zoning Officer shall review all proposed development and determine soil type boundaries within and around the subject property based on NRCS soils data. If, for any proposed development, the underlying soils within 120 feet of any associated earth disturbance are shown to be hydric, as defined in Schedule VII, the applicant shall provide the results of an on-site investigation by a Qualified Wetland Professional.
  - (d) Where the Zoning Officer or the Township Engineer determines that there is evidence that there may be indicators of a wetland on a proposed development site or based upon the Township Official Wetlands Map, the Zoning Officer may deny Township Zoning Permits as incomplete until the applicant provides evidence from a Qualified Wetland Professional that such site is not a wetland or that such action will comply with applicable Federal and State permit requirements.
  - (e) Construction, earth disturbance, filling, or removal of natural vegetation on slopes exceeding 10% within 500 feet of any wetland or vernal pool shall be designed to control the flow of surface water in a manner which protects the wetland or vernal pool from adverse impacts commonly associated with nutrient and sediment pollution.
- (6) Conservation of agriculturally suited soils. In subdivisions where greenway lands are created, the applicant shall, whenever possible and in conjunction with other applicable ordinances, include in such greenway lands those agriculturally suited soils whose acreage, configuration and location offer future opportunity for agricultural use.
- (7) Conservation of sloping lands.
- (a) Any site disturbance on slopes exceeding 15% shall be minimized.
  - (b) No site disturbance shall be allowed on slopes exceeding 25%, except under the following circumstances:
    - [1] Logging shall be by specific approval of the Board of Supervisors. A submission plan shall include an approved soil erosion and sedimentation plan; a listing of the amounts and species of timber to be harvested, which in no case can be conducted on more than 15% of the acreage located on these slopes; and a reclamation plan for restoring the site. Precautions shall be taken to avoid destruction or injury of brush and trees.

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- [2] Grading for a portion of a driveway accessing a single-family dwelling when it can be demonstrated that no other routing which avoids slopes exceeding 25% is possible.
- [3] Any driveway or other access road must be designed to have a slope length no greater than 75 feet.
- (c) All primary and accessory buildings, septic systems, detention basins or other structures that may create a severe impact upon the slope shall be set back 50 feet from all ridge lines or slope tops.
- (d) Property owners of tillage and nursery operations, on slopes exceeding 8%, shall enter into a cooperative agreement with the Monroe County Conservation District for the development of a conservation plan for the site.
- (e) Grading or earthmoving on all sloping lands exceeding 15% shall not result in earth cuts or fills whose highest vertical dimensions exceed 10 feet, except where no alternative exists for construction of public roads, drainage structures and other public improvements, in which case such vertical dimensions shall not exceed 20 feet. Finished slopes of all cuts and fills shall not exceed three to one, unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately.
- (8) Groundwater protection. In cases where the proposed use may impact or affect groundwater use, groundwater quantity or groundwater quality through effects on flow, recharge or disposition of pollutants, the applicant shall provide the Township with a hydrogeological study that evaluates the impact of the use on the groundwater and public and private groundwater supplies. This evaluation shall demonstrate compliance with the following:
  - (a) The use shall not cause the contamination, diminution or interruption of a public or private water supply.
  - (b) The applicant shall identify and map all measures which shall be required to avoid the contamination, diminution or interruption of public or private water supplies identified in the study. Such mapping shall include hypothetical cones of depression and the measures proposed to alleviate or eliminate disturbance or interference with groundwater quantity or quality.
  - (c) The applicant shall notify all property owners with existing wells within the potentially affected area of the potential effects on the wells as well as measures which will be taken to avoid such effects.
  - (d) The operator/owner of any property that affects a public or private water supply by contamination, diminution or interruption shall restore or replace the affected water supply with an alternate source of water, adequate in

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quantity and quality for the purpose served by the supply. For the purpose of this section, the term "water supply" shall include any existing source of water or facility or system for the supply of water from human consumption or for agricultural, industrial, recreational or other uses.

- (9) Wellhead Protection. For the purpose of this Ordinance, discreet zones are hereby delineated. Wellhead Protection Zone 1 shall include all land within 400 feet of any public supply wells regulated under the Safe Drinking Water Act, as amended. Wellhead Protection Zone 2 shall include all land within ½ mile of public supply wells regulated under the Safe Drinking Water Act, as amended, and within 50 feet of any 100-year floodplain, wetland or natural water body. Zone 3 shall include all land within the borders of Paradise Township. Locations of public supply wells are on a map available for inspection at the office of the Paradise Township Zoning Officer.

- (a) The following land uses, physical facilities and activities have the potential to contaminate surface soils and surface water bodies, and therefore represent a threat of contamination of groundwater:

- [1] Agricultural operations
- [2] Commercial facilities
- [3] Industrial facilities
- [4] Sewage disposal
- [5] Bulk storage tanks
- [6] Solid waste disposal facilities
- [7] Injection wells
- [8] Sewage sludge land application
- [9] Hazardous material storage, treatment and recycling
- [10] Limited residential activities
- [11] Subdivisions
- [12] Land developments

This section restricts land uses, physical facilities and activities listed above in all three Wellhead Protection Zones.



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- (b) Permits and approvals issued pursuant to this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance. If more stringent requirements concerning regulation of water supply wells are contained in any other code, rule, act or ordinance, the more stringent regulation shall apply.
- (c) The degree of protection of groundwater quality sought by the provisions of this chapter is considered reasonable for regulatory purposes. Groundwater contamination and pollution are still possible. This Chapter does not imply groundwater will remain free of contamination for all Township residents.
- (d) Land uses within Wellhead Protection Zones 1, 2 and 3 shall be regulated according to the Schedule of Regulated Land Uses below. Land uses shall be prohibited (X), permitted (P) or permitted only by Special Exception (SE), as applicable, in accordance with this Schedule.

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### SCHEDULE OF REGULATED LAND USES

USE	Zone 1	Zone 2	Zone 3
Generation, treatment or disposal of regulated substances.	X	X	SE
Bulk storage of regulated substances	X	X	SE
Herbicide, pesticide and fertilizer dealer/distributor	X	X	SE
Agricultural operations	X	X	SE
Animal husbandry facilities	X	X	P
Large Volume subsurface sewage disposal systems	X	X	SE
Large volume spray irrigation sewage disposal systems	X	SE	SE
Underground injection wells	X	X	SE
Aboveground storage tanks*	X	SE	SE
Underground storage tanks	X	X	SE
Waste disposal facilities	X	X	SE
Land application of sewage sludge	X	X	SE
Storm water retention facilities	X	P	P
Unlined storm water detention facilities	X	P	P
Mining and quarrying	X	SE	P
Road deicing material storage	X	SE	P
Textile and apparel product manufacturing	X	SE	P
Lumber and wood preserving	X	SE	P
Printing and publishing	X	SE	P
Chemical manufacturing	X	SE	P
Dry cleaning establishments	X	SE	P
Leather product manufacturing	X	SE	P
Mineral product manufacturing	X	SE	P
Metal product manufacturing	X	SE	P
Machine shops	X	SE	P
Electronic/electronic equipment manufacturing	X	SE	P
Transportation maintenance facilities	X	SE	P
Scrap and metal container recyclers	X	SE	P
Chemical and petroleum storage and sales	X	SE	P
Automotive repair, services and related parking	X	SE	P
Personal services:	X	SE	P
laundry, pest control, photofinishing			
Repair services:	X	SE	P
furniture, welding, septage services			
Educational, medical and engineering labs	X	SE	P
Sewage disposal facilities	X	SE	SE
Ground Source Heat Pumps	SE	SE	SE

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\*Above ground fuel tanks with capacity of 200 gallons or less required for the operation of equipment associated with safe wellhead operation are permitted, provided adequate secondary containment measures are installed.

(e) Special exception permits shall be issued in accordance with the Schedule of Regulated Land Uses, above, provided the conditions below are met:

- [1] Facilities which generate, store, treat or dispose of hazardous material are required to file current Pollution Incident Prevention (PIP), Spill Prevention Control and Countermeasure (SPCC), Preparedness, Prevention and Contingency (PPC), Spill Prevention Response (SPR) plan, as required by either the Pennsylvania Department of Environmental Protection or the United States Environmental Protection Agency, and a current Hazardous Substance Survey Form, Environmental Hazard Survey Form and SARA Title III Tier I and Tier II Report with the Township.
- [2] Herbicide, pesticide and fertilizer products dealers and distributors are required to file a Pollution Incident Prevention (PIP) plan, or equivalent, and a current Hazardous Substance Survey Form, Environmental Hazard Survey Form and SARA Title III Tier I and Tier II report with the Township.
- [3] Large volume subsurface sewage disposal systems and large volume spray irrigation sewage disposal systems are required to file current permit from the Pennsylvania Department of Environmental Protection and copies of all required water quality monitoring reports with the Township.
- [4] Underground injection well operators must submit a copy of current registration with the Environmental Protection Agency with the Township.
- [5] Aboveground and underground storage tank owners must submit a copy of current registration from the Pennsylvania Department of Environmental Protection with the Township, and demonstrate compliance with all regulations enacted to enforce the Storage Tank and Spill Prevention Act of 1989.
- [6] Waste disposal facilities must file a copy of a current permit from the Pennsylvania Department of Environmental Protection, a copy of any required Preparedness, Prevention and Contingency (PPC) plan and copies of any required water quality monitoring reports and water pollution abatement plans with the Township.

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- [7] Sewage sludge land application operators must file a copy of a current permit from the Pennsylvania Department of Environmental Protection, copies of any sewage sludge test results and any required water quality monitoring reports with the Township.
- [8] Agricultural operations must submit a copy of the Conservation Plan prepared in accordance with Chapter 102 of Pennsylvania Department of Environmental Protection regulations, and must include a Pesticide Management Plan and a Nutrient Management Plan.
- [9] Sewage disposal facilities must be operated and maintained to prevent discharge of untreated or partially treated sewage to surface or ground waters.
  - [a] On-lot sewage disposal systems shall be inspected by a technician certified by the Pennsylvania Sewage Management Association and any necessary repairs or maintenance must be performed prior to the expansion or conversion of the land use served by the system. A copy of that inspection report must be submitted to the Sewage Enforcement Officer.
  - [b] No sewage disposal system may be installed within 100 feet of any existing or permitted drinking water well.
- [10] Ground source heat pumps are considered private wells regulated under this Chapter, and shall also comply with the following:
  - [a] Ground source heat pumps may not have any formal connections to any septic system.
  - [b] Horizontal closed loop ground source heat pumps must be a minimum of 25 feet from any existing or permitted septic system.
  - [c] Vertical closed loop ground source heat pumps must be a minimum of 100 feet from any existing or permitted septic system, unless the entire borehole around the annulus of the loop is grouted with bentonite slurry.
  - [d] Closed loop ground source heat pumps that treat extracted water in any way, or involve circulation of toxic refrigerants below the surface, are prohibited.
  - [e] Water treatment associated with open loop ground source heat pumps is prohibited.

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- [f] Applicants for open loop ground source heat pumps that discharge to the surface must either obtain a National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection, or demonstrate that such permit is not required.
  - [g] Applicants for ground source heat pumps with separate return wells must provide documentation that the return well is capable of handling the volume of water that passes through the heat pump.
- (f) The following activities are specifically excluded from regulation under this section:
- [1] The transportation of any regulated material through Wellhead Protection Zones 1 or 2, provided that the transporting vehicle is in transit through the Wellhead Protection Zones and further provided that such transportation is conducted in compliance with all applicable federal and state laws and regulations.
  - [2] Utilization and/or storage of fuels, hazardous chemicals, pesticides, fertilizers, flammable liquids and gases, and toxic and regulated substances by owners and/or occupiers of lots and tracts of land which are primarily utilized for the purpose of single or multi-family residential dwellings in such quantities and in such a manner as is associated with normal consumer, household use.
- (g) Subdivisions and land developments regulated under Chapter 131 of the Paradise Township Code of Ordinances shall be designed consistent with the following:
- [1] Storm water retention and/or unlined detention basins shall be prohibited within Wellhead Protection Zone 1.
  - [2] Subdivision and land developments proposed with subsurface sewage disposal shall provide a tested and suitable primary absorption area and a tested and suitable secondary absorption area on each lot.
- (h) As to each lot or tract of land located within Paradise Township upon which there is conducted a Regulated Land Use, the record owner thereof shall submit, or cause to be submitted, to the Zoning Officer of the Township the following reports and information in the manner prescribed:
- [1] Copies of all federal, state and county operational approvals, certificates, permits and applications, on-going environmental reports and monitoring results, relating to environmental, pollution control, hazardous substance and drinking water laws and regulations pertaining

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to such lot or tract of land, as and when required to be submitted to federal, state and county governmental authorities;

- [2] In the event that any contaminants and/or substances regulated under federal, state or state environmental, pollution control, hazardous substance and drinking water laws and regulations are released on or from any lot or tract of land within the Township, copies of any and all notices, reports and documents which such owner filed, or caused to be filed, with any federal, state and/or county governmental authorities which provide notice of or relate to such release, as and when such notices, reports and documents are required to be filed with such governmental authorities; and
  - [3] Copies of all notices, orders, rules, decisions, recommendations, enforcement actions and similar documentation, as and when received by or on behalf of such record owner or the occupant of any such lot or tract of land from any federal, state or county governmental authority in connection with the enforcement of environmental, pollution control, hazardous substance and drinking water laws and regulations.
- (i) Alternatively, an Applicant for a Regulated Land Use may provide a study, prepared by a hydrogeologist registered in the Commonwealth of Pennsylvania, demonstrating, to the satisfaction of the Township, that the proposed Regulated Land Use, or any parts thereof, including any/all treatment, disposal, conveyance equipment and all associated appurtenances will pose no threat to any private or public water supply well.
- (10) Rare, threatened and endangered species. Where the habitat or potential habitat of a rare, threatened or endangered species exists on the property, and where the habitat or potential habitat may be adversely affected by the proposed use, the Township shall be supplied with an evaluation, prepared by a certified expert, concerning the impact of the proposed use on rare, threatened and endangered species identified by the Pennsylvania Natural Diversity Index (PNDI). A thorough on-site investigation of the property shall be conducted by the expert as part of the evaluation. Correspondence from PADEP indicating a review of the PNDI shall be provided to the Township. The Township shall have the right to verify said evaluation.
  - (11) Historical and archaeological resources. The impact of the proposed use on historical and archaeological resources shall be evaluated and a written response from the Pennsylvania Historic and Museum Commission shall be obtained and provided as part of the application. The applicant for the proposed use shall comply with the requirements of the National Historic Preservation Act of 1966.

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- (12) Existing Resources Site Analysis Plan; applicability. Prior to commencing any site disturbance for any purpose other than construction of a single-family dwelling or related accessory uses, an existing resources site analysis plan as described in Chapter 131, Section 131-36 shall be submitted to and approved by the Board of Supervisors according to the provisions of the Subdivision and Land Development Regulations (SALDO).
- (13) Existing resources site analysis plan as part of application. An existing resources site analysis plan submitted as a part of a subdivision or land development application shall be reviewed according to the provisions of the Subdivision and Land Development Ordinance (Chapter 131 of this Code). Site inspections, performance and maintenance guaranties, applicant fees, violations and penalties shall govern such an application.
- (14) Existing resources site analysis plan unrelated to application.
  - (a) Plan review.
    - [1] Applicants for activities defined in §160-21(C)(13) but not related to a subdivision or land development shall submit an existing resources site analysis plan in accordance with §131-38.
- (15) Fees. The applicant shall pay an application fee for Township review of the existing resources site analysis plan in accordance with a schedule of fees established by resolution adopted by the Board of Supervisors.
- (16) Existing resources site analysis plan amendments.
  - (a) Major modifications of any approved existing resources site analysis plan, as determined by the Township, shall be submitted to the Township Engineer and reprocessed in the same manner as the original plan. All development and land disturbance activities shall be suspended pending the approval of modified plans.
  - (b) Field modifications of a minor nature may be approved by the Township Engineer in the form of written authorization.
- D. Performance standards for private wells. All privately owned domestic wells drilled, constructed, used and maintained in Paradise Township shall comply with the rules herein. Wells already in existence at the time of the adoption of this section may remain in operation for the life of the existing well, but must conform with the rules herein at the time they are upgraded, re-drilled, relocated or closed.
  - (1) No private well may be constructed within 100 feet of any existing or permitted sewage disposal system.

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- (2) No private well may be constructed within 150 feet of any dead animal burial pit, within 100 feet of any animal or fowl enclosure, or within 100 feet of any fertilizer or pesticide storage, mixing or loading facilities.
- (3) No private well may be constructed within 100 feet of any infiltration trench or dry well.
- (4) No private well may be installed within the 100-year flood plain. Well casing shall extend at least two feet above the level of the highest known flood of record. Surface water must be directed away from the wellhead.
- (5) The "Municipality" copy of the Water Well Completion Report required of the licensed well driller by the Pennsylvania Department of Conservation and Natural Resources shall be submitted to the Zoning Officer upon well completion.
- (6) Drilling fluid materials, drilling fluid additives, casing materials, screening materials, gravel pack materials and grouting and sealing materials shall be in accordance with standards established by the American Water Works Association in the AWWA Standard for Water Wells, approved by the American Water Works Association on June 15, 1997 and approved by the National Standards Institute on December 1, 1997.
- (7) Well construction, well development, well disinfection and well abandonment/decommissioning shall be in accordance with standards established by the American Water Works Association in the AWWA Standard for Water Wells, approved by the American Water Works Association on June 15, 1997 and approved by the National Standards Institute on December 1, 1997.
- (8) Permanent well casings shall be continuous and watertight from top to bottom of the installed casing except for any well screens.
- (9) All wells shall be drilled a minimum of 10 feet into competent bedrock and sealed from bedrock to surface, or to a minimum depth of 50 feet if bedrock is not encountered, to prevent the entrance of water from any source other than from the aquifers selected.
- (10) All wells shall have suitable threaded, flanged or welded caps or compression seals to prevent foreign material from entering the well.
- (11) Water quality testing for bacterial contamination shall be conducted by a laboratory certified for drinking water analysis by the Pennsylvania Department of Environmental Protection. Analysis shall include, at a minimum, tests for microbiological contamination and nitrate/nitrite.
- (12) Water sample test results shall be reported to the property owner. Positive test results for fecal coliform, E. coli, Nitrate above 10 mg/L or nitrite above 1 mg/L



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shall be reported to both the property owner and the Zoning Officer. Nothing in this rule shall limit the right of the property owner to conduct additional water quality sampling and analysis.

(13) Permit requirements for private wells.

(a) No private well shall be constructed within Paradise Township without first obtaining a permit from the Zoning Officer.

(b) Permit applications shall be submitted in the name of and executed by the owner(s) of the property.

(c) Permit applications:

[1] Shall be submitted in person or mailed on a properly completed Township form;

[2] Shall be signed by the applicant or authorized representative.

[3] Shall include a plan showing the location of the proposed well in relation to the property boundaries and the nearest subsurface septic system.

[4] Shall include a fee in accordance with the comprehensive fee schedule adopted by resolution of the Board of Supervisors.

(d) Permit Issuance.

[1] A permit for well construction shall be issued by the Zoning Officer, subject to this chapter and the conditions contained on the permit and its attachments and supplements. The permit will authorize the applicant to proceed with the work and will also serve as a receipt for the fees accompanying the application.

[2] Permits will be issued only to the owner(s) of the property. Permits will not be issued to the contractor(s) or to any person(s) other than the owner(s) of the property.

[3] Approval by the Township of any well permit shall not constitute acknowledgment that the work was performed in accordance with the permit, nor shall such approval of the Township act as a release of the permittee(s) or waiver by the Township of its right to seek performance or restitution by the permittee(s).

E. Litter control plan. All proposed uses that will include outdoor activities shall prepare and submit a Litter Control Plan for review and approval as part of the zoning

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application. All solid waste collection points must be screened from adjacent properties and roads.

- F. Required permits. Whenever other federal, state or local permits are required for a proposed activity, applications for these permits shall be submitted to the applicable governmental agency concurrent with the submission of any zoning application. Copies of all applications and correspondence shall be provided to the township. Prior to the issuance of a certificate of occupancy for any approved use, a copy of all required permits from all applicable governmental bodies shall be provided to the Zoning Officer.
- G. Operational Plan. All proposed non-residential uses shall submit an Operational Plan for review and approval as part of any zoning application.
  - (1) The applicant shall provide an operational plan which shall address all matters necessary to determine compliance with this chapter. In addition, the operational plan shall set forth the procedures that will be utilized for operation, including times and days of operation of various components of the operational activities. Such plan shall:
    - (a) Require that access to a site posing a hazard or potential hazard to visitors will be limited to such times when an attendant is on duty and access drives shall be secured by fences, locks, gates and other means to deny access at unauthorized times.
    - (b) The operator shall maintain and make available to the public at its offices all permits and approved plans required by any governmental regulatory agency having jurisdiction over the permitting, operating, maintenance, reclamation, closure and/or remediation of the proposed facility.
    - (c) The operator shall provide the Township with copies of any notices of violation received from any state or federal agency within five days of the date of receipt of such notice by the operator of the facility.
    - (d) Hours of operation must be both in accordance with the express requirements of this Chapter and such that they do not cause undue interference with the surrounding area. The operator shall be responsible for ensuring against such interference.
- H. Explosives Storage and Use. All proposed uses that use explosive materials at any time shall submit the following:
  - (1) Approved current licenses required by 25 Pa. Code Chapters 210 and 211;
  - (2) An Agreement by the applicant/permittee to indemnify and hold harmless Paradise Township, its officers, agents, and/or employees from any and all liability arising from the explosives storage and use. By accepting an issued explosives storage and

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use permit, the permittee acknowledges that this obligation to indemnify and hold harmless is incorporated by reference into any explosives storage and use permit issued. The Agreement shall include:

- (a) Commercial General Liability (CGL) insurance ISO Coverage Form CG 00 01 covering on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with minimum limits of one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the project/location or the general aggregate shall be twice the occurrence limit. The insurance shall cover or be endorsed to cover liability arising from the proposed event, and the liability assumed by the permit applicant pursuant to this agreement utilizing ISO endorsements CG 20 10 and CG 20 37 or their equivalents. The policy shall include Paradise Township, its officers, its employees, and its volunteers, as additional insureds, with primary coverage as respects the same, and shall contain a severability of interests provision. The coverage shall be primary and non-contributory.
  - (b) Auto Liability covering any auto with a combined single limit of not less than one million dollars (\$1,000,000).
  - (c) Statutory Workers Compensation as required by the Commonwealth of Pennsylvania. A certificate of insurance with endorsement WC 00 0313 shall be completed by the applicant’s insurance agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect shall be furnished to the Township at least thirty (30) days prior to the event described in the permit application, and shall be subject to review and approval by the Township prior to the commencement by the Township of any obligations under the Agreement. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled, terminated, or materially changed until at least fifteen (15) days prior written notice has been given to the Township.
- I. Conservation, Closure or Reclamation Plan. All proposed uses that require earth disturbance in excess of five (5) acres shall submit a Conservation, Closure or Reclamation Plan for review and approval as part of the zoning application. Such uses include, but are not limited to, construction, excavation, mining or other resource extraction, solid waste disposal, hazardous substance remediation, farming, timbering, and grubbing. The requirements of this section may be satisfied by conditioning approval upon the submission of a Conservation, Closure or Reclamation Plan approved by the county, state or federal agency charged with the approval of such plans.
- (1) When the operation has concluded, the area shall be reclaimed to approximate original contour. A plan showing the reclamation, including proposed soil cover

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type and depth and the planting schedule, shall be submitted at the time of and as part of the land development application.

(2) Revegetation.

- (a) Revegetation where required shall provide for diverse, effective and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved post-mining land use plan. Vegetation cover shall be considered of the same seasonal variety when it consists of a mixture of species of equal or superior utility for the approved post-mining land use, when compared with the utility of naturally occurring vegetation during each season of the year. The applicant shall inventory the existing vegetation and submit a plan showing the type and extent of the vegetation by species, size and number as part of the application. The inventory shall be made by a forester or other qualified individual.
- (b) Revegetation shall provide a quick-germinating, fast-growing vegetative cover capable of stabilizing the soil surface from erosion and may include, but not be limited to, crown vetch.
- (c) All revegetation shall be carried out in a manner that encourages a prompt vegetative cover and recovery of productive levels compatible with the approved post-mining land use.
- (d) Disturbed areas shall be seeded and planted during the first normal period for favorable planting after reclamation has commenced.
- (e) When necessary to effectively control erosion, the disturbed area shall be seeded and planted as contemporaneously as practicable with a temporary cover of small grain, grasses or legumes or otherwise protected from erosion until a permanent cover is established.

(3) Immediately after haul roads are no longer needed for the associated surface mining activities or post-mining land use:

- (a) The road shall be physically closed to vehicular traffic.
- (b) The road and adjacent slopes shall be regraded to blend with the natural contours and drainage patterns.
- (c) All bridges and culverts shall be removed.

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- (d) Cross drains, dikes and water bars shall be constructed and maintained to minimize erosion.
- (e) All disturbed areas shall be revegetated in accordance with this chapter.
- (4) A reclamation plan shall be submitted which shall show all details of the reclamation plan, including final proposed elevations at contours not greater than two-foot intervals, final groundcover and any other information required by the Township to determine whether the reclamation plan will restore the site in a satisfactory manner.
- (5) The reclamation plan shall contain a schedule which identifies the specific phase of the mining operation and the geographic location of operations which will cause various portions of the reclamation plan to be initiated. Such schedule shall indicate the time needed to complete the various portions of the reclamation plan. Such schedule and plan shall be subject to approval by the Township and may be amended only upon written request of applicant and favorable action by the Township.

#### **§ 160-21-A. Haul Roads.**

- A. Haul roads shall be accessible from a major rural collector or arterial road which is either a Commonwealth of Pennsylvania roadway or which meets the applicable requirements of the Pennsylvania Department of Transportation (PennDOT) for major collector or arterial roads. Haul roads shall be designed to minimize danger and congestion along existing roads and to avoid the creation of a nuisance to nearby properties.
- B. All haul roads shall be paved for a distance of at least 300 feet from the street right-of-way and shall incorporate a gravel section of at least 50 feet in length, prior to the preceding required paved section, to assist with the removal of mud and debris from the wheels of vehicles exiting the site. A wheel wash or other similar device shall be installed to remove all foreign matter from the trucks' wheels and frame. The operator of a site serviced by a haul road will be responsible to see that no truck leaves the site loaded in such a manner that stones or other material can fall over its sideboards or tailgate.
- C. Haul roads shall be designed, constructed and maintained to prevent, to the maximum extent possible, erosion and to prevent contributions of sediment to streams or runoff outside the affected area, air and water pollution and off-site damage. Stormwater detention facilities shall be provided for and maintained to control runoff for such roads for two-year, ten-year, twenty-five-year, fifty-year and one-hundred-year storms.
- D. Haul roads shall be constructed on stable areas that avoid wet or unstable soils. Prior to the construction of a road, all topsoil shall be removed, stored on a stable site and

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protected against erosion and compaction until restoration of the whole road. Any disturbed area adjacent to the road shall be vegetated or otherwise stabilized to prevent erosion.

- E. Haul roads shall be lined on both sides with evergreen trees at least seven feet in height at the time of planting. The trees shall be placed in two staggered rows and spaced at eight-foot centers.
- F. The screening requirements for haul roads shall also apply to roads which leave the tract on which the operation is located and enter any other property, zone, tract, etc.

#### **§ 160-21-B. Inspections.**

- A. The Township shall have the right to inspect the quarrying operations at any time during normal business hours upon notice to owner/operator.
- B. The operator shall pay an inspection fee to the Township in the amount set forth by resolution of the Township to defray Township administrative, engineering and/or legal costs of overseeing quarrying operations. Said fee shall be due at the time of the first removal of stone hereunder and annually on the first day of each calendar year thereafter.

#### **§ 160-21-C Conservation subdivisions and master developments.**

- A. In order to achieve the greatest conservation of natural resources as described in §160-2, this Article provides for flexibility in designing new residential subdivisions by allowing four forms of development referred to as “options”, as summarized below:
  - (1) Option One: Neutral Density and Basic Conservation, providing for residential uses at the density permitted by the underlying zoning. Greenway lands comprise 50% of adjusted tract acreage plus 100% of primary conservation areas. The flexibility-designed layouts work well with either individual wells and septic systems located in the open space, or with central wells and sewage treatment facilities.
  - (2) Option Two: Enhanced Density with Greater Conservation, providing for higher density residential uses and a larger percentage (60% of adjusted tract acreage plus 100% of primary conservation areas) of greenway land in more flexibly designed layouts with other improvements serving the community such as central wells and sewage treatment facilities.
  - (3) Option Three: Estate Lots, providing for rural-suburban residential uses at lower densities in conventional layouts of standard houselots, where homes and streets are located carefully to minimize impacts on resource lands.

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- (4) Option Four: Country Properties, providing for very low densities appropriate to rural situations, with flexible and reduced design standards in instances where a permanent conservation easement is offered to maintain such uses.

#### B. Permitted Density Calculation.

- (1) Adjusted tract acreage calculations for the purpose of determining maximum density and minimum greenway land requirements for conservation subdivisions, and minimum greenway land requirements for master development plans shall be conducted as follows:
  - (a) Constrained land shall be calculated as 100 percent of land consisting of ponds, lakes, and wetlands, 80 percent of lands consisting of steep slopes, 15 percent of lands consisting of moderate slopes, and 50% of flood plains.
  - (b) Adjusted tract acreage shall consist of total tract acreage minus constrained land and all land contained in existing road rights-of-ways, and existing overhead and underground utility easements and rights-of-ways with established widths.
- (2) Determination of density (or maximum number of permitted dwelling units) shall be based on adjusted tract acreage in accordance with Schedule IV.
- (3) Where a tract exists in more than one Zoning District, density shall be calculated in a manner proportionate to the total tract area contained in each individual district.
- (4) Multiple options may be used on a single tract or for a single project. When multiple options are combined on the same tract, density shall be calculated based on total tract area designated for each respective option.
- (5) Residential and commercial uses may be used on a single tract within a master development. When residential and commercial uses are combined within a master development, residential density shall be proportionate to the percentage of the developable area used for residential purposes.

#### C. Minimum greenway land calculations for conservation subdivisions and master development plans shall be conducted as follows:

- (1) Option 1 (neutral density) subdivisions minimum greenway land shall be 50 percent of the adjusted tract acreage plus 100 percent of primary conservation areas.
- (2) Option 2 (enhanced density) subdivisions minimum greenway land shall be 60 percent of the adjusted tract acreage plus 100 percent of primary conservation areas.

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- (3) Option 3 (estate lots) subdivision minimum greenway land shall consist of primary conservation areas and may be contained within privately owned lots.
  - (4) Option 4 (country properties) subdivision minimum greenway land shall consist of 80 percent of the total tract acreage and may be contained within privately owned lots.
  - (5) Minimum greenway land for master development plans shall be 50 percent of the adjusted tract acreage plus 100 percent of primary conservation areas.
- D. Greenway land design standards and other requirements.
- (1) Greenway design standards
    - (a) Greenway lands shall be laid out in general accordance with the Township's Map of Potential Conservation Areas to ensure that an interconnected network of open space will be provided. The required greenway land consists of a mixture of Primary Conservation Areas, all of which must be included, and Secondary Conservation Areas. Primary Conservation Areas comprise ponds, lakes, riparian buffers, and steep slopes. Secondary conservation areas should include other features on the Township Map of Potential Conservation Areas.
    - (b) In Option 1 and 2 subdivisions, the greenway land comprises a minimum of 50 percent and 60 percent of the Adjusted Tract Acreage, plus all Primary Conservation Areas, respectively. This land shall generally remain undivided and may be owned and maintained by a homeowners' association, land trust, another conservation organization recognized by the Township, or by a private individual or entity in compliance with Sections 160-21-C (E) and (F), below. However, in no case shall less than 30 percent of the land comprising the greenway land be available for the common use and passive enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the greenway land may be owned by different entities.
    - (c) In Option 3 and 4 subdivisions, the required greenway land comprises all of the Primary Conservation Areas within the total tract, and may lie within the privately owned lots, or up to 80 percent may be set aside as undivided land with common rights of usage among the subdivision residents.
    - (d) Where the proposed development adjoins public parkland, a natural greenway buffer at least one hundred fifty (150) feet in width, and where the proposed development adjoins State Gamelands, a natural greenway buffer of at least one-hundred-fifty (150) feet in width shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction or for the removal of invasive plant species). Where this buffer



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is not wooded, 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 plant and tree species. Where any non-residential structures within a proposed Master Development Plan adjoin residential uses, a natural greenway buffer at least fifty (50) feet in width shall be provided within the development along its side and rear property lines.

#### (2) Other Requirements.

- (a) No portion of any building lot may be used for meeting the minimum required greenway land, except as permitted within Options 3 or 4 or within a Conservancy Lot of at least 10 acres. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required greenway land.
- (b) Pedestrian and maintenance access shall be provided to greenway land, excluding those lands used for agricultural or horticultural purposes, in accordance with the following requirements:
  - [1] Each neighborhood shall provide one centrally located access point with minimum width of thirty-five (35) feet per 15 lots.
  - [2] Access to greenway land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.

#### E. Permanent Greenway Protection

- (1) In Option 1, Option 2, and Option 3 subdivisions and Master Development Plans, the required greenway land shall be subject to permanent conservation easements prohibiting future development and defining the range of permitted activities. (For example, the clearing of woodland habitat shall generally be prohibited, except as necessary to create trails, active recreation facilities, stormwater management facilities, and to install subsurface septic disposal systems or spray irrigation facilities. The determination of necessity shall lie with the Board of Supervisors.) A list of permitted and conditional uses of greenway lands is contained in this Article in Sections 160-12(A)(32-A).
- (2) In Option 4 subdivisions applicants shall place a restrictive conservation easement, in form and substance acceptable to the Board of Supervisors, preventing future subdivision of the newly created parcels.

#### F. Ownership and Maintenance of Greenway Land.

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- (1) Development Restrictions. All greenway land shall be permanently restricted from future subdivision and development. Under no circumstances shall any development be permitted in the greenway land at any time, except for those uses listed in Section 160-12(A)(32-A).
- (2) Ownership Options. The following methods may be used, either individually or in combination, to own greenway land. Greenway land 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 greenway land or in the open space ratio of the overall development and the Township is notified in writing. Ownership methods shall conform to the following:
  - (a) Fee Simple Dedication to the Township. The Township may, but shall not be required to, accept any portion of the greenway land, provided that:
    - [1] There is no cost of acquisition to the Township; and,
    - [2] The Township agrees to and has access to maintain greenway land.
  - (b) Condominium Association. Greenway land may be controlled through the use of condominium agreements. Such agreements shall be in accordance with relevant state law. All greenway land shall be held as a "common element."
  - (c) Homeowners' Association. Greenway land may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in state regulations and statutes. In addition, the following regulations shall be met:
    - [1] The applicant shall provide the Township a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for greenway land for review and approval;
    - [2] The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any lots in the development;
    - [3] Membership in the association shall be automatic and mandatory for all purchasers of dwelling units therein and their successors in title;
    - [4] The association shall be responsible for maintenance and insurance of greenway land;
    - [5] The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in payment of

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dues. Such dues shall be paid with the accrued interest before the lien may be lifted;

- [6] Written notice of any proposed transfer of greenway land by the association or the assumption of maintenance for greenway land must be given to all members of the association and to the Township no less than thirty days prior to such event; and
  - [7] The association shall have adequate staff to administer, maintain, and operate such greenway land.
- (d) Private Conservation Organization or the County. With permission of the Board of Supervisors, an owner may transfer either fee simple title of the greenway land or easements on the greenway land to a private conservation organization or to the County provided that:
- [1] The conservation organization is acceptable to the Township and is a bona fide conservation organization intended to exist indefinitely;
  - [2] The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization or the County becomes unwilling or unable to continue carrying out its functions;
  - [3] The greenway land is permanently restricted from future development through a conservation easement and the Township is given the ability to enforce these restrictions; and
  - [4] A maintenance agreement acceptable to the Township is established between the owner and the organization or the County.
- (e) Dedication of Easements to the Township. The Township may, but shall not be required to, accept easements for public use of any portion of the greenway land. In such cases, the greenway land remains in the ownership of the condominium association, homeowners' association, or private conservation organization while the Township holds the easements. In addition, the following regulations shall apply:
- [1] There shall be no cost of acquisition to the Township;
  - [2] Any such easements for public use shall be accessible to the residents of the Township; and
  - [3] A satisfactory maintenance agreement shall be reached between the owner and the Township.

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- (f) Non-Common Private Ownership. Up to 80 percent of the required greenway land may be included within one or more lots of at least 10 acres within Option 4 developments provided the greenway land is permanently restricted from future development through a conservation easement, except for those uses listed in Section 160-12(A)(32-A), and that the Township is given the ability to enforce these restrictions.
- (g) Master development ownership. Greenway lands associated with a master development plan can remain in private ownership for either the enjoyment of resort/hotel/timeshare guests, or the public, or both.

#### (3) Maintenance.

- (a) Unless otherwise agreed to by the Board of Supervisors, the cost and responsibility of maintaining common facilities and greenway land shall be borne by the property owner, condominium association, homeowners' association, or conservation organization.
- (b) The applicant shall, at the time of preliminary plan submission, define land ownership.
- (c) The applicant shall, at the time of final plan submission, provide a Plan for Maintenance of Greenway Lands and Operation of Common Facilities in accordance with the following requirements:
  - [1] The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of greenway land, i.e., lawns, playing fields, meadow, pasture, cropland, woodlands, trails, etc.;
  - [2] The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the greenway land and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs;
  - [3] The applicant shall be required to escrow sufficient funds for the maintenance and operation costs of greenway land for one year; and,
  - [4] Any changes to the maintenance plan shall be approved by the Board of Supervisors.
- (d) In the event that the organization established to maintain the greenway lands and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Township may assume responsibility for maintenance, in which case any

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escrow funds may be forfeited and any permits may be revoked or suspended. 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 may be filed by the Township in the office of the Prothonotary of the County.

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### **ARTICLE V**

#### **Nonconforming Lots, Uses and Buildings**

**Revised 8/21/01, Ordinance No. 128; Revised 12/16/03, Ordinance No. 143.**

#### **§ 160-22. Nonconforming uses.**

##### **A. Existing nonconforming lots.**

- (1) Nonconforming lots in all districts. A nonconforming lot on the effective date of this chapter may be used for any allowable use in any district in which such use is permitted, provided that such lot shall be developed in conformity with all applicable district regulations other than minimum lot area, lot width, side yard and rear yard. Existing small lots meeting the above stipulations shall comply with the following:

#### **Single-Family Residences**

**Total**

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<b>For Lots Having a Width Greater Than but Less Than (feet)</b>	<b>Minimum Front Yard (feet)</b>	<b>Minimum Side Yard (feet)</b>	<b>Both Side Yards (feet)</b>	<b>Minimum Rear Yard (feet)</b>
200 and over	Minimum required Schedule III	Minimum required Schedule III	Minimum required Schedule III	Minimum required Schedule III
150      200	Minimum required Schedule III	Minimum required Schedule III	Minimum required Schedule III	Minimum required Schedule III
100      150	40	20	45	20
Up to 100	40	15	35	15

(2) Nonconforming lots in nonresidential districts. If a nonconforming lot is located in a nonresidential district, then a building may be constructed on it for any use permitted in the district in which the lot is located, provided that the off-street parking and loading requirements and all yard requirements for the applicable district are complied with.

B. A nonconforming use is any use, whether of a building or tract of land, or both, existing on the effective date of this chapter which does not conform to the use regulations of the district in which it is located. The following provisions shall apply to all buildings and uses existing on the effective date of this chapter which do not conform to the requirements set forth in this chapter and to all buildings and uses that become nonconforming by reason of any subsequent amendment to this chapter.

C. Any nonconforming use of buildings or open land, except those specified in § 160-23, may be continued indefinitely, provided that any such use:

(1) Shall not be enlarged or extended in excess of 25% of the area established as a non-conforming use at the date of adoption of this chapter, and shall in all other respects be in compliance with this chapter. In the case of quarrying, surface mining or excavation operations, the area of land that has, at the date of adoption of this chapter, actually been excavated below ground in the quarrying, surface mining or excavation operations shall constitute the area established as a non-conforming use for purposes of this provision. Permission to enlarge or extend residential non-conforming uses may be granted by the Zoning Officer by the issuance of a zoning permit. Any person or entity desiring to enlarge or extend a non-conforming nonresidential use must apply for and obtain conditional use approval from the

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Board of Supervisors pursuant to the procedures set forth in Article VI, Section 160-29 of this Chapter.

- (2) Shall not be moved to another location where such use would be nonconforming.
- (3) Shall not be changed to another nonconforming use without approval of the Zoning Hearing Board and then only to a use which, in the opinion of the Board, is the same or of a more restricted nature.
- (4) Alterations to an existing structure, for which a conditional use has been previously approved, shall follow the permitting procedure for a permitted use, provide such alterations will not increase the square footage of the structure by more than twenty-five percent (25%), increase the sewage flow, require additional parking, or increase the number of dwellings units in the structure.

#### **§ 160-23. Nonconforming buildings or structures.**

- A. Nothing in this chapter shall be deemed to prevent normal maintenance and repair, structural alteration or reconstruction of a nonconforming building, provided that such action does not increase the degree of or create any new nonconformity with regard to the regulations pertaining to such building.
- B. When a nonconforming structure is damaged by fire or other unforeseen cause, it shall be deemed to be discontinued unless action is taken to restore the nonconforming structure within one year or such nonconformity is carried on without interruption in the undamaged portion of such building.
- C. When the extension of a non-conforming structure creates no new non-conformity, the Zoning Officer may issue such Zoning Permit as required.
- D. Expansion of nonconforming residential buildings. Nonconforming residential buildings may be expanded into a required front yard, provided that said encroachment is no greater than that of the existing building.

#### **§ 160-24. Abandonment and termination of nonconforming uses.**

The discontinuance, whether voluntary or involuntary, of a nonconforming use for a period of one year or a change to a more restricted or conforming use for any period of time shall be considered an abandonment thereof and such nonconforming use shall not thereafter be revived. Intent to resume a nonconforming use shall in no way affect the foregoing.

## **ARTICLE VI**

### **Administration and Enforcement**

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**Revised 8/21/01, Ordinance No. 128; Revised 10/1/02, Ordinance No. 136; Revised 12/16/03, Ordinance No. 143; Revised 1/3/06, Ordinance No. 153; Revised 6/15/10, Ordinance No. 181.**

#### **§ 160-25. Appointment and powers of Zoning Officer.**

- A. For the administration of this chapter, a Zoning Officer, who shall not hold any elective office in the Township of Paradise, shall be appointed.
- B. The Zoning Officer shall meet the qualifications established by the Township of Paradise and shall be able to demonstrate to the satisfaction of the Township of Paradise a working knowledge of municipal zoning.
- C. The Zoning Officer shall administer this chapter in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this chapter.
- D. The Zoning Officer is hereby authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment.
- E. Duties and powers. The Zoning Officer shall receive and examine all applications for zoning permits and shall issue or deny a zoning permit in accordance with the provisions of this chapter. The Zoning Officer shall have the right, after giving appropriate notice, to make an inspection of buildings or land necessary for the proper execution of his duties and shall issue a written notice of violation to any person, firm or corporation violating any provision of this chapter. He shall keep records of applications for permits issued and denied, of notices issued for violations, of inspections made, of complaints received and other pertinent matters, a summary record of which shall be transmitted monthly to the Secretaries of the Board of Supervisors, the Commission and the Zoning Hearing Board.
- F. The Zoning Officer shall administer all chapters of the Paradise Township Code of Ordinances.

#### **§ 160-26. Zoning permits.**

- A. Purpose. The purpose of the zoning permit is to determine compliance with the provisions of this chapter and no person shall erect, convert or structurally alter any building or part thereof, nor alter the use of any land, subsequent to the adoption of this chapter, until a zoning permit has been issued by the Zoning Officer. After a zoning permit has been issued, the applicant may proceed to undertake the action permitted by the permit and, upon completion of such action, shall apply to the Zoning Officer for an occupancy and use permit where such a permit is required.
- B. Applications for zoning permits.



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- (1) All applications for zoning permits shall be in writing, on forms to be furnished by the Township.
- (2) Zoning permit applications and all supporting documentation shall be made in quadruplicate and submitted to the Zoning Officer with the required fee.<sup>17</sup>
- (3) A land survey may be required by the Zoning Officer if deemed necessary to properly evaluate the application.
- (4) Upon the issuance of a zoning permit, the Zoning Officer shall return one copy of all filed documents to the applicant and forward one copy to the County Tax Assessor. In the event the application is denied, reasons for such denial shall be transmitted to the applicant in writing.
- (5) Any zoning permit shall expire if construction has not commenced within one year after the date of issuance or has not been completed within three years from said date, unless an extension, not to exceed six months, is authorized in writing by the Zoning Officer.
- (6) For any type of zoning permit involving any structure that will be inhabited or re-inhabited, or for initiation or change of any use, a Zoning Certificate of Occupancy is required. No such certificate shall be issued until all fees and charges owed the Township are paid in full. Once issued, the Zoning Certificate of Occupancy shall become one of two Certificates required for issuance of a Paradise Township Certificate of Habitability. The other Certificate required before a Certificate of Habitability will be issued is a Uniform Construction Code Certificate of Occupancy.

#### C. Certificate of Habitability required.

No person or business entity shall occupy, inhabit or utilize any property undergoing a new use, construction, additions or renovations, which use, construction, addition or renovation is regulated under the Paradise Township Code of Ordinances until a Certificate of Habitability is issued by the Zoning Officer.

#### D. Certificate of Habitability.

A Paradise Township Certificate of Habitability shall be a two-part permit when compliance with the Uniform Construction Code is required. Applicants must obtain both a permit and inspections under the Uniform Construction Code administered by the Construction Code Official, and a Zoning Certificate of Occupancy issued by the Zoning Officer of Paradise Township. If either a Uniform Construction Code Certificate of Occupancy or a Zoning Certificate of Occupancy is not required, the Building Code

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<sup>17</sup> Editor's Note: The current Fee Schedule is on file in the Township offices.

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Official or the Zoning Officer shall be required to sign the Certificate of Habitability documenting that the respective Certificate is not applicable.

- (1) A Uniform Construction Code Certificate of Occupancy shall be issued by the Building Code Official in accordance with the requirements of the Uniform Construction Code through Ordinance No. 178 enacted on December 15, 2009.
- (2) A Zoning Certificate of Occupancy shall be issued by the Zoning Officer after all conditions of all applicable ordinance requirements are met, and the applicant has satisfied any/all conditions imposed by the Paradise Township Board of Supervisors and/or the Paradise Township Zoning Hearing Board. Applicable ordinance requirements shall include the following where required:
  - (a) Zoning (Chapter 160);
  - (b) Subdivision and Land Development (Chapter 131);
  - (c) Stormwater Management (Chapter 123);
  - (d) Driveways (Chapter 58);
  - (e) Floodplain Management (Chapter 65);
  - (f) Sewage Disposal (Chapter 110);
  - (g) Streets and Sidewalks (Chapter 127);
  - (h) Vehicles and Traffic (Chapter 142); and
  - (i) All applicable outside agency permits.

#### **§ 160-27. Permit application procedures for permitted uses.**

All applications submitted to the Zoning Officer for a zoning permit involving a permitted use, as designated by this chapter, shall be accompanied by one copy of a plot plan and all other required documentation. A zoning permit for a permitted use shall be issued or denied by the Zoning Officer, on his own authority, within 30 days after the filing of a complete and properly prepared application.

#### **§ 160-28. RESERVED.**

#### **§ 160-29. Permit application procedures for conditional uses.**

All applications submitted to the Zoning Officer for a zoning permit involving a conditional use related to surface mining, as designated by this chapter, shall be accompanied by four

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copies of a site development plan prepared in accordance with the provisions contained in §160-30. All applications submitted to the Zoning Officer for a zoning permit involving a conditional not related to surface mining, as designated by this chapter, shall be accompanied by four copies of a site development plan prepared in accordance with the provisions contained in §160-30B.1.a-h (inclusive) and §160-30.B.2.a, b, c, and e. A zoning permit for conditional use shall be issued or denied by the Zoning Officer after the filing of a complete and properly prepared application, subject to review by the Commission and upon written order of the Board of Supervisors, in accordance with the following procedure:

- A. Referrals to Commission and Board of Supervisors. Within 10 days of the filing of a complete and properly prepared application for a zoning permit for a conditional use, the Zoning Officer shall transmit one copy of such application to the Secretary of the Board of Supervisors and one copy to the Secretary of the Commission.
- B. Referrals to the County Planning Commission. Should any development plan involve any areas specified in Article X, § 160-52, the Zoning Officer shall transmit to the Secretary of the County Planning Commission a copy of said information within 10 days of the receipt thereof. The County Planning Commission shall report its opinions, findings and recommendations to the Zoning Officer within 30 days. Failure to do so shall constitute a favorable opinion of said site development plan by the County Commission.
- C. Commission review. In reviewing a site development plan, the Commission shall take into consideration the design, location and adequacy of traffic access, parking, landscaping and screening, illumination and necessary public services and facilities and similar factors relating to the health, safety, welfare, comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular. If it is deemed necessary to do so, the Commission may obtain the advice of consultants qualified to advise as to whether a proposed use will conform to the requirements of this chapter.
- D. Commission action. Within 30 days, the Commission shall act to recommend to the Board of Supervisors, in writing, that the site development plan be approved, approved with modifications or disapproved. Failure on the part of the Commission to act within 30 days shall be construed as a favorable recommendation of the Commission.
- E. Supervisors' action. Within 60 days, the Township Supervisors shall hold a public hearing on the application for a conditional use zoning permit after due public notice in accordance with Section 107 of the Pennsylvania Municipalities Code<sup>18</sup> and this chapter. The Township Supervisors shall review the recommendations of the Commission and transmit an order, in writing, to the Zoning Officer to approve, approve with modifications or disapprove the application for a zoning permit for a conditional use.

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<sup>18</sup>Editor's Note: See 53 P.S. § 10101 et seq.

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- F. Zoning Officer's action. Within 10 days of an applicant's documented compliance with a Conditional Use Decision or a Special Exception Decision, the Zoning Officer shall either issue a zoning permit in accordance with the written order of the Board of Supervisors or the Zoning Hearing Board or notify the applicant, in writing, as to the reasons why said permit was denied.
- G. Conditional uses. Where the Board of Supervisors, in this chapter, has stated conditional uses to be granted or denied by the Board of Supervisors pursuant to express standards and criteria, the Board of Supervisors shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purpose of this chapter and the Pennsylvania Municipalities Planning Code.<sup>19</sup>
- H. The Board of Supervisors shall have a stenographer present to record Conditional Use Hearings. The appearance fee for a stenographer shall be shared equally by the applicant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer or shall be paid by the person appealing from the decision of the 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.
- I. The Board of Supervisors reserves the right to allow modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the Board of Supervisors are required under applicable federal law to provide a "reasonable accommodation" to serve persons who the applicant proves have "disabilities" as defined in and protected by such laws.
- (1) Such reasonable accommodations shall be requested in accordance with the United States Fair Housing Act Amendments and/or the Americans with Disabilities Act, as amended.
  - (2) If the applicant is requesting a reasonable accommodation under the United States Fair Housing Act of 1988, as amended, or the American with Disabilities Act, as amended, the applicant shall identify the disability which is protected by such statutes, the extent of the modification of the provisions of this Ordinance necessary for the reasonable accommodations, and the manner by which the reasonable accommodations requested may be removed when such person(s) with a protected disability no longer will be present on the property.
  - (3) Any modification approved under this Section may be limited to the time period during which the persons with disabilities occupy or utilize the premises.

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<sup>19</sup>Editor's Note: See 53 P.S. § 10101 et seq.

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- J. Conditional Use Permit. If a conditional Use Decision has been awarded and no permit issued within five (5) years, the Decision will expire and become null and void.

#### **§ 160-30. Site development plans.**

- A. In all cases where this chapter or any other ordinance requires the submission of a site development plan, no zoning permit shall be issued by the Zoning Officer except upon authorization of and in conformity with the site development plan approved by the Supervisors, after review by the Commission, in accordance with § 160-30 hereof.
- B. Elements of a site development plan. The site development plan map should be prepared by a civil engineer, surveyor, land planner, architect or other competent person. Elements of a site development plan shall include those listed below which are appropriate to the proposed development.

(1) Basic data.

- (a) Name and address of the owner of record.
- (b) Lot, block and section number of the property taken from the latest tax records.
- (c) Name and address of person, firm or organization preparing the map.
- (d) Date, North point and written and graphic scale.
- (e) Description (bearings and distances) of the boundaries of the property.
- (f) The location, names and widths of all existing roads.
- (g) The names of owners of all adjoining lands as shown on the latest records and the location of all buildings within 1,320 feet of the tract.
- (h) Existing deed restrictions or covenants applying to the property.
- (i) Topography, the contour line intervals of which shall be not more than two feet for land with average natural slope of 4% or less and not more than five feet for land with average natural slope exceeding 4%. Location and elevation to which contour elevations refer shall be identified; where reasonably feasible, this shall be a known, established benchmark. Slopes exceeding 20% shall be indicated clearly.
- (j) With respect to surface mining conditional use applications, the following shall be required:

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[1] The location of all drainage areas and subdrainage basins within the tract of land and which contribute flow to the tract of land, including computation of drainage areas above and below the contemplated mining area and tract.

[2] The location, name, types and amounts of materials or resources to be extracted under the application. Materials of a type not identified or in quantities not requested shall not be mined or extracted without submitting a new and separate application for a conditional use, as well as any other permits or approvals required at the time of such extraction.

[3] The location and classification of all abutting or adjacent zoning districts and the existing land use on all abutting properties.

(2) Development plan.

- (a) The location of existing and proposed buildings or structural improvements.
- (b) The location of all uses not requiring structures, such as off-street parking and loading areas.
- (c) The location and time of use of any proposed outdoor lighting or public address system.
- (d) The location and plans for any outdoor signs.
- (e) The location and arrangement of proposed means of ingress and egress, including sidewalks, driveways or other paved areas.
- (f) Any proposed landscaping, screening or grading, including contours and acceptable erosion and sedimentation control plan.

[1] The applicant shall submit the erosion and sedimentation control plan to the Monroe County Conservation District for review.

- (g) The location, size and profiles of existing and proposed water lines, storm sewer lines and sanitary sewer lines or alternate means of water supply, storm drainage and sewage disposal.
- (h) Any proposed deed restrictions or covenants.
- (i) Any other types of permits required, including but not limited to highway occupancy (state or township), sewage, swimming pool and stream encroachment.

(3) In addition, development plan/surface mining. With respect to uses authorized for extractive uses under § 160-12A(67), the following shall be required:

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(a) A site plan with the following minimum information:

- [1] Scale not less than one inch equals 100 feet.
- [2] Boundary of the entire tract by courses and distances, surveyed in accordance with current ALTA/ASCM Land Title Survey and Mapping Standards. Property and planimetric features survey shall meet Class A requirements. The plan shall bear the seal of a surveyor registered in the Commonwealth of Pennsylvania. Elevation survey shall be of third order accuracy and 90% of all spot elevations determined from the map must be within plus or minus 1/2 the contours interval of correct elevations. Contour intervals shall be not less than two feet.
- [3] Monumentation and benchmarks for proposed limits for mining.
- [4] Vehicular access with site distances for existing and proposed.
- [5] Zoning district boundaries and adjacent districts.
- [6] Setback limits graphically indicated.
- [7] All existing occupied and/or unoccupied structures located within 1,320 feet of the limits of the mining tract.
- [8] The location and names of all streams, roads and railroads on or immediately adjacent to the area.
- [9] Acreage to be mined.
- [10] Location and details of groundwater monitoring wells.
- [11] Location and details of sediment control facilities, including but not limited to ponds, berms and ditches.
- [12] Location of existing and/or proposed on-site water supply and sewage collection and disposal systems.
- [13] Location and details of existing and proposed security fencing.
- [14] A listing of all necessary permits from the PADEP, including any existing permit numbers and reference of mining, mine drainage and national pollution discharge elimination systems.
- [15] Owner's name, address and telephone number.
- [16] Applicant's name, address and telephone number.

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- [17] Cross-section reference.
  - [18] Significant natural features, including all wetlands and floodplains.
  - [19] Direction of groundwater flow.
  - [20] Location of all proposed structures with designated purpose, including the storage of explosives.
  - [21] The location of all existing or proposed easements on the tract or off the tract, but affected by the proposed use.
- (b) The purpose for which each on-site and off-site building is used.
  - (c) A natural features plan at a scale of one inch equals 100 feet.
  - (d) A reclamation plan with the following minimum information:
    - [1] Scale not less than one inch equals 100 feet.
    - [2] Boundary as shown upon existing features map.
    - [3] Final proposed elevation contour lines at two-foot intervals.
    - [4] Final groundcover and seedbed preparation.
    - [5] Planting schedules.
    - [6] All structures and man-made features to be removed within reclaimed area.
    - [7] Soil erosion and sedimentation control measures.
  - (e) The mining plan, showing mining blocks; the sequence of mining; areas to be excavated, with depth and other dimensions; areas for overburden storage and mining product storage; cross-sections of the proposed activity areas.
  - (f) Any proposed alterations to streams, drainageways and wetlands, with proposed action to assure maintenance of stream and water quality and quantity.
  - (g) Any proposed fencing, screening or landscaping.
  - (h) Location of wells and other tests required by the detailed hydrogeologic study.
  - (i) All stormwater retention and detention facilities, both temporary and permanent.



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(j) Cross-section drawings shall be provided showing:

- [1] Cross-sections at a horizontal scale of not less than one inch equals 50 feet and a vertical scale of not less than one inch equals five feet.
- [2] Cross-sections to be taken longitudinally and perpendicular to the longitudinal sections spaced in approximately equal increments of no less than one-hundred-foot intervals both ways; all sections to extend 100 feet beyond mining limits.
- [3] Cross-section plots to use same elevation reference datum as used for contour map.
- [4] Cross-sections to show existing ground profile, approximate extent of overburden, groundwater level, final mining elevations and final ground elevation profile after restoration.

#### **§ 160-31. Zoning permit fees.**

Zoning permit fees, payable to the township upon the filing of a zoning permit application, shall be in such amount as may be established by resolution duly adopted by the Supervisors.<sup>20</sup>

#### **§ 160-32. Enforcement notice.**

- A. If it appears to the Township of Paradise that a violation of this chapter has occurred, the Township of Paradise shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- B. 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.
- C. 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 of Paradise 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 this chapter.

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<sup>20</sup> Editor's Note: The current Fee Schedule is on file in the township offices.

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- (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 period of thirty (30) days.

#### **§ 160-33. Causes of action.**

In case any building, structure, landscaping or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, the Board of Supervisors or, with the approval of the Board of Supervisors, an officer of the Township of Paradise 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 of Paradise at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors. No such action may be maintained until such notice has been given.

#### **§ 160-34. Enforcement remedies.**

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township of Paradise, pay a judgment of not more than five hundred dollars (\$500), plus all court costs, including reasonable attorney fees incurred by the Township of Paradise as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township of Paradise 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 this chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter, each day that a violation continues shall constitute a separate violation.
- B. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

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- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township of Paradise the right to commence any action for enforcement pursuant to this section.
- D. District Justices shall have initial jurisdiction over proceedings brought under this section.

## **ARTICLE VII**

### **Zoning Hearing Board**

**Revised 1/3/06, Ordinance No. 153.**

#### **§ 160-35. Zoning Hearing Board.**

- A. There is hereby created for the Township of Paradise a Zoning Hearing Board in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10901 et seq.
- B. The membership of the Board shall consist of three residents of the Township of Paradise appointed by resolution by the Board of Supervisors. The terms of office shall be for three years and shall be so fixed that the term of office of one member shall expire each year. The 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 Board shall hold no other office in the Township of Paradise.
- C. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors which appointed the member, taken after the member has received 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.
- D. The 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 the members of the Board, but the 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 Board as provided in this chapter.
- E. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Township of Paradise and laws of the commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Township of Paradise and shall submit a report of its activities to the Board of Supervisors as requested by the Board of Supervisors.

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- F. Within the limits of funds appropriated by the Board of Supervisors, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors.

#### **§ 160-36. Jurisdiction.**

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) Substantive challenges to the validity of any land use ordinance, except those brought before the Board of Supervisors pursuant to Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §§ 10609.1 and 10916.1.
  - (2) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the Township of Paradise and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
  - (3) 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 therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
  - (4) Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
  - (5) Applications for variances from the terms of this chapter and flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 910.2 of the MPC, 53 P.S. § 10910.2.
  - (6) Applications for special exceptions under this chapter or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 912.1 of the MPC, 53 P.S. § 10912.1.
  - (7) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter.

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- (8) Appeals from the Zoning Officer's determination under Section 916.2 of the MPC, 53 P.S. § 10916.2.
  - (9) Appeals from the determination of the Zoning Officer or Township Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Article V or VII of the MPC, 53 P.S. § 10501 et seq. or 53 P.S. § 10701 et seq.
- B. The Board of Supervisors shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) All applications for approvals of planned residential developments under Article VII of the MPC pursuant to the provisions of Section 702 of the MPC, 53 P.S. § 10702.
  - (2) All applications pursuant to Section 508 of the MPC, 53 P.S. § 10508, for approval of subdivisions or land developments under Article V of the MPC, 53 P.S. § 10501 et seq.
  - (3) Applications for curative amendment to this chapter or pursuant to Sections 609.1 and 916.1(a) of the MPC, 53 P.S. §§ 10609.1 and 10916.1(a).
  - (4) Applications for conditional use under the express provisions of this chapter.
  - (5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in Section 609 of the MPC, 53 P.S. § 10609.
  - (6) Appeals from the determination of the Zoning Officer or the Township Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to applications for land development under Articles V and VII of the MPC, 53 P.S. § 10501 et seq. and 53 P.S. § 10701 et seq. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Township Engineer shall be to the Zoning Hearing Board pursuant to this section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this subsection shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.

#### **§ 160-37. Variances.**

- A. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the

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Zoning Officer. The 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 chapter in the neighborhood or district in which the property is located.
- (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (3) That such unnecessary hardship has not been created by the applicant.
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

#### **§ 160-38. Special exceptions.**

Where the Board of Supervisors, in this chapter, has stated special exceptions to be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

The Board of Supervisors reserves the right to allow modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the Board of Supervisors are required under applicable federal law to provide a “reasonable accommodation” to serve persons who the applicant proves have “disabilities” as defined in and protected by such laws.

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- A. Such reasonable accommodations shall be requested in accordance with the United States Fair Housing Act Amendments and/or the Americans with Disabilities Act, as amended.
- B. If the applicant is requesting a reasonable accommodation under the United States Fair Housing Act of 1988, as amended, or the American with Disabilities Act, as amended, the applicant shall identify the disability which is protected by such statutes, the extent of the modification of the provisions of this Ordinance necessary for the reasonable accommodations, and the manner by which the reasonable accommodations requested may be removed when such person(s) with a protected disability no longer will be present on the property.
- C. Any modification approved under this Section may be limited to the time period during which the persons with disabilities occupy or utilize the premises.

#### **§ 160-39. Procedure.**

##### A. Applications and fees.

- (1) All applications involving appeals, challenges and requests shall be in writing, on forms prescribed by the Board and shall be accompanied by a fee, the amount of which shall be established by the Township Supervisors.<sup>21</sup>
- (2) Each appeal, challenge or request shall fully set forth the circumstances of the case. Every appeal, challenge or request shall refer to the specific provision of the chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of any variance that is applied for and the grounds on which it is claimed that the same should be granted.

##### B. Hearings. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

- (1) Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board. 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 hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- (3) The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings

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<sup>21</sup>Editor's Note: The current Fee Schedule is on file in the township offices.

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shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Township of Paradise, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

- (4) The parties to the hearing shall be the Township of Paradise, any person affected by the application who has made timely appearance of record before the Board and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- (5) The Chairman or Acting Chairman of the 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.
- (6) 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.
- (7) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (8) The 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 Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the 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.
- (9) The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda or other materials, 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.
- (10) The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and



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conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this chapter or of any law, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing 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 Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the decision within 10 days from the last day it could have met to render a decision in the same manner as provided in Subsection C(1) of this section. If the 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.

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

(12) The Board of Supervisors shall establish, by resolution, fees with respect to hearings before the Zoning Hearing Board.<sup>22</sup>

#### **§ 160-40. Parties appellant before Board.**

Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Board of Supervisors pursuant to the Pennsylvania Municipalities Code<sup>23</sup>), procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or 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 therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot; from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance; from the determination of any officer or agency

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<sup>22</sup>Editor's Note: The current Fee Schedule is on file in the township offices.

<sup>23</sup> Editor's Note: See 53 P.S. § 10101 et seq.

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charged with the administration of any transfer of development rights or performance density provisions of this chapter; from the determination of the Zoning Officer or Township Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving subdivision and land development or planned residential development may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Township of Paradise or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner.

#### **§ 160-41. Time limitations.**

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for development, preliminary or final, has been approved by the Township of Paradise 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, 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. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this chapter or an amendment hereto or map or an amendment thereto shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.
- B. All appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued.

#### **§ 160-42. Stay of proceedings.**

- A. Upon filing of any appeal proceeding before the Zoning Hearing Board and during its pendency before the 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 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 Board or by the court having 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 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 Board.

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- B. 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.

## **ARTICLE VIII**

### **Time-Share Ownership**

#### **§ 160-43. General provisions.**

- A. Title. This article shall be known and may be cited as the "Paradise Township Real Estate and Resort Time-Share Ownership Ordinance."
- B. Effective date and applicability. This article shall become effective five days after enactment and applies to time-share projects thereafter created, but not to time-share projects which have been offered for sale prior to the effective date. After such effective date, no developer shall offer a new time-share interval to a purchaser unless the project has been approved in accordance with this article.
- C. Definitions. Except as defined in this Code (see Chapter 1, General Provisions, Article II, Definitions), all words shall carry the customary meaning.
- D. Applicability of other ordinances. Except as provided in this article, no ordinance or regulation of Paradise Township shall be construed to impose any requirement upon a time-share program which it would not impose upon a similar development under a different form of ownership. To the extent that the zoning, subdivision or other ordinances of Paradise Township are in conflict with this article, this article shall apply to any time-share project; otherwise no provision of this article invalidates or modifies any provision of any other ordinance.

#### **§ 160-44. Submission, review and administration.**

- A. General procedures. All requests for approval of a time-share project shall be treated as a conditional use application to be allowed or denied by the Board of Supervisors, after recommendation of the Paradise Township Planning Commission, pursuant to the standards and criteria set forth in this article. The Board of Supervisors may deny an application only upon written notice of the manner in which the application fails to meet the standards and criteria of this article or other applicable ordinances of Paradise Township.

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- (1) Eight copies of all applications for time-share project approval shall be submitted to the Administrator, who shall transmit copies thereof to the County Planning Commission, the Township Engineer, the Sewage Enforcement Officer and the Paradise Township Planning Commission.
  - (2) In addition, the Administrator may, in his or her own judgment, transmit copies to the Pennsylvania Department of Environmental Protection, the County Conservation District and the Township Solicitor.
  - (3) The application and supporting data shall be considered by the Paradise Township Planning Commission at its next regularly scheduled meeting, which should be considered the filing date of the application, provided that said documents are received by the Administrator at least 10 days in advance of the meeting. The applicant or an authorized representative shall attend the Planning Commission meeting in order to present the application.
- B. Required documents. The developer shall submit the following documents in connection with the request for conditional use approval:
- (1) Any document or plan required under this article and/or the Township Subdivision Ordinance (Chapter 131, Subdivision and Land Development) or other applicable ordinance, including but not limited to a perimeter plan and a site plan of the time-sharing units. Such site plan shall depict all information required of a major subdivision plan under the Paradise Township Subdivision Ordinance (Chapter 131, Subdivision and Land Development). The developer shall set forth on the site plan the units which are intended for occupancy by time-share purchasers, and such site plan shall include adjacent parking and points of access to the nearest public roads. Roads and other improvements depicted on the plans shall meet the design standards of applicable Paradise Township ordinances (see Chapter 127, Streets and Sidewalks, Article II, Construction Standards).
  - (2) A floor plan, if more than one unit is located or is to be located, within a single structure.
  - (3) If the proposed project includes structural alteration, improvement or a building conversion, the supporting documentation shall include a certification of a registered architect or engineer to the effect that the existing building is structurally sound and that the proposed conversion will not impair structural soundness.
  - (4) Copies of all sales documents or drafts thereof, if they are not in final form.
  - (5) A narrative description of the manner in which responsibility for maintenance and care of the units and common areas will be assured and a proposed operating budget for the maintenance organization. These documents should include a breakdown of the common expenses that will be borne by the maintenance organization.

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- (6) A narrative description of the manner in which the developer proposes to assure maintenance and care of the units and common facilities during the sales program, including any projected financial security or guarantee thereof.
- C. Planning Commission action. The Paradise Township Planning Commission shall within 45 days of the filing date of the application make its written recommendation to the Board of Supervisors. Upon receipt of such recommendation, the Board of Supervisors shall advertise for a public hearing to be held in connection with all new time-share projects.
- D. Criteria for consideration. The application for time-share project shall be considered by the Board of Supervisors, at a public hearing, in accordance with the following standards and criteria:
  - (1) Establishment of a proposed maintenance organization and legal documentation for maintenance responsibility, in accordance with the standards of § 160-50 of this article.
  - (2) Establishment of a guarantee of maintenance during the time-share project sales program.
  - (3) Establishment of a waste disposal system, including areas designated as primary and replacement treatment locations if applicable, in accordance with applicable regulations of the Pennsylvania Department of Environmental Protection for public sewer disposal systems.
  - (4) Establishment of a central water supply for the units shown on the development plan in accordance with applicable regulations of the Pennsylvania Department of Environmental Protection for public water supply facilities.
  - (5) Compliance with the provisions of this article and the Subdivision Ordinance of Paradise Township (Chapter 131, Subdivision and Land Development).
  - (6) Establishment of a road system and parking areas within the project area to service the anticipated traffic flow, including reasonable estimates for additional traffic during the sales program. All roads and parking areas shall meet the minimum standards set forth in this article or the Township Subdivision Ordinance (Chapter 131, Subdivision and Land Development). The Board of Supervisors may condition approval upon installation of temporary parking facilities to accommodate additional traffic during the sales program.
  - (7) Where the project proposes installation of improvements, the Board of Supervisors may condition approval upon installation of those improvements or, in lieu of completion of the improvement, the Board of Supervisors shall require a performance guaranty, sufficient to assure completion of the improvements, as hereinafter set forth.

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- (a) The performance guaranty shall be in the form of a written instrument which shall provide for the deposit with the township of financial security in an amount sufficient to cover the costs of any improvements or common amenities, including but not limited to roads, parking facilities, stormwater detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements or buffer or screen plantings which may be proposed or required.
- (b) The financial security provided by the developer shall be in the form of an escrow or trust agreement or other similar collateral or surety agreement, executed by the developer, in form acceptable to the township, supported by collateral or security in the form of cash or certified check payable to the township, an unconditional guaranty by a corporate surety company authorized and qualified for the issuance of surety bonds in the Commonwealth of Pennsylvania, an irrevocable unconditional letter of credit from a federal or commonwealth chartered lending institution or a restrictive or escrow account in a federal or commonwealth chartered lending institution.
- (c) The performance guaranties shall provide for and secure to the public the completion of all proposed or required improvements within one year of the date fixed on the site plan for the completion of such improvement. Any such improvement completion date fixed on the plan shall not extend beyond three years from the date of final plan approval.
- (d) The amount of financial security provided by a performance guaranty shall be equal to 110% of the cost of the proposed or required improvements for which financial security is being posted. The cost of the improvements shall be established by the submission to the township of a bona fide bid or bids from the contractor or contractors chosen by the developer to complete the improvements. In the absence of such bona fide bids, the costs shall be established by an estimate prepared by the Township Engineer.
- (e) If the developer requires more than one year from the date of posting of financial security to complete the required improvements, the amount of financial security may be fixed by either of the following methods:
  - [1] The amount of financial security shall be increased by an additional 10% for each one-year period beyond the anniversary date from posting of financial security; or
  - [2] The amount of financial security for the first one-year period shall be established as set forth in Subsection D(7)(d). On or about the expiration of the preceding one-year period, the developer shall submit to the township a current bona fide bid or bids for the proposed or required improvements. The amount of financial security for the upcoming one-year period shall be equal to 110% of the cost of completing the improvements.

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- (f) Where the development is projected over a period of years, the Board of Supervisors may authorize submission of final plans by sections or stages of development, subject to such requirements or guaranties as to improvements in future sections or stages as it finds essential for the protection of any finally approved section of the development.
- (g) The developer may request, from time to time, as work progresses, the release of such portions of the financial security necessary for payment to the contractor performing the work.
- (h) All such requests shall be in writing, by certified mail, addressed to the Board of Supervisors with a copy thereof sent to the Township Engineer. The Board of Supervisors shall have 45 days from receipt of such request within which to allow the Township Engineer to certify, in writing, to the Board of Supervisors that such portion of the work upon the improvements has been completed in accordance with the approved plan and to act upon such request.
- (i) Accompanying all requests for the release of financial security, there must be a certification to the Board of Supervisors from the developer's engineer that the subject portion of work has been completed in accordance with the approved plans and to township standards. The certification must be specific in regards to type, amount and actual location of the work completed. The period of time allocated to the township for such inspections and action will not begin until such certification has been received by the township.
- (j) Upon the Township Engineer's certification, the Board of Supervisors shall authorize the release of an amount of financial security as estimated by the Township Engineer to fairly represent the value of the improvements completed. The Board of Supervisors may, prior to final release at the time of completion and certification by the Township Engineer, require retention of 10% of the estimated cost of the aforesaid improvements.
- (k) Should the Board of Supervisors fail to act within said forty-five-day period, the Board of Supervisors shall be deemed to have approved the release of funds as requested.
- (l) When the developer has completed all of the proposed or required improvements, the developer shall notify the Board of Supervisors, in writing, by certified mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer. The Board of Supervisors shall, within 10 days after receipt of such notice, direct and authorize the Township Engineer to inspect all of the aforesaid improvements. The Township Engineer shall, thereupon, file a report, in writing, with the Board of Supervisors and shall promptly mail a copy of the same to the developer by certified mail. The report shall be made and mailed within 30 days after receipt by the Township Engineer of the aforesaid

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authorization from the Board of Supervisors, and said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements or any portion thereof shall not be approved or shall be rejected by the Township Engineer, said report shall contain, by reference to sections of this article, a statement of reasons for such nonapproval or rejection.

- (m) A certification, as specified in Subsection D(7)(i), must be submitted with all requests for the release of financial security.
  - (n) The Board of Supervisors shall notify the developer, in writing, by certified mail, of the action of said Board of Supervisors with relation thereto.
  - (o) If the Board of Supervisors or the Township Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty.
  - (p) If any portion of the improvements are not approved or are rejected by the Board of Supervisors, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.
  - (q) In the event that any improvements which may be required have not been installed as provided in this article or in accord with the approved plan, the Board of Supervisors may enforce any corporate bond or other security by appropriate and equitable remedies. If proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvement covered by said security, the Board of Supervisors may, at its option, install part of such improvements in all or part of the project and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security and not for any other municipal purposes.
- (8) Assurance that purchasers of a time-share lease or time-share use will obtain a nondisturbance agreement from the holder of any lien on the premises.
- E. Hearing. The hearing on the application for development as a time-share project shall be in accordance with the requirements for a hearing on a conditional use application established in this article.

#### **§ 160-45. Maintenance organization.**



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- A. General requirement. Maintenance of a time-share project shall be vested in an association or other legal entity, organized prior to the first offer of a time-share unit, the membership of which includes all of the time-share owners; or a manager, who may be the developer or a person designated by the developer before the developer offers a time-share unit for sale; or the time-share owners themselves, if the number of time shares is not more than 25.
- B. Upkeep of time-share project.
- (1) The maintenance organization shall be required to keep and maintain insurance in an amount sufficient to replace the buildings and personal property in the event of fire or other insurable casualty. The maintenance organization shall also be required to keep and maintain comprehensive general liability insurance.
  - (2) Where applicable, the maintenance organization shall be responsible for the collection of the purchaser's pro rata share of real estate taxes and the remittance of such taxes to the Local Tax Collector on a timely basis.
  - (3) The sales documents and, where applicable, the project instruments shall specify the expenses which the maintenance organization may incur and collect from the purchaser as a maintenance fee. Unless otherwise provided in the sales documents, the developer shall pay the maintenance fee for all unsold time-share intervals of completed units.
  - (4) Upon request of the Board of Supervisors, the maintenance organization shall provide evidence that the provisions of this section are currently being met.

#### **§ 160-46. Enforcement; fees; violations and penalties.**

- A. Enforcement penalties. Any person, partnership or corporation who or which violates the provisions of this article shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than \$500. In default of payment of the fine, such person, the members of such partnership or the officers of such corporation shall be liable to imprisonment for not more than 60 days. Each day that a violation is conducted shall constitute a separate offense. All fines collected for the violation of this article shall be paid over to Paradise Township.
- B. Enforcement remedies. In addition to the enforcement penalties as provided for in Subsection A above, the Board of Supervisors may institute in the name of the township any appropriate action or proceeding to prevent, restrain, correct or abate the use or occupancy of any building or structure or the operation of any business in violation of this article.

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- C. Fees. Any developer seeking approval of a time-share program under this article shall pay a fee in such amount as may be established by resolution duly adopted by the Board of Supervisors of Paradise Township.<sup>24</sup> The Supervisors may provide for the inspection of required improvements during and after construction to ensure the satisfactory completion and the developer shall be required to pay the cost of any such inspection. All of the above fees shall be due and payable to the Township of Paradise.

## **ARTICLE IX**

### **Amendments**

#### **§ 160-47. Enactment of Zoning Ordinance Amendments.**

- A. The Board of Supervisors may from time to time amend, supplement or repeal any of the regulations and provisions of this chapter. The procedure for the preparation of a proposed zoning ordinance as set forth in Section 607 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10607, is hereby declared optional.
- B. Before voting on the enactment of an amendment, the Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the township at points deemed sufficient by the township along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
- C. In the case of an amendment other than that prepared by the Planning Commission, the Board of Supervisors shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.
- D. 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.
- E. At least 30 days prior to the public hearing on the amendment by the Board of Supervisors, the Township of Paradise shall submit the proposed amendment to the County Planning Commission for recommendations.
- F. Within 30 days after enactment, a copy of the amendment to this chapter shall be forwarded to the County Planning Commission.

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<sup>24</sup>Editor's Note: The current Fee Schedule is on file in the township offices.

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#### **§ 160-48. Procedure for township curative amendments.**

- A. If the Township of Paradise determines that this chapter or any portion hereof is substantially invalid, it shall take the following actions:
- (1) The Township of Paradise shall declare, by formal action, this chapter or portions hereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days of such declaration and proposal, the Board of Supervisors shall:
    - (a) By resolution make specific findings setting forth the declared invalidity of this chapter which may include:
      - [1] References to specific uses which are either not permitted or not permitted in sufficient quantity;
      - [2] Reference to a class of use or uses which requires revisions; or
      - [3] Reference to this entire chapter which requires revisions.
    - (b) Begin to prepare and consider a curative amendment to this chapter to correct the declared invalidity.
- B. Within 180 days from the date of the declaration and proposal, the Township of Paradise shall enact a curative amendment to validate or reaffirm the validity of this chapter pursuant to the provisions of Section 609 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. § 10609, in order to cure the declared invalidity of this chapter.
- C. Upon the initiation of the procedures as set forth in Subsection A, the Board of Supervisors shall not be required to entertain or consider any landowner's curative amendment filed under Section 609.1 of the MPC, 53 P.S. § 10609.1, nor shall the Zoning Hearing Board be required to give a report requested under Section 909.1 or 916.1 of the MPC, 53 P.S. § 10909.1 or 10916.1, subsequent to the declaration and proposal based upon the grounds identical or substantially similar to those specified by the resolution required by Subsection A(1). Upon completion of the procedures set forth in Subsections A and B, no rights to a cure pursuant to the provisions of Sections 609.1 and 916.1 of the MPC, 53 P.S. §§ 10609.1 and 10916.1, shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of this chapter for which there has been a curative amendment pursuant to this section.
- D. The Township of Paradise, having utilized the procedures set forth in this section, may not again utilize said procedure for a period of 36 months following the date of enactment of a curative amendment or reaffirmation of the validity of this chapter; provided, however, that if after the date of declaration and proposal there is a substantially new

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duty imposed upon the Township of Paradise by virtue of a change in statute or by virtue of a Pennsylvania appellate court decision, the Township of Paradise may utilize the provisions of this section to propose a curative amendment to this chapter to fulfill said duty or obligation.

#### **§ 160-49. Procedure for landowner curative amendments.**

- A. A landowner who desires to challenge on substantive grounds the validity of this chapter or the 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 with a written request that his challenge and proposed amendment be heard and decided as provided in Section 916.1. of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. § 10916.1. The curative amendment and challenge shall be referred to the Planning Commission and the county planning agency as provided in Section 609 and notice of the hearing thereon shall be given as provided in Sections 610 and 916.1 of the MPC, 53 P.S. §§ 10609, 10610 and 10916.1.
- B. The hearing shall be conducted in accordance with Section 908 of the MPC, 53 P.S. § 10908, and all references therein to the Zoning Hearing Board shall, for purposes of this section, be references to the Board of Supervisors. If the Township of Paradise does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for this entire chapter and Zoning Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.
- C. The Board of Supervisors, if it determines that a validity challenge has merit, may accept a landowner's curative amendment, with or without revision, 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:
  - (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
  - (2) 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 this chapter or Zoning Map;
  - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features;

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- (4) 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
- (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

#### **§ 160-50. Petition and fee.**

Each petition for a zoning amendment shall be accompanied by a fee, payable to the township upon the filing of the petition, in such amount as may be established by resolution duly adopted by the Supervisors.<sup>25</sup>

### **ARTICLE X** **Definitions**

#### **§ 160-51. Use of terms.**

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated:

- A. Words in the singular include the plural and those in the plural include the singular.
- B. Words used in the present tense include the future tense.
- C. The words "person" and "owner" include a corporation, unincorporated association and a partnership or other legal entity, as well as an individual.
- D. The term "occupied" or "used" as applied to any building shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used."
- E. The word "building" includes structure and shall be construed as if followed by the phrase "or part thereof."
- F. The word "lot" includes the word "plot," "parcel" or "tract."
- G. The word "watercourse" includes channel, creek, ditch, dry run, spring, stream and river.
- H. The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive.

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<sup>25</sup>Editor's Note: The current Fee Schedule is on file in the township offices.

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- I. The word "erect" shall mean to build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any building and shall also include the painting of exterior wall signs.

#### **§ 160-52. Definitions.**

Except as defined in this Code (see Chapter 1, General Provisions, Article II, Definitions), all words shall carry the customary meaning.

### **ARTICLE XI Airport Zoning Regulations Revised 1/21/13, Ordinance No. 206.**

#### **§ 160-53. Short title and description.**

- A. This article shall be known and may be cited as "The Paradise Township Airport Zoning Ordinance."
- B. This article regulates and restricts the height to which structures may be erected or objects of natural growth and otherwise regulates the use of property in the vicinity of the Pocono Mountains Municipal Airport and Rocky Hill Flightpark by creating the appropriate zones and establishing the boundaries thereof; provides for changes in the restrictions and boundaries of such zones; defines certain terms used herein; refers to the Pocono Mountains Municipal Airport and Rocky Hill Flightpark.

#### **§ 160-54. Declaration of policy.**

- A. This article is adopted pursuant to the authority conferred by 1984 Pa. Laws 164, codified at 74 Pa.C.S.A. § 5101 et seq.
- B. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Pocono Mountains Municipal Airport and Rocky Hill Flightpark and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Rocky Hill Airport Pocono Mountains Municipal Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of the Pocono Mountains Municipal Airport and the Rocky Hill Flightpark and the public investment therein. Accordingly, it is declared that:
  - (1) The creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Pocono Mountains Municipal Airport and the Rocky Hill Flightpark.

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- (2) It is necessary in the interest of the public health, safety, morals and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented.
  - (3) The prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- C. It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

#### **§ 160-55. Definitions.**

Except as defined in this Code (see Chapter 1, General Provisions, Article II, Definitions), all words shall carry the customary meaning.

#### **§ 160-56. Airport surface zones.**

In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces, as they apply to the Pocono Mountains Municipal Airport and the Rocky Hill Flightpark. Such zones are shown on the Draft Pocono Mountains Municipal Airport Surface Areas and the Draft Rocky Hill (estimated) Airport Surface Areas Maps created by URS Corporation on behalf of PennDOT Bureau of Aviation dated March 16, 2010, and any/all subsequent revisions thereto. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. Utility Runway Visual Approach Surface Zone. Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface and is 250 feet wide. The zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.
- B. Utility Runway Nonprecision Instrument Approach Surface Zone. Established beneath the nonprecision instrument surface. The inner edge of this zone coincides with the width of the primary surface and is 500 feet wide. The zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.
- C. Runway Larger Than Utility Visual Approach Surface Zone. Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface and is 500 feet wide. The zone expands outward uniformly to a width of

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1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.

- D. Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Surface Zone. Established beneath the nonprecision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is 500 feet wide. The zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the surface. Its center line is the continuation of the center line of the runway.
- E. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Surface Zone. Established beneath the nonprecision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is 1,000 feet wide. The zone extends outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.
- F. Precision Instrument Runway Approach Surface Zone. Established beneath the precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is 1,000 feet wide. The zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.
- G. Transitional Surface Zones. Established beneath the transitional surfaces adjacent to each runway and approach surface as indicated on the Height Limitation and Zoning District Map.
- H. Horizontal Surface Zone. Established beneath the horizontal surface, 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal surface Zone does not include the approach surface and transitional surface Zones.
- I. Conical Surface Zones. Established beneath the conical surface. This zone commences at the periphery of the horizontal surface and extends outward therefrom a horizontal distance of 4,000 feet.

#### **§ 160-57. Airport surface zone height limitations.**

Except as otherwise provided in this article, no structure shall be erected, altered or maintained and no tree shall be allowed to grow in any zone created by this article to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question, as follows:



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- A. Utility Runway Visual Approach Surface Zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.
- B. Utility Runway Nonprecision Instrument Approach Surface Zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.
- C. Runway Larger Than Utility Visual Approach Surface Zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.
- D. Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Surface Zone. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line.
- E. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Surface Zone. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line.
- F. Precision Instrument Approach Surface Zone. Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway center line.
- G. Transitional Surface Zones. Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface and extending to a height of 150 feet above the airport elevation, which is 1,240 feet above mean sea level at the Rock Hill Flightpark and 1,916 feet at the Pocono Mountains Municipal Airport. In addition to the foregoing, when an airport has a Precision Instrument Runway Approach Zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they intersect the conical surface. Where the Precision Instrument Runway Approach Zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending a horizontal distance of 5,000 feet measured at 90° angles to the extended runway center line.
- H. Horizontal Surface Zone. Established at 150 feet above the established airport elevation or at a height of 1,390 feet above mean sea level at the Rocky Hill Flightpark and at a height of 2,066 feet above mean sea level at the Pocono Mountains Municipal Airport.

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- I. Conical Surface Zone. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal surface and at 150 feet above the established airport elevation and extending to a height of 350 feet above the established airport elevation or at a height of 1,590 feet above mean sea level at the Rock Hill Flightpark and at a height of 2,266 feet above mean sea level at the Pocono Mountains Municipal Airport.
- J. Excepted height limitations. Nothing in this article shall be construed as prohibiting the construction or maintenance of any structure to a height up to 35 feet above the surface of the land.

#### **§ 160-58. Airport zoning requirements.**

- A. Reasonableness. All airport zoning regulations adopted under this article shall be reasonable; none shall impose any requirement or restriction unless it is reasonably necessary to effectuate the purpose of this article. In determining what regulations it may adopt, each municipality and joint airport zoning board shall consider, among other factors, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood and the uses to which the property to be zoned is put and adaptable.
- B. Use restrictions. Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article 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, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.
- C. Nonconforming uses.
  - (1) Regulations not retroactive. The regulations prescribed by this article 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 article or otherwise interfere with the continuance of any nonconforming use, except as provided in § 160-64 (relating to permits and variances). Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this article and is diligently executed.
  - (2) Marking and lighting. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon or nearby of such markers and lights as shall be deemed necessary by the Township Zoning Officer to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport

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obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Township of Paradise.

#### **§ 160-59. Permits and variances.**

##### **A. Future uses.**

- (1) Except as specifically provided in Subsection A(1)(a), (b) or (c) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this article shall be granted unless a variance has been approved in accordance with this section.
  - (a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
  - (b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limit prescribed for such approach zones.
  - (c) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour or topographic feature, would extend above the height limit prescribed for such transition zones.
- (2) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure or growth of any tree in excess of any of the height limits established by this article, except that 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.

##### **B. Existing uses.** Before any nonconforming structure may be replaced, substantially altered or rebuilt or tree allowed to grow higher or replanted, a permit must be secured from the township authorizing the replacement or change. No permit shall be granted that would

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allow the establishment or creation of an obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this article or any amendments hereto or than it is when the application for a permit is made.

C. Nonconforming uses abandoned or destroyed. Whenever the Township Zoning Officer determines that a nonconforming tree or structure has been abandoned or more than 80% torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from this article.

D. Variance.

(1) Any person desiring to erect any structure or increase the height of any structure or permit the growth of any object of natural growth or otherwise use his property in violation of airport zoning regulations may apply to the Board of Adjustment for a variance from the zoning regulations in question. A variance shall only be granted after the requirements of § 160-65 are satisfied. A variance may be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and would be in accordance with the spirit of the regulations and this article. Any variance may be granted subject to any reasonable conditions that the Board of Adjusters may deem necessary to effectuate the purposes of this article.

(2) The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Additionally, no application for variance from the requirements of this article may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager (or person of equivalent description) for advice as to the aeronautical effects of the variance. If the airport manager (or person of equivalent description) does not respond to the application within 15 days after receipt, the Board of Adjustment may act, without such input, to grant or deny said application.

E. Hazard marking and lighting. In granting any permit or variance under this section, the Board shall, if it deems the action advisable to effectuate the purpose of this article and reasonable under the circumstances, so condition the permit or variance as to require the owner of the structure or object of natural growth in question to permit the township, at its own expense, or require the person or persons requesting the permit or variance to install, operate and maintain thereon such markers and lights as may be required by guidelines or regulations adopted by the FAA.

#### **§ 160-60. Enforcement/notice.**

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- A. Local enforcement. It shall be the duty of the Township Zoning Officer to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Hearing Board upon a form published for that purpose. Applications required by this article to be submitted to the Zoning Hearing Board shall be promptly considered and granted or denied. Application for action by the Zoning Hearing Board shall be forthwith transmitted by the Zoning Officer.
- B. Notice to department. Notwithstanding any other provision of law, a municipality or board which decides to grant a permit or variance under this article shall notify the Department of Transportation of its decision. This notice shall be in writing and shall be sent so as to reach the Department at least 10 days before the date upon which the decision is to issue.

#### **§ 160-61. Zoning Hearing Board as Board of Adjustment.**

- A. Powers. There is hereby created a Board of Adjustment to have and exercise the following powers: to hear and decide appeals from any order, requirement, decision or determination made by the Township Zoning Officer in the enforcement of this article; to hear and decide special exceptions to the terms of this article upon which such Board of Adjustment under such regulations may be required to pass; and to hear and decide specific variances.
- B. Creation/members/removal. Where a Zoning Hearing Board already exists, it may be appointed as the Board of Adjustment. Otherwise, the Board shall consist of five members, each to be appointed for a term of three years by the authority adopting the regulations and to be removable by the appointing authority, for cause, upon written charges and after a public hearing.
- C. Governing rules. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this article. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. For conduct of any hearing or taking of any action, a quorum shall not be less than a majority of all members. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Township Zoning Officer and on due cause shown.
- D. Findings of fact/conclusions of law. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this article.

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- E. Voting. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Township Zoning Officer or decide in favor of the applicant, on any matter upon which it is required to pass under this article or to effect variation to this article.

#### **§ 160-62. Joint Airport Zoning Board.**

Where any airport hazard appertaining to an airport is located outside territorial limits of the township encompassing the airport, all of the municipalities involved may, by ordinance or resolution, create a Joint Airport Zoning Board which shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area in question as that vested (by the police power) in the township within which the area is located. Each Joint Airport Zoning Board shall have as members two representatives appointed by each municipality participating in its creation and, in addition, a Chairman elected by a majority of the members so appointed.

#### **§ 160-63. Appeals.**

- A. Right of appeal. Any person aggrieved or taxpayer affected by any decision of the township or Joint Zoning Hearing Board may appeal to the Board of Adjustment as provided by law.
- B. Reasonable time requirement. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment. The Board shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
- C. Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the township or Joint Zoning Hearing Board certifies to the Board, after the notice of appeal has been filed with it, that, by reason of the facts stated in the certificate, a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by order of the Board or notice to the township or Joint Zoning Appeal Board.
- D. Power to reverse, affirm or modify order. The Board of Adjustment may, in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances.

#### **§ 160-64. Acquisition of air rights.**

In any case in which it is desired to remove, lower or otherwise terminate a nonconforming structure or use or the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations or it appears advisable that the

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necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the municipality within which the property or nonconforming use is located or the municipality or municipal authority owning the airport or served by it may acquire by purchase, grant or condemnation, in the manner provided by the law under which municipalities are authorized to acquire real property for public purposes, such air right, aviation easement or other estate or interest in the property or nonconforming structure or use in question, as may be necessary to effectuate the purpose of this article. In the case of the purchase of any property or any easement or estate or interest therein or the acquisition thereof by the power of eminent domain, the municipality making the purchase or exercising the power shall, in addition to the damages for the taking, injury or destruction of property, also pay the cost of the removal and relocation of any structure or any public utility which is required to be moved to a new location.

#### **§ 160-65. Relation to other zoning regulations.**

- A. Incorporation. In the event that a municipality has adopted or hereafter adopts a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of the comprehensive zoning regulations and be administered and enforced in connection therewith.
- B. Conflicts. In the event of conflict between any airport zoning regulations adopted under this article and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees and the use of land or any other matter and whether the other regulations were adopted by the municipality which adopted the airport zoning regulations or by some other municipality or otherwise, the more stringent limitation or requirement shall govern and prevail.

#### **§ 160-66. Judicial review.**

Any person aggrieved or any taxpayer affected by any decision of the Board of Adjustment may appeal to the Court of Common Pleas as provided by law. In cases where applicable law does not provide an appeal from a municipality to a Board, a person or taxpayer may appeal a decision of a municipality or Joint Airport Zoning Board, as provided by law for similar zoning proceedings.

#### **§ 160-67. Severability.**

If any of the provisions of this article or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provisions of this article which are declared to be severable.

#### **§ 160-68. Construal of provisions.**

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- A. Use of language. Words of any gender in this article shall be held and construed to include any other gender and words in the singular shall be used to include the plural, unless the context otherwise requires.
- B. Use of captions. The captions or headings of sections in this article are inserted for convenience only and shall not be considered in construing the provisions herein, if any question of intent should arise.

#### **§ 160-69. Violations and penalties.**

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the municipality 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 this article to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter, each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the municipality whose ordinance has been violated.
- B. The Court of Common Pleas, upon petition, may grant an order of stay upon cause shown, tolling the per diem fine, pending a final adjudication of the violation and judgment.
- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

#### **§ 160-70. Adoption and amendment of ordinance.**

- A. Notice and hearing. No airport zoning regulations shall be adopted, amended or changed except by action of the municipality or the Joint Airport Zoning Board after a public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard. The notice shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality or municipalities



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affected. The notice shall state the time and place of the hearing and the nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days or less than 14 days from the date of the hearing.

- B. Effective date. Whereas, the immediate operation of the provisions of this article is necessary for the preservation of the public health, safety, morals and general welfare, an emergency is hereby declared to exist and after its passage by the municipality and publication and posting as required by § 160-70A.

## **ARTICLE XII**

### **Resort Development Area Overlay District**

**Adopted 4/20/05, Ordinance No. 152**

#### **§ 160-71. General Provisions; definitions; eligibility.**

- A. Establishment of Resort Development Area District: Paradise Township establishes a Resort Development Area (“RDA”) District. The location and boundaries of the Resort Development Area District are shown on the revised Official Zoning Map of Paradise Township. The Resort Development Area District is established as an overlay district. The overlay zoning district is a special district with a set of additional regulations that are applied to this geographic area based on specific attributes of the area and the types of uses proposed. A property owner is at liberty to proceed under the basic district requirements or under the Resort Development Area District requirements.
- B. Purpose: The Resort Development Area District is established for the following purposes:
- (1) To provide an opportunity for integrated development of a variety of uses according to a Master Development Plan (“Master Development Plan”);
  - (2) To encourage efficient, compact patterns of land use while maintaining the community’s visual character;
  - (3) To diversify the Township’s economy and upgrade the tourism industry;
  - (4) To attract new enterprises that support jobs with good pay, contribute to the tax base, and balance the burden homeowners and businesses now bear for financing public facilities and services, especially schools.
  - (5) To encourage the preservation of greenway land for conservation and recreation;
  - (6) To provide opportunities for site design that conserve the natural, aesthetic and visual resources of the tract;

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- (7) To provide opportunities for storm water and waste water management facilities which protect existing stream water quality and promote recharge of clean groundwater;
  - (8) To provide flexibility in design and use of larger tracts of land within the Township consistent with the goals and objectives listed at §160-2, the Comprehensive Township Development Plan, the Paradise Township Strategic Plan, the Barrett-Mt. Pocono-Paradise Open Space Recreation Plan, the Monroe County Open Space Plan, and Monroe County Comprehensive Plan.
- C. Overlay District Concept: The Resort Development Area District described above shall be an overlay to the existing underlying districts as shown on the Official Zoning Map, and as such, the provisions for the Resort Development Area District shall replace the underlying district provisions when the developer elects the Resort Development Area District option. Where a lot owner selects the Resort Development Area District option, the entire parcel must be developed in accordance with Article XIII.
- D. Resort Development Area Zoning District Boundaries and Interpretation: The Resort Development Area Zoning District boundary interpretation and revision procedures shall be in accordance with the boundary interpretation and revision procedures for the Official Zoning Map described in §160-6 of this Chapter.
- E. Uses: Master Developments shall be allowed within the Resort Development Area District.

## ARTICLE XIII

### Signs

**Adopted 11/15/11, Ordinance No. 197; Revised 12/16/13, Ordinance No.212.**

#### **§ 160-72. General provisions; intent.**

- A. Short title. This article shall be known and cited as the “Paradise Township Sign Ordinance.”
- B. Intent.

A sign may be placed, established, painted, created, or maintained in Paradise Township only in conformance with the standards, procedures, exceptions and other requirements of this Chapter. The effect and intent of this Section of this Chapter as more specifically set forth herein is:

- (1) To establish a permitting system to allow a variety of sign types in the various zoning districts, subject to the standards and permit procedures of this article;

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- (2) To allow various types of signs and street graphics that are limited in size, unobtrusive, and, where applicable, incidental to the principal land use of the property on which the signs are located, subject to the substantive requirements of this article, but without a requirement for permits;
- (3) To establish a monitoring system for unpermitted and nonconforming signs and street graphics;
- (4) To ensure that all signs and street graphics shall comply with the provisions of this article;
- (5) To establish standards for signage in Master Developments within the Resort Development Area Overlay District as depicted on the Official Zoning Map of Paradise Township.

#### **§ 160-73. Permit requirements.**

- A. After the effective date of this chapter and except as otherwise herein provided, no signs or street graphics except those explicitly listed in §160-80, §160-82 and §160-83 shall be erected unless a zoning permit is issued by the Zoning Officer.

Signs for which a permit is required shall bear the permit number and the name of the permit holder in a conspicuous and accessible location.

- B. Application for permit.

Written application for the permit shall be made to the Zoning Officer upon forms prescribed and provided by the Zoning Officer and shall contain the following information:

- (1) Name, mailing address, email address and telephone number of the applicant.
- (2) Location of building, structure or land to which or upon which the sign is to be erected.
- (3) Size of sign.
- (4) Description of the construction details of the signs and showing the lettering and/or pictorial matter composing the sign; position of lighting or other extraneous devices; a location plan showing the position in relation to nearby buildings or structures, property line, and to any private or public road or highway.
- (5) In the case of any off-premise sign, a letter from the property owner acknowledging and approving the construction and use of the sign.

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(6) Such other pertinent information as the Zoning Officer may require to ensure compliance with this chapter.

C. Fees. Fees for sign permits shall be set by resolution of the Township Board of Supervisors from time to time.

D. Issuance of a permit.

It shall be the duty of the Zoning Officer, upon the filing of an application for a permit to erect a sign, to examine such plans, specifications and other data submitted to him/her with the application and, if necessary, the building or lot upon which it is proposed to erect the sign or other advertising structure. If it shall appear that the proposed sign is in compliance with all the requirements of this chapter and all other ordinances of the Township, the Zoning Officer shall, within thirty (30) days of receipt of a complete application, issue a permit for the erection of the proposed sign. Any sign permit shall expire if construction has not commenced within one year after the date of issuance.

#### **§ 160-74. Master sign plans.**

A. A Master Sign Plan shall be submitted to the Zoning Officer for all non-residential developments, lots, sites or structures of two (2) or more uses requiring a zoning permit, and for all Master Developments, after the effective date of this Ordinance. All signs requiring a permit in a non-residential development, lot, site, structure, Master Development or use requiring a master sign plan shall comply with the master sign plan.

B. A master sign plan containing the below listed items shall be submitted in duplicate to the Zoning Officer prior to the issuance of a zoning permit for a sign(s) for each use in a non-residential development, lot, site, structure or Master Development requiring a master sign plan:

(1) A site plan clearly and legibly drawn at a scale of one (1) inch being equal to fifty (50) feet or less, showing the location of all existing, proposed and future signs of any type, whether requiring a zoning permit or not. Exempt signs need not be shown.

(2) Building elevations drawn to scale of each side of the building on which a sign is located or will be placed showing the sign dimensions and proportions, location of each existing and proposed sign on the building, material, color scheme, lettering or graphic style, and lighting, if any.

(3) Drawings of the planned signs clearly indicating the dimensions of all signs including height above finished grade, lettering, logos and other graphics, colors, materials, texture and method of illumination, if any. This information will be used to determine compliance with sign design standards and not to assess content.

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- (4) A description of the type and total number of signs proposed, plus any existing signs that will remain, and a computation of the maximum total sign area and the maximum area for individual signs compared to the signage allowed.
  - (5) The landscaping plan for the sign.
  - (6) The master sign plan may contain other standards and criteria not regulated by the Township as the property owner or developer may require, such as uniform sign standards.
- C. A conceptual master sign plan shall be submitted as part of a Preliminary Land Development Plan for a non-residential land development that is governed, in whole or in part, by Chapter 131 (Subdivision and Land Development) with respect to all existing, proposed, or future signs known at the time of Preliminary Plan submission. A master sign plan shall be submitted as part of a Final Land Development Plan for a non-residential land development that is governed, in whole or in part, by Chapter 131 (Subdivision and Land Development), with respect to all existing, proposed, or future signs known at the time of Final Land Development Plan submission. The Township Board of Supervisors may, in granting Subdivision and Land Development approval, modify individual sign standards, provided the total sign area for the project does not exceed that otherwise permitted.
- D. Where a master sign plan is required, and the proposed use is approved, no zoning permit shall be issued for a sign requiring a permit and no sign shall be erected unless and until a master sign plan, or amendment thereto, for the non-residential development, lot, site, structure, Master Development or use on which a sign will be erected is determined by the Zoning Officer to be consistent with a plan approved by the Board and compliant with this ordinance.
- E. Additional submittals or amendments to the master sign plan must be submitted when changes to a sign(s) in a qualifying non-residential development, lot, site, structure, Master Development or use(s) occur. Any amendments to a master sign plan must be signed and approved by the property owner(s) and Zoning Officer before such amendment will become effective.

#### **§ 160-75. Permit exceptions.**

- A. The following operations shall not be considered as creating a sign and shall not require a sign permit:
  - (1) Cleaning and other normal maintenance and repair of a sign or a sign structure (such as repainting) unless a sign alteration is made;
  - (2) Signs not erected along a Township or State street or highway.

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#### **§ 160-76. Sign regulations dependent on district and type.**

Signs in Paradise Township shall be regulated dependent on the zoning district in which the sign is located as well as the sign type. Specific signs are considered exempt from regulation, in which case such signs are considered exempt in all zoning districts. Specific sign types are allowed without a permit, in which case such signs are allowed without a permit in all zoning districts. Specific sign types require a permit. Such signs are permitted in some zoning districts and prohibited in others as set out in Schedule V of this Chapter. Signs considered prohibited in §160-85 are prohibited in all districts in Paradise Township.

#### **§ 160-77. Signs exempt from regulation in all districts.**

Signs set forth in this section shall be exempt from regulation in all zoning districts in the Township provided such signs are not prohibited in §160-85, and provided none include trademarks, moving parts, moving lights or beacons.

- A. Building Markers not exceeding four (4) square feet in area.
- B. Decorative Flags.
- C. Flags and insignias of any government or government agency.
- D. Historical Markers.
- E. Holiday Decorations.
- F. Integral decorative or architectural features of a building, provided these do not include letters.
- G. Interior Signs (whether commercial or not).
- H. Memorial Signs.
- I. Name Plate
- J. Personal Use and Information Signs not exceeding two square feet in area.
- K. Private Drive Signs.
- L. Public Notification Signs.
- M. Public Use and Notification Signs.
- N. Security Signs not exceeding two square feet in area.
- O. Street Signs.

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P. Traffic Control Signs.

Q. Warning Signs.

#### **§ 160-78. Signs allowed in all districts without a permit.**

- A. Auto Dealer Vehicle Signs not exceeding two square feet, provided such signs are attached to the interior of, or stenciled on, the vehicle windows and not more than three such signs are placed inside, or on the windows of, a single vehicle.
- B. Bulletin Boards not exceeding sixteen (16) square feet, attached to the wall of a building and not exceeding six (6) feet in height, except that Bulletin Boards may not be used as Location Signs, Secondary Entrance Signs, Secondary Use Signs, Freestanding Signs or Wall Signs.
- C. Business Nameplates not exceeding one square foot each in area, and where multiple Business Nameplates are aggregated the total area of the sign shall not exceed twelve (12) square feet. Business nameplates may not contain information pertaining to an off-site activity.
- D. Construction Signs -Small:  
Except as otherwise provided herein, one (1) temporary, non-illuminated, sign may be placed on any lot, development or site where construction, repair, or renovation is in progress, provided that:
  - (1) Construction signs shall not be erected in advance of the issuance of required zoning and building permits and shall be removed immediately following the issuance of zoning and building occupancy permits.
  - (2) Construction signs shall not exceed four (4) square feet in area for single-family residential construction or sixteen (16) square feet in area for commercial construction except as otherwise provided herein.
  - (3) Construction signs shall not exceed four (4) feet in height for single-family residential construction or six (6) feet in height for commercial construction except as otherwise provided herein.
- E. Decals and similar incidental signs not exceeding one (1) square foot.
- F. Door Signs not exceeding fifty (50) percent of the door area through which or on which they are displayed.
- G. Farm Product Sign: One sign in any residential district not exceeding twelve (12) square feet, or two signs in any commercial district (B-1, B-2) not exceeding twenty (20) square

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feet in total area. Farm Product Signs may not exceed five (5) feet in height, may not be erected more than fifteen (15) calendar days in advance of a harvest, must be removed within five (5) days of the end of harvest, and shall be located on the same property where the bulk of the farm product is produced.

- H. For Sale Sign not exceeding two (2) square feet in area in a residential district or six (6) square feet in a commercial district (B-1, B-2), provided such sign does not exceed five (5) feet in height, and providing such sign does not contain any information concerning any off-site activity.
- I. Garage Sale Sign not exceeding two (2) square feet in area in a residential district or six (6) square feet in a commercial district (B-1, B-2), provided such sign does not exceed five (5) feet in height, and providing such sign does not contain any information concerning any off-site activity and is removed within seven (7) calendar days of sale.
- J. Home Occupation Sign for a permitted home occupation not exceeding four (4) square feet in area.
- K. Political Signs: Signs in any district announcing candidates seeking public office shall not be attached to fences, trees, utility poles, or the like. Permission for placement of such signs from the owner of the property where the sign is erected shall be the responsibility of the sign owner. Political signs in any district shall not be erected closer than five (5) feet to any road right-of-way or lot line and shall be removed within seven (7) calendar days following an election if pertaining to one.
- L. Real Estate Signs: Not more than one sign for every two hundred (200) feet of road frontage not exceeding six square feet each in area advertising the sale, lease or rental of a residential lot on which the sign is located, provided such signs are not erected on or project over any road right-of-way. Not more than one sign for every two hundred (200) feet of road frontage advertising a commercial or business lot or development on which the sign is erected not exceeding twenty-four (24) square feet each in area, provided such signs are not placed within any road right-of-way or within five (5) feet of any lot line. Such signs shall only be located on the premises being leased or sold, shall not exceed five (5) feet in height, and shall be removed after settlement, lease of the property, or expiration of the listing term.
- M. Special Event Sign (Commercial and Non-Profit):
  - (1) No business, individual, or organization may display special event signs without first obtaining a special event zoning permit and meeting the standards herein.
  - (2) No business, individual or organization may display special event signs more than four (4) times in a twelve (12) month period for the same special event.
  - (3) A maximum of two (2) special event signs is permitted, of which one (1) may be a banner.



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- (4) No use shall display special event signs for a period exceeding thirty (30) days per event.
- (5) The special event sign may be a portable sign.
- (6) Banners advertising a special event shall meet the following requirements:
  - (a) Maximum area of four (4) square feet in residential districts.
  - (b) Maximum area of eight (8) square feet in the B-1, B-2 districts and/or Master Developments.
  - (c) Maximum sign height of twelve (12) feet.
- (7) Other signs advertising a special event shall meet the following requirements.
  - (a) Maximum area of ten (10) square feet.
  - (b) Maximum sign height of five (5) feet.
- N. Sports Patronage Signs shall not extend above the fence surrounding the athletic field and shall not exceed thirty-two (32) square feet.
- O. Vending Machine Signs shall not extend in height or area beyond the vending machine. Such signs shall be an integral part of a vending machine and cannot be used apart from the vending machine.
- P. Window Signs not exceeding fifty (50) percent of the window area through which or on which they are displayed.

#### **§ 160-79. Signs requiring a permit.**

The following signs and street graphics require a permit from the Zoning Officer and are permitted where allowed by Schedule V of this Chapter when the sign conforms to any and all regulations set forth in this Chapter:

- A. Off-Premise Signs: Off-premise signs, with the exception of electronic message off-premise signs, which shall be further restricted to the B-1 and B-2 districts, may be erected and maintained along Routes 191, 390, 611 and 940, subject to the following standards:
  - (1) An off-premise sign or graphic shall be considered a primary use of a lot.
  - (2) One off-premise sign may be erected, constructed, or maintained on any parcel as allowed above provided that:

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- (a) The property contains no other structure or use.
  - (b) The property is a conforming lot.
  - (c) The property is not protected under a conservation easement and/or Act 319 (Clean and Green preferential tax assessment) or dedicated to an open space or conservation use.
- (3) An off-premise sign shall not exceed one hundred (100) square feet in area. A backup advertisement may be displayed on the opposite side of the sign.
  - (4) No off-premise sign shall be more than fifteen (15) feet in height and all such structures shall have an open space of not less than three feet between its lower edge and the ground, which space may be shielded by an ornamental lattice.
  - (5) No off-premise sign shall be located closer than fifty (50) feet to any property line or fifteen (15) feet to any road right-of-way.
  - (6) No off-premises sign shall be permitted within one thousand (1,000) feet of another off-premises sign measured in all directions. However, off-premise electronic message signs must also comply with §160-84(C)(8)(f). The separation distance shall be measured between the closest points of the two signs in question.
  - (7) Such signs shall not be erected within 250 feet of any existing freestanding on-premises sign, or within one thousand (1,000) feet of any residential dwelling.
  - (8) A landscaped island containing shrubs and/or flowers with a minimum of thirty-two (32) square feet in area and a minimum of one foot in height is required around all off-premises signs. The landscaping shall comply with §160-89.
  - (9) Extensions or add-ons beyond the rectangular perimeter of the sign are prohibited.
  - (10) A site plan meeting the standards for a Sketch Plan as set forth by the Subdivision and Land Development Ordinance shall accompany an application for an off-premise sign.
  - (11) Wood and beam frame structures are prohibited. All sign support structures shall be constructed of steel.
  - (12) An engineering certification shall accompany any application for an off-premise sign. The certification shall indicate under seal of a professional engineer licensed in the Commonwealth of Pennsylvania that the sign has been designed in accordance with acceptable engineering practices.

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(13) Trees greater than ten (10) inches in diameter (dbh) removed for construction of the sign shall be replaced on-site at a ratio of one (1) replacement tree for each removed tree using native species no less than four (4) inches in diameter.

(14) Electronic message signs shall be permitted as off-premise signs in the B-1 or B-2 districts only and shall comply with §160-84(C)(8).

(15) If illuminated, off-premise signs shall comply with §160-88 of this Chapter.

**B. Multiple Message Signs:** Multiple Message Signs may be used as off-premise or on-premise signs provided:

(1) Multiple Message Signs shall be limited to a maximum of three (3) displays.

(2) Multiple Message Signs shall be approved only through the consolidation of existing or otherwise legally permitted signs, with one existing or otherwise legally permitted sign being removed or replaced for each message display on the Multiple Message Sign. Off-premise signs replaced may be existing or otherwise legally permitted conforming or nonconforming signs, and may be on separate lots.

(3) Multiple Message Signs used as off-premise signs shall comply with the requirements for all off-premise signs [see §160-84(A) above].

(4) Multiple Message Signs used as on-premise signs shall be setback no less than fifteen (15) feet from any highway right-of-way, seventy-five (75) feet from any rear or side lot line and one thousand (1000) feet from any other Multiple Message Sign or Electronic Message Sign.

**C. On-Premise Signs:**

(1) Awning Signs may not contain signage in excess of forty (40) percent of the awning material. Awning sign area shall be included within the maximum aggregate area for all wall signs.

(2) Banners are permitted on state streets or highways only provided:

(a) The bottom of the sign and any supports shall be at least fifteen (15) feet above the street surface.

(b) The sign surface shall not be higher than eighteen (18) inches.

(c) The total sign area shall not be more than seventy-five (75) square feet.

(d) The sign may be double-faced with seventy-five (75) square feet on each face.

(e) Evidence of PennDOT approval shall be supplied to the Township.

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- (f) At least one side of any banner must be on applicant's property.
- (g) Applicant must provide evidence of liability insurance in an amount set by the Board of Supervisors by resolution from time to time.

#### (3) Blade Signs:

- (a) The minimum height of a blade sign shall be eight (8) feet measured from the walking surface to the bottom of the sign and the maximum height of blade sign shall be ten (10) feet measured from the walking surface below the sign to the top bottom of the sign.
- (b) The maximum sign area for each face of a blade sign shall not exceed six (6) square feet.
- (c) Blade signs shall not be illuminated.
- (d) Blade signs shall contain the name of the tenant occupying the designated or divided area in question and shall be mounted perpendicular to the building entrance.
- (e) Blade signs may be changeable signs.

#### (4) Business Nameplate Signs shall not exceed twenty-five (25) square feet in aggregate sign area and shall not exceed eight (8) feet in height.

#### (5) Canopy Signs shall not exceed the height of structure associated with the use. Canopy Signs may not contain signage in excess of forty (40) percent of the canopy material. Canopy sign area shall be included within the maximum aggregate area for wall signs.

#### (6) Construction Signs -Large: Construction Signs greater than four (4) square feet for any single-family residential construction or sixteen (16) square feet for any commercial construction: Construction Signs for non-residential developments, lots or sites in excess of ten thousand (10,000) square feet of gross leasable area shall be governed and controlled by the following regulations:

- (a) Construction Signs shall only face a street which serves as the principal means of access to the non-residential lot, development or site in question.
- (b) One (1) Construction Sign for the non-residential lot, development or site in question may be permitted at any one time and may only contain copy designating the name of the complex, development, or non-residential building to be constructed, the name, logo, trademark, or other identifying symbol of one or more tenants who have executed leases in the non-residential building in question,

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the name of the developer, contractor or builder of the non-residential building in question, together with addresses, phone numbers, and other contact information with respect to the foregoing.

- (c) The maximum height of such Construction Sign shall not exceed twelve (12) feet and shall not contain a sign area greater than fifty (50) square feet per sign face. Such Construction Sign may have up to two (2) sign faces each of which shall be attached to the same support structure but may be separated from the other by up to a ninety (90) degree angle. For purposes of this section, the height of a Construction Sign shall be measured from the grade at the base of the support structure of the Construction Sign.
  - (d) Construction Signs shall be set back at least fifteen (15) feet from the road right-of-way and shall not obstruct the sight triangle vision at any intersection, traffic control sign or traffic control signal, nor shall any Construction Sign project into a public right-of-way.
  - (e) Construction Signs shall comply with all applicable Pennsylvania Department of Transportation rules and regulations.
  - (f) Construction Signs shall not be illuminated.
  - (g) Construction Signs shall only be permitted after a Zoning and/or Building Permit is issued.
  - (h) Construction Signs shall be removed once temporary or permanent zoning and building Certificates of Occupancy are issued, or an on-premise sign for the principal use is erected. Where a Construction Sign has designated the name, logo, trademark, or other identifying symbol of a tenant in a non-residential building denoted on the Construction Sign, the tenant's name shall be removed from the Construction Sign once temporary or permanent zoning and building Certificates of Occupancy for the tenant are issued or temporary or permanent zoning and building Certificates of Occupancy for the tenant's use of the designated area are issued.
  - (i) The Construction Sign for the non-residential land development in question shall be removed if construction of the non-residential land development in question does not commence within ninety (90) calendar days of the installation of said Construction Sign.
  - (j) No Construction Sign shall be erected for more than eighteen (18) consecutive months from the date of issuance of a zoning permit for the installation of the Construction Sign.
- (7) Directional/Information Sign: A non-residential lot, development or site may display Directional/Information Signs adjacent to intersecting interior driveways or an

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interior driveway nearest the principal building or buildings, and for each use having a drive-through food service lane, provided that:

- (a) The sign shall not exceed a height of eight (8) feet.
  - (b) The sign shall not exceed an area of twenty-five (25) square feet.
  - (c) Where the property contains only one business, the sign may contain incidental and directional information associated with that business only.
  - (d) Where the property contains more than one business, the sign may contain incidental and directional information associated with the uses and businesses on the property in question only.
  - (e) All such signs shall be setback at least ten (10) feet from any vehicular right-of-way, except for drive-through menu signs which may be located less than ten (10) feet from a drive-through lane; however, in no case shall said sign be located in such a way to cause a safety hazard.
  - (f) All such signs shall include landscaping in compliance with §160-89.
- (8) Electronic Message Signs: Electronic Message Signs shall comply with the following:
- (a) Electronic Message Signs shall be on-premise signs for Master Developments in any zoning district and/or developments which serve multiple commercial uses in the B-1 or B-2 districts. Electronic Message Signs as off-premise signs shall be permitted only in compliance with §160-84(A).
  - (b) Electronic Message Signs shall be contained within a frame made of solid material of a solid color extending out from the message screen a minimum of six (6) inches on all sides.
  - (c) Electronic Message Signs shall not display animation, flash or blink, scroll or have intermittent or full motion video. Motion shall be limited to the transition from one message to another.
  - (d) Electronic Message Signs shall be equipped with light sensors capable of measuring ambient light levels and dimming devices that shall lower the brightness of the sign based on the measured ambient light to minimize the brightness level required to make the sign visible. The dimming device shall minimize the illumination used to the lowest level necessary to make the sign conspicuous and visible during both daytime and night time hours. At no time shall the brightness level of any Electronic Message Sign constitute glare.

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- (e) Electronic Message Signs within Master Developments shall only display graphics for commercial, industrial, institutional, service or entertainment purposes, products, uses or services conducted, sold or offered upon the same premises. In determining whether an Electronic Message Sign is an on-premises sign in a Master Development, the entire Master Development shall be considered a single premise.
- (f) No Electronic Message Sign may be located within three thousand five hundred (3,500) feet of any Multiple Message Sign or other Electronic Message Sign.
- (g) Electronic Message Signs shall be located a minimum of three hundred fifty (350) feet from any existing dwelling structure and two hundred (200) feet from any lot line associated with any existing vacant residential lot of two (2) acres or less in lot area.
- (h) Electronic Message Signs shall be set back from the edge of any highway right-of-way by no less than fifteen (15) feet and no more than thirty (30) feet. Electronic Message Signs shall be set back from any side or rear lot line by no less than seventy five (75) feet. No Electronic Message Sign structure shall exceed eighteen (18) feet in height.
- (i) The screen for any Electronic Message Sign shall not exceed eighty (80) square feet in area. Each message on a screen of an Electronic Message Sign shall comply with all recommendations in the United States Sign Council Sign Legibility Rules of Thumb as exists on the date of enactment or as hereafter amended.
- (j) Transitions for Electronic Message Signs shall fade and content shall not change more than once every ten (10) seconds with a transition time not exceeding two (2) seconds.
- (k) All Electronic Message Signs shall include landscaping in compliance with the following requirements:
  - [1] The sign structure shall be surrounded by a landscaped area equal to not less than fifty percent (50%) of the sign area.
  - [2] The minimum number of planting units for the landscaped area shall be equal to not less than one (1) planting unit per four (4) square feet of landscaped area. Planting units shall include a mixture of annuals, perennials, shrubs, evergreen and/or shade trees. No less than fifty (50) percent of the total number of planting units shall be a mixture of perennials, shrubs, evergreen and or shade trees. No plantings shall include invasive species.

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- [3] The perimeter of the landscaped island shall be formed from materials such as, but not limited to, stone, brick, decorative concrete block, or landscape timbers.
  - [4] The area of the landscaped island shall be mulched and maintained as necessary to keep it free of weeds, brush, and deteriorating material.
  - (l) Electronic Message Signs shall only be permitted along Routes 191, 390, 611 and 940 and must comply with all applicable PennDOT regulations. For the purposes of this Section, the intersection of an arterial road and another road, regardless of classification, shall be considered an arterial road.
  - (m) No Electronic Message Sign shall display any interactive message such as a message requesting that the viewer call a number for a chance to win a prize or claim a reward. Notwithstanding the foregoing, an Amber Alert message or similar message provided by a governmental entity on an Electronic Message Sign shall not be considered an interactive message.
  - (n) There shall be a maximum of one Electronic Message Sign per street frontage of any lot or any Master Development. Where a Master Development is located on both sides of the street, the Master Development shall be considered to have a single street frontage along that particular street.
  - (o) A Master Development may have one additional Electronic Message Sign beyond the number of signs otherwise permitted if such additional Electronic Message Sign meets all of the following criteria:
    - [1] The additional Electronic Message Sign shall be on an interior roadway which shall not be dedicated to the Township.
    - [2] The additional Electronic Message Sign and light produced by such Electronic Message Sign shall not be visible from public streets or from any lot which is not part of the approved Master Development. At the time of application for a zoning permit for the additional Electronic Message Sign, the applicant shall present plans identifying existing vegetation (including height of such vegetation) or proposed screening (including height at time of installation) which shall completely screen the additional Electronic Message Sign from view from all public right-of-way and lots which are not part of the Master Development.
    - [3] The additional Electronic Message Sign shall meet the size, height, and landscaping requirements above.
9. Freestanding Signs: On-premise Freestanding Signs shall be permitted in accordance with Schedule I of this Chapter under the following conditions:



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- (a) On-premise Freestanding Signs shall not exceed fifteen (15) feet in height, except for accessibility signs required by applicable construction codes adopted by the Township.
  - (b) On-premise Freestanding Signs shall be landscaped in compliance with §160-89.
  - (c) On-premise Freestanding Signs shall be illuminated only in compliance with §160-88.
  - (d) In the OSC, RR, R-1 and R-2 districts On-Premise Freestanding Signs shall not exceed fifty (50) square feet in aggregate or one (1) square foot per every five (5) feet of frontage (whichever is less) and no individual sign shall exceed twenty-four (24) square feet.
  - (e) In the B-1, B-2 districts and in Master Developments On-Premise Freestanding Signs shall not exceed seventy-five (75) square feet in aggregate or one (1) square foot per every one (1) foot of frontage (whichever is less) and no individual sign shall exceed thirty-two (32) square feet.
  - (f) Freestanding signs may be changeable signs.
10. Marquee Signs: Advertising displays on marquees shall not exceed eighty (80) percent of the area of the marquee. Marquee Sign area shall be included within the maximum aggregate area for Wall Signs. If illuminated, Marquee Signs shall comply with §160-88 of this Ordinance. Marquee signs may be changeable signs.
11. Monument Sign: Monument Signs shall comply with the following:
- (a) The maximum height of the sign is eight (8) feet.
  - (b) In the OSC, RR, R-1 and R-2 districts Monument Signs shall not exceed fifty (50) square feet in aggregate or one (1) square foot per every five (5) feet of frontage (whichever is less) and no individual sign shall exceed twenty-four (24) square feet.
  - (c) In the B-1, B-2 districts and in Master Developments Monument Signs shall not exceed seventy-five (75) square feet in aggregate or one (1) square foot per every one (1) foot of frontage (whichever is less) and no individual sign shall exceed thirty-two (32) square feet.
  - (d) All Monument Signs shall include landscaping in compliance with §160-89 of this Ordinance.
  - (e) Monument Signs may be illuminated pursuant to §160-88 of this Ordinance.
  - (f) Monument Signs may be changeable signs.

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12. Multi-Family Sign: One Multi-Family Sign shall be permitted per building and shall not exceed four (4) square feet in size.
13. Multiple Message Sign: On-premise Multiple Message Signs shall meet the standards set out in §160-84(B).
14. Murals: (see Wall Sign).
15. Pedestrian Information Sign: Pedestrian Information Signs may be approved in conjunction with approval of non-residential Land Development applications.
16. Pole Sign: (see Freestanding Sign, §160-84(C)(9)).
17. Projecting Signs: Except as otherwise provided herein, where Projecting Signs are permitted as set forth in Schedule I of this Chapter, any non-residential use permitted by the Township may display one (1) projecting sign on the main entrance building facade provided that:
  - (a) Projecting Sign area shall be included within the maximum aggregate area for Wall Signs.
  - (b) The projecting sign conforms to the Wall Sign Regulations set forth in §160-84(C)(20) hereof.
  - (c) The minimum height of a projecting sign shall be eight (8) feet and the maximum height of a projecting sign shall be ten (10) feet measured from the walking surface below the sign to the bottom of the sign. The maximum area of any such sign shall be ten (10) square feet.
  - (d) The sign shall not project into any public or private right-of-way and shall not be illuminated.
  - (e) The projecting sign shall not project more than four (4) feet from the wall to which it is attached.
  - (f) The applicant must provide the Township with evidence of liability insurance in an amount set by the Board of Supervisors by resolution from time to time.
  - (g) Projection Signs may be changeable message signs.
- 17.A Scoreboards at Public Parks:
  - (a) Only one Scoreboard shall be allowed for each sport playing field at any Township owned or controlled park.

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- (b) Scoreboard size shall not exceed 80 square feet.
  - (c) Scoreboard may include one donor acknowledgement advertisement as long as such advertisement is not electronic or multiple message, does not include lighting, and does not constitute more than 30% of the sign face.
  - (d) Any donor acknowledgement advertisement shall not be transferable to any new or different commercial entity and shall be removed at the time the advertised commercial entity ceases to exist.
  - (e) Scores and sport statistics (inning, runs, errors, etc.) may be shown using manual, electric or LED display and may be controlled remotely.
  - (f) Scoreboard shall not be located within 350 feet of any existing dwelling unit or within 200 feet of any lot line associated with any vacant residential lot of 2 acres or less of lot area.
  - (g) Scoreboards shall not display animation, flash or blink, scroll, have intermittent or full motion video, or have protrusions, fireworks or sound capabilities.
  - (h) Scoreboards shall be utilized during sporting events only.
18. Shopping Cart Corral Signs: Shopping Cart Corrals may be approved in conjunction with approval of non-residential Land Development applications.
19. Subdivision Identification Signs (residential): Unless otherwise noted herein, Subdivision Identification Signs are permitted as allowed in Schedule V of this Chapter provided that:
- (a) The subdivision contains a minimum of six (6) lots.
  - (b) The subdivision has received preliminary plan approval from the Paradise Township Board of Supervisors.
  - (c) The subdivision identification signs are located on-premises.
  - (d) The subdivision identification sign must be landscaped in accordance with §160-89 of this Article.
  - (e) There is a maximum of two (2) one-sided subdivision identification signs or one (1) two-sided subdivision identification sign at each entrance to the subdivision.
  - (f) The maximum aggregate square footage of subdivision identification signage allowed for each subdivision shall be thirty-two (32) square feet
  - (g) The maximum height for a subdivision identification sign shall be eight (8) feet.

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20. Wall Signs: Any non-residential uses permitted by the Township may display Wall Signs in accordance with the following regulations:

- (a) The height of a Wall Sign shall not exceed the height of the building facade to which it is attached or thirty (30) feet, whichever is less.
- (b) The maximum aggregate wall sign area in the OSC, RR, R-1 and R-2 districts shall be five (5) percent of any single building façade or thirty-two (32) square feet (whichever is less). The maximum aggregate wall sign area in the B-1, B-2 districts and Master Developments shall be ten (10) percent of any single building façade or sixty-four (64) square feet (whichever is less). The areas of any/all Awning, Canopy, and Marquee Signs permitted shall be included in the maximum aggregate wall sign area.
- (c) Wall Signs may be internally or externally illuminated pursuant to §160-88 of this Article.
- (d) Wall Signs may project from the wall by such distance as is necessary to accommodate the ballasts, raceway, electrical components, and cabinetry of the Sign up to a maximum of eighteen (18) inches.

#### **§ 160-80. Prohibited signs.**

The prohibitions contained in this section shall apply to all signs, all artificial lighting and all zoning districts, regardless of designation, within the Township.

- A. No sign, including projecting signs, shall be located in or project over any access or road right-of-way except an official sign and banners as provided below.
- B. No advertisement, advertising structure, billboard, building structure or other object shall be erected, used or maintained which in any way simulates official, directional or warning signs erected or maintained by the state, county or Township or by any railroad or public utility or similar agency concerned with the protection of the public health or safety.
- C. No sign or advertising device shall be erected or maintained at the intersection of roads in such manner as to obstruct free and clear vision of the intersection and all regulated signs shall comply with clear-sight triangle requirements of the Township Subdivision and Land Development Ordinance.
- D. Roof Signs: Roof Signs shall be prohibited within Paradise Township except that legally existing roof signs may be maintained or replaced with signs of the same or less sign area.

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- E. The following advertisements are specifically prohibited: Any advertisement which uses a series of two or more freestanding signs placed in a line parallel to the highway or in similar fashion, each carrying a word or words which are part of a single advertising message.
- F. No sign or part thereof shall contain or consist of posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices. Said devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign.
- G. Banners spanning Township streets are prohibited.
- H. With the exception of electronic message signs, any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity and no sign shall be illuminated by or contain flashing, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit beams and illumination there from to be directed, beamed or be reflected upon a public road, highway or adjacent lot so as constitute a traffic hazard or nuisance.
- I. Except for temporary signs, signs made of cardboard, paper or similar nonpermanent material are specifically prohibited.
- J. No sign in any district shall be attached, erected, displayed, located, hung, placed, suspended or affixed to fences, trees, utility poles or similar objects.
- K. Any sign prohibited by state or federal law or containing a message prohibited under state or federal law is hereby prohibited in the Township.
- L. Portable signs are prohibited except as provided herein (see Special Event Signs).
- M. Moving signs, inflatable signs (except that one bouquet of balloons shall be allowed on premises that sell balloons, and balloons shall be allowed in temporary commercial situations or special occasions at a residence), vehicle signs, glaring signs, flashing signs, fluorescent signs, holographic images, mirrors, obstructive signs, posters and handbills, simulated traffic signs and obstructions, strings of lights, sign emissions, and signs adversely affecting safety.

#### **§ 160-81. Grand opening signs.**

Grand opening signs and pennants shall be allowed when a new business is opened in the B-1 Business District. A temporary permit will be issued when proper application is made to the Zoning Officer and will be allowed for a period of fourteen (14) calendar days. At the end of the fourteen (14) calendar days, the above sign and pennants must be removed.

#### **§ 160-82. Design standards.**

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All signs in Paradise Township shall be constructed of durable materials, designed to withstand expected wind pressures and erected so as not to sustain damage and deterioration from the elements. All signs shall be made a harmonious part of the architectural design of new construction or major alteration of existing buildings. All signs and street graphics erected within Paradise Township shall conform with the applicable building and zoning codes, the Uniform Construction Code and the following general requirements:

- A. Maintenance -Every sign, including those specifically exempt from permitting and permitting fees, shall be maintained in good repair and in a safe, clean, and attractive condition.
- B. Sign projections -Except as otherwise permitted by this Article, signs shall have no projecting elements greater than three (3) inches.
- C. Clear sight triangle -No sign shall be located within a clear sight triangle as defined in Chapter 131 (Subdivision and Land Development, §131-25(G) or shall otherwise create a traffic visibility hazard.
- D. Signs on private property -No person shall post any sign of any kind upon private property without written permission from the property owner.
- E. Ancillary uses of signs -Except as otherwise permitted in this Article, a sign shall not be employed for purposes other than conveying a written message (e.g., such as a loudspeaker intended to convey spoken messages or attract attention with noise) unless authorized by the Township.

#### **§ 160-83. Sign illumination.**

Sign illumination applies to all signs and street graphics and shall be subject to the following regulations:

- 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 areas within the viewing area of a sign. Glare control shall be in accordance with the recommended practices of the Illuminating Engineering Society of North American (IESNA), unless more restrictive criteria are set forth in this chapter.
  - (1) Illuminated signs shall not create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property. The illumination projected from any use onto a residential use shall at no time exceed one-tenth of one (0.1) foot-candles, measured line-of-sight from any point on the receiving property. The illumination projected from any use onto a commercial use shall at no time exceed one (1.0) foot-candle, measured line-of-sight from any point on the receiving property.
  - (2) Externally illuminated billboards and signs shall have fixtures mounted at the top of the billboard or sign and aimed downward. The fixtures shall be designed, fitted and

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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 foot candles during hours of darkness.

- (3) The light source for internally illuminated signs shall not exceed one thousand (1,000) initial lumens (roughly equivalent to the output of one seventy-five (75) watt incandescent light bulb) per square foot of sign face.
- (4) Off-premises illuminated signs shall be extinguished automatically by a programmable controller by no later than 11:00 p.m. until dawn.
- (5) On-premise signs may be illuminated whenever a business is open plus one-half (1/2) hour prior to opening and one-half (1/2) hour after closing, provided, however, there shall be no restriction on illumination necessary for the security and/or safety of the facility in question and its Premises.

#### B. Color of Light - Signs may display colored light as follows:

- (1) Any sign may display white light in all districts in Paradise Township.
- (2) Signs may display colored light in the B-1, B-2 districts and Master Developments only.
- (3) Such Signs for Commercial activities shall be located at least two hundred (200) feet from the property line of an existing residence.

#### C. The following types of sign and graphic illumination are prohibited in all areas:

- (1) Bare Bulb Illumination.
- (2) Flame Illumination.
- (3) Backlighting of canopies, marquees, and awnings.
- (4) Beacons.

#### D. Indirect Illumination – Indirect illumination of signs is permitted in all areas.

#### E. Internal Illumination -Internal illumination of signs is permitted in B-1, B-2 districts and Master Developments when only the letters, logos, and/or symbols are illuminated.

#### F. Charged Gas Tubes -One (1) neon sign is permitted for uses in the B-1, B-2 districts and Master Developments facing any street toward which it has frontage provided that:

- (1) The Sign is located in a window or door.

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(2) The Sign does not exceed a height of eight (8) feet.

(3) The Sign does not exceed an area of two (2) square feet.

G. Floodlight Illumination – All floodlight illumination shall be from the top of the sign directed downward, and not from the bottom of the sign or the ground directed upward.

#### **§ 160-84. Landscaping for signs.**

All Signs affixed to a sign structure in contact with the ground which require landscaping shall comply with the following:

- A. The sign structure shall be surrounded by a landscaped area equal to not less than fifty (50%) percent of the sign area.
- B. The minimum number of planting units for the landscaped area shall be equal to not less than one (1) planting unit per four (4) square feet of landscaped area. Planting units shall include a mixture of annuals, perennials, shrubs, evergreen and/or shade trees. No less than fifty (50%) percent of the total number of planting units shall be a mixture of perennials, shrubs, evergreen and/or shade trees. No plantings shall include invasive species.
- C. The perimeter of the landscaped island shall be formed from materials such as, but not limited to, stone, brick, decorative concrete block, or landscape timbers.
- D. The area of the landscaped island shall be mulched and maintained as necessary to keep it free of weeds, brush, and deteriorating material.
- E. The proposed landscape plan shall be approved by the Zoning Officer or his/her designee.

#### **§ 160-85. Conformance required.**

- A. No sign, whether new or existing, shall hereafter be erected or altered, except in conformity with the provisions of this chapter. However, notwithstanding any provisions contained herein, the sign must be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety.
- B. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice, specifying the violation, to the named owner of the sign and the named owner of the land upon which the sign is erected, sent to the addresses as stated in the application for the sign permit, to conform or remove such sign. The sign shall thereupon be conformed by the owner of the sign and/or the owner of the land within thirty (30) calendar days from the date of said notice. In the event such sign shall not be



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so conformed within thirty (30) calendar days, the Zoning Officer shall thereupon order that such sign be removed by the owner and/or the named owner of the land on which the sign is located at the expense of the same.

#### **§ 160-86. Nonconforming signs.**

A nonconforming sign erected prior to the effective date of this chapter may be continued provided that said is properly repaired and maintained. Such signs may be temporarily removed for maintenance and repairs, providing they are not enlarged or relocated.

- A. No nonconforming sign shall be allowed to be modified in order to incorporate internal illumination.
- B. No nonconforming sign shall be enlarged, extended, structurally reconstructed or altered in any manner unless the enlargement, extension, reconstruction or alteration will result in fully complying with this Chapter through the elimination of the nonconforming features of the sign.
- C. Normal maintenance of nonconforming signs, including changing of copy, necessary repairs and incidental alterations which do not extend, increase or intensify the nonconforming features of the sign, is permitted.
- D. Nonconforming signs which are relocated or voluntarily replaced shall fully comply with all provisions of this Chapter through elimination of the nonconforming features of the sign.

#### **§ 160-87. Removal of signs:**

- A. Damage or destruction of a sign. A nonconforming sign which is damaged or destroyed may be repaired or restored, provided that the repair or restoration is completed within thirty (30) calendar days after receipt of notice from the Zoning Officer that the same must be removed if it is not repaired or restored within thirty (30) calendar days. The notice shall be sent to the owner of the sign and/or the person owning or having a beneficial interest in or to the structure or premises on which such sign is located. The repaired/restored sign shall not be enlarged, extended nor be nonconforming in any other manner from the sign which was damaged or destroyed. If the sign is not repaired/restored within said thirty-day period, the Zoning Officer is hereby authorized to remove or cause the removal of the sign at the expense of the owner of the sign and/or the person owning or having a beneficial interest in or to the structure or premises on which such sign is located.
- B. Change of use. Whenever a land use changes, any previously conforming sign or signs which are no longer conforming because of the change in land use must be modified so as to be in full compliance with this Ordinance.

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- C. Obsolete signs. Any business, directory, industrial, institutional, professional or home occupation sign, whether existing on or erected after the effective date of the Ordinance, which advertises a business no longer being conducted or a product or service no longer being offered for sale in or from the premises on which the sign is located, shall be removed within thirty (30) calendar days after the cessation of such business or sale of such product or service by the owner of the sign and/or person owning or having a beneficial interest in the structure or premises on which such sign is located. If the Zoning Officer shall find that any such sign has not been removed within thirty (30) calendar days after the cessation of such business or sale, he shall give written notice to the owner of the sign and/or person owning or having a beneficial interest in the structure or premises on which such sign is located to remove the same within ten (10) calendar days of the receipt of such notice. If such sign is not removed by the expiration of such ten-day period, the Zoning Officer is hereby authorized to remove or cause the sign to be removed forthwith at the expense of the owner of the sign and/or person owning or having a beneficial interest in the structure or premises on which such sign is located.
- D. Unsafe signs. If the Zoning Officer determines that any sign is unsafe or insecure or is a danger to the public, he shall give written notice to the owner of the sign and/or person having a beneficial interest in the structure or premises on which such sign is located to correct the condition within ten (10) calendar days after receipt of the notice. If such condition is not corrected by the expiration of said ten-day period, the Zoning Officer is hereby authorized to remove or cause to be removed the sign forthwith at the expense of the owner of the sign and/or person owning or having a beneficial interest in the structure or premises upon which such sign is located. Notwithstanding the foregoing, the Zoning Officer is authorized to remove or cause to be removed any sign summarily and without notice, at the expense of the owner of the sign and/or person owning or having a beneficial interest in the structure or premises on which such sign is located, whenever the Zoning Officer determines that such sign is an immediate peril to persons or property.

## ARTICLE XIV

### **Riparian Buffer Overlay District Adopted 11/19/12, Ordinance No. 204**

#### **§ 160-88. General provisions.**

- A. Short Title: This article shall be known and may be cited as the "Paradise Township Riparian Buffer Rule" which shall govern land use and earth disturbance in all riparian areas unless otherwise exempted herein. This Article shall provide adequate water quality protection and optimal use of private property. This Article does not address water quality protection for projects that require a National Pollution Discharge Elimination System Permit or a Floodplain Management Permit in compliance with Chapter 65 of this Code of Ordinances.
- B. Findings: Paradise Township finds that:

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(1) Certain land uses and/or earth disturbance in close proximity to creeks, streams, rivers, intermittent and/or perennial streams, natural drainage swales, ponds and lakes have the potential to accelerate stormwater runoff, increase flood flows and velocities, accelerate erosion and sedimentation, overtax the carrying capacity of streams, undermine floodplain management and flood control efforts in downstream communities, reduce groundwater recharge, impact surface and groundwater quality and threaten public health and safety.

(2) The potential for certain land uses and/or earth disturbance in close proximity to creeks, streams, rivers ponds and to create these impacts depends on site-specific conditions

(3) These potentially harmful impacts can be mitigated by limiting the extent of any earth disturbance and regulating land uses in a buffer area in close proximity to creeks, streams, rivers, ponds and lakes.

(4) The extent of buffer protection necessary to protect creeks, streams ~~and~~, rivers, ponds and lakes depends on stream order, topography, soil types, existing localized vegetation, and the potential for pollution from surrounding land uses.

#### **§ 160-89. Establishment of Riparian Buffer Overlay District.**

Paradise Township hereby establishes a Riparian Buffer Overlay District as set forth on the "Paradise Township Variable Width Riparian Buffer" map prepared by Borton Lawson Engineering dated August 4, 2010. The location and boundaries of the Riparian Buffer Overlay District are shown on the revised Official Zoning Map of Paradise Township. The methodology used to develop the "Paradise Township Variable Width Riparian Buffer" map, used as the basis for the Riparian Buffer Overlay District is found in "Paradise Variable Width Riparian Buffer" report prepared for the Paradise Township Board of Supervisors by Borton Lawson Engineering dated August 30, 2010 (the "Buffer Report") and incorporated herein as Schedule VI.

The Riparian Buffer Overlay District shall also include intermittent or perennial water courses or natural drainage swales regulated in § 160-21(C)(2) and wetlands and vernal pools regulated in § 160-21(C)(5).

The Riparian Buffer Overlay District is established as an overlay district. The overlay zoning district is a special district with a set of additional regulations that are applied to this geographic area based on specific attributes of the area and the types of uses proposed. A property owner is at liberty to proceed under the basic district requirements only in compliance with these additional regulations.

A. Purpose: The Riparian Buffer Overlay District is established for the following purposes:

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1. To protect and preserve the aquatic health of creeks, streams, rivers, ponds and lakes in the Paradise Creek Watershed.
  2. To filter and thereby reduce the concentration of nonpoint source pollutants reaching surface water resources such as suspended solids, nitrogen, and phosphorous.
  3. To protect from disturbance a variable width buffer based on existing, quantifiable data regarding site-specific soils, slopes, vegetative cover, stream order and existing land uses.
- B. Scope: The Riparian Buffer Overlay District explicitly includes the creeks, streams, rivers, intermittent and/or perennial streams, natural drainage swales, ponds and lakes contained within the buffer area, thereby including floodways in their entirety.

#### **§ 160-90. General standards.**

- A. Construction, earth disturbance, filling, or removal of natural vegetation in the Riparian Buffer Overlay District is limited to horticultural practices used to maintain the health of native vegetation, passive recreation, stormwater conveyances in compliance with Chapter 123, removal of invasive species, and the exempt/permitted activities listed in sub-paragraphs B, C and D below.
- B. Logging exempt from the requirements of §160-12(A)(27) is prohibited in the Riparian Buffer Overlay District. Logging in compliance with §160-12(A)(27) is permitted.
- C. Stream or wetland crossings permitted by the Department of Environmental Protection and/or the US Army Corps of Engineers, stream bank restoration projects permitted by the Department of Environmental Protection and construction permitted in compliance with Chapter 65 (Floodplain Management) are exempt from these provisions.
- D. Any development which requires review and approval of a National Pollution Discharge Elimination System permit is exempt from the requirements of this section, but shall not be exempt from the requirements of Chapter 65 (Floodplain Management).

#### **§ 160-91. Modified riparian buffer.**

- A. An applicant for any land use or earth disturbance within the Riparian Buffer Overlay District shall comply with the requirements of the Paradise Township Riparian Buffer Rule. If an applicant contends that more accurate data is available on which to base a protective buffer, the data shall be submitted to the Township. If no new data is

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provided, or if the data is not accepted by the Township as being more accurate, the buffer will remain as established herein. If the new data is accepted by the Township as being more accurate, the Zoning Officer will use the new data to establish a new buffer area for the project site by applying the formula set forth in the Buffer Report. Nothing shall preclude the Zoning Officer from requesting review and concurrence from the Township Engineer. Data that may be used to establish that a new buffer area is shown to be protective includes the following:

- (1) Pollution potential. Pollution potential is derived from parcel data obtained from the Monroe County Planning Commission and/or the Monroe County Tax Assessors Office. Any asserted change in the land use information from those sources shall include a written affidavit from the current owner of record and authorization for the Zoning Officer to verify the assertion. This affidavit will be sent to the Tax Assessors Office.
  - (2) Buffer slope. Buffer slope is derived from the United States Geologic Survey (USGS) 10 m DEM. The Township will accept new data from a design professional based on a field survey of the project site.
  - (3) Buffer soil type(s). Soil types are derived from the United States Department of Agriculture Soils mapping. The Township will accept new data from a Qualified Wetland Professional.
  - (4) Stream order. Stream order data is from the Pennsylvania Department of Environmental Protection. This data cannot be challenged at the Township level.
  - (5) Buffer vegetative condition. Vegetative cover data is derived from the National Land Cover Dataset (USGS 2005). The Township will accept new data from a design professional accompanied by photographic evidence.
- B. Data sets used as the basis for the Paradise Township Riparian Buffer Overlay District, and the methodology used for computation of the riparian buffer width are from the Buffer Report. Different, more accurate, site-specific data from categories described in Section A, above, may be used to establish a new buffer width. Any modification to the methodology employed with such data to establish a new buffer is prohibited.
- C. Any application for a new buffer area as described above shall be accompanied by an affidavit from a design professional stating that the buffer resulting from use of the new data is at least as protective of water quality and any nearby water resource as the protection afforded by the original data.

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### PARADISE TOWNSHIP ZONING SCHEDULE I REGULATIONS GOVERNING THE USE OF LAND

Key: P = Permitted Use; C = Conditional Use; X = Prohibited Use

Land Use Category	ZONING DISTRICT					
	OSC	RR	R-1	R-2	B-1	B-2
<b>RESIDENTIAL</b>						
Single-family dwelling	P	P	P	P	P	P
Two-family dwelling	P	P	P	P	P	X
Conversion to a two-family dwelling	P	P	P	P	P	X
Multiple dwelling	C	C	C	C	C	X
Accessory dwelling unit	P	P	P	P	P	P
Care facility: Dependent, family or group	C	C	C	C	C	X
Care facility - placement	C	X	X	X	C	C
Group home	C	C	C	C	C	C
Retirement facility	C	C	C	C	C	X
Rooming/boarded home	X	X	X	X	C	C
Mobile home park	X	C	X	X	X	X
PRD	X	X	C	C	C	X
Parsonage	P	P	P	P	P	P
Institutional residence: Convent, monastery, dormitory, fraternity	C	C	C	C	C	C
<b>CULTURAL, ENTERTAINMENT AND RECREATIONAL</b>						
Hunting or fishing club	C	C	C	X	X	X
Outdoor recreation - high impact	C	C	C	X	X	X
Outdoor recreational use	C	C	C	C	C	C
Playground, park, picnic area	C	C	C	C	C	C
Campground	C	C	X	X	X	X
Fraternal, civic or social club	X	X	X	X	C	C
Resort, motel or hotel	C	C	C	C	C	C
Bed-and-breakfast	C	C	C	C	C	C
Cultural facility, including library, museum, art gallery or community center	X	X	X	X	C	C
Indoor theater or indoor recreational use	X	X	X	X	C	C
Zoological park	C	C	X	X	X	X
Wild game/hunting preserve	P	X	X	X	X	X
Riding or boarding stable	P	P	C	C	C	C
<b>SERVICES</b>						
Auto repair, body shop	X	X	X	X	C	C
Automobile dealership	X	X	X	X	C	C
Cellular tower	C	X	X	X	C	C
Cemetery	C	C	C	C	C	C
Community sewage system	C	C	C	C	C	C
Crematory	X	X	X	X	P	P
House of worship	C	C	C	C	C	C
College or school	C	C	C	C	C	C
Correctional facility	X	X	X	X	C	C
Day-care facility	C	C	X	X	P	P
Drive-in/Drive-through facility	X	X	X	X	C	C
Financial, insurance, real estate, business or personal service	X	X	X	X	P	P
Funeral home, mortuary	X	X	X	X	P	P
Gasoline station	X	X	X	X	C	C
Governmental facilities and uses	P	P	P	P	P	P
Hospital or medical clinic	X	X	X	X	P	P
Kennel	C	C	C	C	C	C
Laundromat	X	X	X	X	P	P

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### PARADISE TOWNSHIP ZONING SCHEDULE I REGULATIONS GOVERNING THE USE OF LAND

Key: P = Permitted Use; C = Conditional Use; X = Prohibited Use

Land Use Category	ZONING DISTRICT					
	OSC	RR	R-1	R-2	B-1	B-2
Nursery school	C	C	X	X	P	P
Professional office	X	X	X	C	P	P
Public utility	C	C	C	C	C	C
Repair services, e.g., jewelry, televisions, clock, furniture, shoe	X	X	X	X	P	P
Veterinary or animal hospital	C	C	C	C	C	C
<b>MANUFACTURING</b>						
Concrete or asphalt plant	X	X	X	X	X	C
Food, metals, plastic, chemical, petroleum, etc.	X	X	X	X	X	C
Junkyard or salvage yard	X	X	X	X	X	C
<b>TRANSPORTATION</b>						
Airport or heliport	X	X	X	X	X	C
Bus station, taxi service	X	X	X	X	C	C
Motor freight terminal	X	X	X	X	X	C
Park-and-ride facility	X	X	X	X	X	C
Parking garage	X	X	X	X	P	P
<b>RESOURCE PRODUCTION AND EXTRACTION</b>						
Commercial agriculture includes:						
Animal husbandry; dairy; livestock production	P	P	P	P	P	P
Commercial fishery	X	X	X	X	P	P
Commercial water extraction	C	C	C	C	C	C
Forestry/timbering	P	P	P	P	P	P
Greenhouse or plant nursery	C	C	C	C	C	C
Surface mining	X	X	X	X	X	C
Riding or boarding stable (commercial)	C	C	C	C	C	C
Solar energy system (accessory use)	P	P	P	P	P	P
Solar energy system (primary use)	C	C	C	C	C	C
<b>WHOLESALE AND RETAIL TRADE</b>						
Retail sales	X	X	X	X	P	P
Eating or drinking establishment	X	X	X	X	P	P
Tavern, nightclub or dance hall	X	X	X	X	P	P
Warehouse/storage facility	X	X	X	X	C	C
Flea market	X	X	X	X	C	C
Heavy equipment storage/office	X	X	X	X	C	C
<b>OTHER ENTERTAINMENT/RECREATIONAL USES</b>						
Off-track betting establishment	X	X	X	X	C	C
Antenna	P	P	P	P	P	P
Adult entertainment business	X	X	X	X	X	C
Model airplane facility	X	X	X	X	C	X
Indoor shooting range	X	X	X	X	C	C
Outdoor shooting range	C	C	X	X	X	X
Outdoor go-cart (unrelated to a resort)	X	X	X	X	C	C
Water park/amusement park	X	X	X	X	C	C
<b>OTHER</b>						
Special event, temporary: nonprofit	P	P	P	P	P	P
Special event, temporary: commercial	X	X	X	X	P	P
All accessory structures	P	P	P	P	P	P
Home occupation	P	P	P	P	P	P

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#### **Schedule II Off-Street Parking Spaces**

<b>Type of Use</b>	<b>Number of Required Spaces</b>
<b>Residential</b>	
Single-family detached	2 for each dwelling unit
Single-family attached and multifamily	2 for each dwelling unit, plus 0.25 for each dwelling unit, provided as guest parking
Rooming homes	2, plus 1 for each guest room
Home occupations	2 for each dwelling unit, plus 1 for each nonresident employee, plus 1 for each customer being served at a given time
Group homes	1 for each occupant, plus 1 for each 500 square feet of habitable floor space
Mobile home parks	2 for each rental space, plus 0.25 for each rental space, provided as guest parking
<b>Commercial and Services</b>	
Retail stores	1 for each 150 square feet of customer area, plus 1 for each employee
Professional offices	1 for each 200 square feet of total floor area, plus 1 for each employee
Personal service businesses: barbershops, photo stores, etc.	1 for each 100 square feet of customer area, plus 1 for each employee
Banks and credit unions	1 for each 100 square feet of customer area, plus 1 for each employee



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Auto servicing and repair	3 for each bay, plus 1 for each employee
Auto, furniture or appliance sales	1 for each 300 square feet of sales area, plus 1 for each employee
Funeral homes	1 for each 4 patron seats (or 50 square feet of gross floor area), plus 1 for each nonresident employee
Medical/dental offices and clinics	4 for each practitioner, plus 1 for each employee
Restaurants and taverns	1 for each 3 customer seats, plus 1 for each employee
Drive-in restaurants	1 for each 100 square feet of total floor area, plus 1 for each table or booth, plus 1 for each 2 counter stools, plus 1 for each 2 employees
Self-serve laundromats	1 for each washing or drying machine, plus 1 for each employee
Motels and hotels	1 for each rental unit, plus 1 for each employee
Flea market	3 for each vendor

### Governmental, Institutional and Educational

Churches or other places of worship	1 for each 4 seats, plus 1 for each 100 square feet of meeting room area, plus 1 for each 2 employees
Educational institutions	1 for each 0.8 employee, plus 1 for each 8 students, 16 years of age or older
Nursing or convalescent homes	1 for each 3 beds, plus 1 for each employee and visiting doctor on the peak shift
Hospitals	1 for each 2 beds, plus 1 for each

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### ZONING

employee and visiting doctor on the peak shift

Day-care homes or nursing schools

1 for each 2 classrooms or offices, plus 1 for each employee

Fraternal or civic meeting

1 for each 50 square feet of total halls floor area, plus 1 for each employee

### Industrial and Manufacturing

Manufacturing and industrial

1 for each 2 employees on largest shift, plus 1 for each company based vehicle

Warehousing

1 for each 1,000 square feet of total floor area, plus 1 for each employee

Wholesale store

1 for each 200 square feet of office and customer area, plus 1 for each employee

### Recreational

Private or membership clubs

1 for each 6 members or persons of total capacity, plus 1 for each employee

Bowling alleys

4 for each lane, plus 1 for each employee

Commercial swimming pools

1 for each 4 persons of total capacity, plus 1 for each employee

Golf courses, driving ranges, miniature golf

1 for each 3 persons of total capacity, plus 1 for each employee

Theaters, auditoriums, libraries, skating rinks, stadiums

1 for each 3 seats (bench capacity computed at 20 inches), plus 1 for each employee

Any outdoor recreational use

1 per 3 patrons, plus 1 per employee