

**ARTICLE VIII  
STANDARDS FOR SPECIFIC USES**

**801 Adult Businesses**

**801.1 Findings**

In adopting these standards which apply to adult businesses, the Municipality has made the following findings in regard to the secondary effects on the health, safety and welfare of the citizens of The Municipality. The findings are based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Municipality, and on findings incorporated in the cases of City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Young v. American Mini Theaters, 427 U.S. 50 (1976), and Northend Cinema, Inc., v. Seattle, 585 P.2d 1153 (Wash. 1978), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Saint Paul, Minnesota; Manatee County, Florida; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin Texas; Seattle, Washington; Oklahoma City, Oklahoma; Beaumont, Texas; and New York City, New York; and also on findings found in the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, June 6, 1989, State of Minnesota.

- A. The concern over sexually transmitted diseases is a legitimate health concern which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.
- B. Certain employees of sexually oriented business regulated by this Ordinance as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.
- C. Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this Ordinance as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.
- D. Offering and providing such space, encourages such activities, which create unhealthy conditions.
- E. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- F. At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, non B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.
- G. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- H. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view *adult* oriented films.
- I. Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

- J. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- K. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- L. The Municipality desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime; preserve the quality of life, preserve property values and the character of the surrounding community.

#### 801.2 Intent

It is the intent of this §801 to:

- A. Regulate adult business in order to promote the public health, safety and welfare by minimizing the secondary effects on the community which are associated with such businesses, and which include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution), and drive residents and businesses to move elsewhere.
- B. Designate a zoning district where adult businesses are permitted, and establish reasonable, content neutral standards applicable to such uses.
- C. Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.
- D. Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the U.S. Constitution.
- E. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
- F. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.

#### 801.3 Conditional Use

Adult businesses are classified as conditional uses in certain districts, which provides a suitable area for the development of such uses away from areas designated for residential development.

#### 801.4 Standards

In addition to the other applicable general standards and the conditional use criteria contained in this Ordinance, the following standards shall apply to adult businesses:

- A. Setback - Adult businesses shall not be located less than:
  - 1. One hundred and fifty (150) feet from any public road right-of-way or property line.
  - 2. Five hundred (500) feet from any:
    - a. residence
    - b. group care facility

- c. commercial enterprises catering primarily to persons under eighteen (18) years of age
  - d. public or semi-public building or use
  - e. public park or public recreation facility
  - f. health facility
  - g. any establishment that sells alcoholic beverages;
  - h. place of worship
  - i. public or private school
- B. Similar Businesses - Adult businesses shall not be located within two hundred and fifty (250) linear feet of any existing adult business.
- C. Measurement - The setback distances established in this §801 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.
- D. Enlargement - An existing, lawful nonconforming adult business may be expanded as a conditional use once in total floor area beyond the floor area that lawfully existed in such use at the time of adoption of this provision of the Zoning Ordinance, but only in accord with Article IX of this Ordinance.
- E. Limit of One (1) Use - It shall be a violation of this Ordinance for any person to cause or permit: the operation, establishment, or maintenance of more than one (1) adult business in the same building, structure or portion thereof, or an increase of floor area of any adult business in any building, structure, or portion thereof that contains another adult business.
- F. Nonconformity - Any adult business lawfully operating on the date of enactment of this Ordinance that is in violation of any of the provisions of this §801 shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, altered or extended, except: as permitted in Subsection "E" above. The use may be changed to a conforming use. However, under no circumstances shall a non-conforming use as defined and regulated by this Ordinance be changed to any type of adult business.
- G. Location of New Neighboring Uses -An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant of a conditional use permit, a use from which an adult business is required to provide a setback under Subsection "A" above is developed within the required setback distance. Any additions or expansions of the use shall comply with Subsection "A" above.
- H. Reserved
- I. Visibility and Signs: - No sexually explicit material, signs, display, silhouette or word shall be visible at any time from outside of the building. Exterior signs shall comply with the provisions of Article XI of this Ordinance; however, business identification signs shall be limited to a maximum of twenty (20) square feet and signs attached to the building facade shall be limited to a maximum total of ten (10) square feet. Content of such signs shall be limited to only the text of the name of the business and the hours of operation.
- J. Exemption for Modeling Class: It is a defense to prosecution under this §801 that a person appearing in a state of nudity did so in a modeling class operated:
- 1. By a proprietary school, licensed by the State, or an academically accredited college or university;
  - 2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;
  - 3. In a structure -

- a. which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
  - b. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
  - c. where no more than one (1) nude model is on the premises at any one time; or
4. By an organization which qualifies under §501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

## **802 Reserved**

### **803 Agricultural Uses -- Crop Production and Livestock Operations**

In addition to the other applicable standards of this Zoning Ordinance, agricultural uses shall be subject to the following requirements:

#### **803.1 Crop Production**

Crop production shall be permitted in any district on any size of parcel of land.

#### **803.2 Livestock Operations**

Livestock operations shall be permitted only in those districts as designated on the schedule of uses.

#### **803.3 State Protected Agricultural Operations**

Nothing in this Zoning Ordinance is intended to preclude the rights and protections of bona fide agricultural operations afforded by the Pennsylvania Right To Farm Law, as amended; the Pennsylvania Agricultural Securities Area Law, as amended; and other applicable state statutes. Such rights and protections, in terms of limiting the application of the standards in this Zoning Law, shall be afforded to such uses of land which meet the minimum definition of agricultural use as established by the applicable state statute.

#### **803.4 Manure Odors**

Because the Municipality is a rural/agricultural area with many farms, the spreading of manure shall not be considered an offensive odor and shall be exempt from §701.10; however, this exemption shall not apply to sewage sludge or concentrated animal feeding operations.

## **804 Reserved**

### **805 Amusement Parks**

Amusement parks are classified as conditional uses in certain districts and in addition to all other applicable standards of this Ordinance, amusement parks shall be subject to the following standards.

#### **805.1 Parcel Size**

A minimum parcel of five (5) acres shall be required.

#### **805.2 Structure Height**

No ride, structure or other amusement attraction shall be located closer to any setback line than the height of said ride, structure or amusement.

#### **805.3 Hours of Operation**

Hours of operation shall be limited to the period between 9:00 a.m. and 11:00 p.m.

**806 Animals, Keeping of**

TABLE 806 LOT SIZE AND SETBACKS FOR KENNELS AND STABLES					
Type of Use (In Districts Where Permitted)	Minimum Lot Size* (acres)	Number of Horses Permitted	Property Line Setback (ft)	Road** Setback (ft)	Existing Building*** Setback (ft)
Private Stables in RA and CI Districts	not regulated				
Private Stables in R and VC Districts	2	2 horses plus 1 horse per each additional full acre	50	50 (see §806.2,E)	100
Commercial Stables, Horses for Hire	5	not regulated	100	75 (see §806.3,E)	100
Kennels	2	not applicable	75	75	200
*The required minimum lot size for the principal structure is included in the minimum lot size for the stable/kennel. **Applies to any public or private road right-of-way. ***Applies to any existing principal residential or commercial building not located on the project premises.					

**806.1 Kennels**

Kennels are considered conditional uses in certain districts and shall be subject to §1208 of this Ordinance and the following conditions:

- A. Minimum Parcel Size - Two (2) acres.
- B. Setbacks - Any structure, outdoor kennels, or animal exercise areas used for the keeping of dogs shall meet the setbacks on Table 806.
- C. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance with one space for each non-resident employee and one (1) space per four (4) dogs kept on the premises.
- D. Noise Barrier - A noise barrier consisting of a solid fence not less than six (6) feet in height or a dense vegetative planting of not less than six (6) feet in height shall be provided at a distance not to exceed fifteen (15) feet and fully encircling all kennel areas or animal exercise areas not enclosed in a building.
- E. Hours Outdoors - All animals shall be restricted from using kennel areas not fully enclosed in a building from dusk to 8:00 A.M.
- F. Wastes - All waste materials generated on the premises shall be disposed of at a PA DEP-approved facility, and a detailed plan for the same shall be included with the zoning application. In any case, all animal wastes shall be stored in water-tight containers in an area meeting the setbacks in §806.1,B until disposed of and proof of such disposal shall be provided to the Municipality.
- G. Nuisances - The kennel shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property.

**806.2 Stables, Private**

Private stables are permitted as an accessory use to a single-family residence in accord with the Schedule of Uses and in the R and VC Districts the following conditions shall apply:

- A. Parcel Size - Two (2) acres.

- B. Number of Horses - Two (2) horses on two-acre minimum plus one (1) horse per each additional full acre
- C. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by adequate fences or other means.
- D. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance.
- E. Setbacks - Any stable building or corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or manure storage shall meet the setbacks on Table 806. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback. However, no setback shall be reduced in violation of other Ordinance requirements.
- F. Existing Structures - On parcels meeting the minimum parcel size requirement, the use of an existing structure for housing of horses which does not meet the required setbacks on Table 806 may be permitted as a conditional use provided the applicant can document that no nuisances will be created due to noise, odor or other factors; and, the Municipality can establish adequate conditions to assure the same.
- G. Uses Permitted - The following types of uses shall be permitted as part of the operation:
  - 1. Breeding, raising, keeping and sale of horses, and necessary buildings and structures.
  - 2. Training of horses, and necessary buildings and structures for training.
  - 3. Boarding of horses.

#### 806.3 Stables, Commercial and Horses for Hire

Commercial stables, including horses for hire, shall, in addition to all other applicable requirements of this Ordinance, comply with the following requirements:

- A. Parcel Size - A minimum parcel of five (5) acres shall be required and a single-family residence for the owner or manager shall be permitted on the premises provided all other Sections of this Ordinance and other applicable standards are met.
- B. Number of Horses - Not regulated.
- C. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by fences or other means.
- D. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance with one space provided for each non-resident employee and one (1) space per two (2) horses kept on the premises
- E. Setbacks - Any stable building or corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or manure storage shall meet the setbacks on Table 806. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback
- F. Nuisances; Manure Management - The operation of the stable shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property, and the applicant shall provide a plan for soil erosion and sedimentation control and manure management for approval by the Municipality.
- G. Uses Permitted - The following types of uses shall be permitted as part of the horse farm operation:

1. Breeding, raising, keeping and sale of horses, and necessary buildings and structures.
2. Training of horses, and necessary buildings and structures, including facilities for training only, which are set back in accord with Table 806..
3. Boarding of horses, and necessary buildings and structures.
4. The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests.
5. Sale of horses other than the horses raised or boarded on the premises.
6. Retail sales of any goods or merchandise which are incidental and accessory to the stable use.

#### 806.4 Zoos, Menageries, and Wild and Exotic Animals

No individual other than a registered veterinarian in the course of his professional duties, or a licensed falconer who keeps and maintains only his own birds, is permitted to maintain, keep or possess within the Municipality any wild or exotic animal except in an approved menagerie or zoo. Menageries and zoos shall, in addition to all other applicable requirements of this Ordinance, comply with the following requirements:

- A. A minimum parcel size of five (5) acres shall be required.
- B. All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained.
- C. The permit holder shall use every reasonable precaution to assure that the animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any means.
- D. Animals which are enemies by nature or are temperamentally unsuited shall not be quartered together or so near each other as to cause the animals fear or to be abused, tormented or annoyed.
- E. The permit holder shall maintain the premises so as to eliminate offense odors or excessive noise.
- F. The permit holder shall not permit any condition causing disturbance of the peace and quiet of his neighbors.
- G. Animals must be maintained in quarters so constructed as to prevent their escape. The permit holder assumes full responsibility for recapturing any animal that escapes from his premises. The permit holder shall make adequate provisions and safeguards to protect the public from the animals.
- H. The operation shall conform to all applicable local, state and federal laws and regulations
- I. Any building, corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or animal waste storage shall not be located within one hundred twenty-five (125) feet of any adjoining property line and one hundred (100) feet from any public or private road right-of-way.
- J. The applicant shall provide for adequate disposal of all waste materials generated on the premises, and a detailed plan for the same shall be included with the zoning application.

#### **807 Reserved**

#### **808 Bulk Fuel Storage Facilities**

In addition to all other applicable standards, bulk fuel storage facilities shall be subject to the specific regulations and requirements in this section and shall be permitted only in those districts as specified in the Schedule of Uses. The

Municipality shall establish, as part of the conditional use process, such other conditions such as increased setbacks and construction of dikes as necessary to protect the public health safety and welfare.

#### 808.1 Parcel Size

Bulk fuel storage facilities shall be located on a tract of land not less than five (5) acres in area.

#### 808.2 Setbacks

Storage tanks shall be located not less than one hundred and fifty (150) feet from any property line or any road or street right-of-way line. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located not less than two hundred (200) feet from any property line and not less than one hundred fifty (150) feet from any road or street right-of-way line.

#### 808.3 Fence

The total tank storage area shall be entirely fenced with an eight (8) foot high industrial type security fence or have an equivalent protection barrier approved by the Municipality.

#### 808.4 Other Regulations

Bulk fuel storage facilities shall be developed in complete compliance with all applicable local, state, federal and insurance regulations and requirements and the applicant shall provide documentation confirming compliance.

### **809 Commercial Communication Devices**

The following regulations shall apply to commercial communication devices (CCD) including but not limited to, cellular phone antennae, antennae for communication service regulated by the PA Public Utility Commission and/or the Federal Communications Commission, and other commercial antennae and associated facilities. Such CCD and support structure and associated facilities shall be permitted only in the districts as provided in this §809 and the Schedule of Uses.

#### 809.1 Purposes

- A. To accommodate the need for communication devices while regulating their location and number in the Municipality in recognition of the need to protect the public health, safety and welfare.
- B. To minimize the adverse visual effects of communication devices and support structures through proper design, siting and vegetative screening.
- C. To avoid potential damage to adjacent properties from communication device support structure failure and falling ice, through engineering and proper siting of support structures.
- D. To encourage the joint use of any commercial communication device support structures and to reduce the number of such structures needed in the future.

#### 809.2 Permits; Use Regulations

A permit shall be required for every CCD and support structure installed at any location and the following use regulations shall apply:

- A. Existing Tall Structures - A CCD site with a CCD that is attached to an existing communications tower, smoke stack, water tower, or other tall structure where the height of the CCD does not exceed the height of the existing structure by more than twenty (20) feet shall be permitted in all districts as an accessory use and conditional use approval shall not be required. Any subsequent installations above the initial twenty-foot height increase shall be a conditional use. The applicant shall provide the following information:

1. Evidence from a Pennsylvania registered 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.

2. Detailed construction and elevation drawings indicating how the antennas will be mounted on the Structure for review by the Municipality for compliance with the applicable requirements.
  3. Evidence of recorded agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the CCD and associated equipment can be accomplished.
- B. New Structures and CCD Exceeding Twenty Feet on Existing Structures - A CCD site with a CCD that is either not mounted on an existing structure, or is more than twenty (20) feet higher than the structure on which it is mounted shall be permitted only in those districts specified in the Schedule of Uses and shall require conditional use approval in accord with this §809.
- C. Associated Use - All other uses ancillary to the CCD (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the CCD site, unless otherwise permitted in the zoning district in which the CCD site is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the CCD.
- D. CCD as a Second Principal Use - A CCD shall be permitted on a property with an existing use subject to the following land development standards:
1. The CCD facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
  2. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the CCD and support structure shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
  3. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  4. The applicant shall present documentation that the owner of the property has granted an easement filed of record or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

### 809.3 Standards

- A. Location Requirement and Number - The applicant shall demonstrate to the satisfaction of the Municipality, using technological evidence, that the CCD and support structure must go where it is proposed, in order to satisfy its function in the company's grid system. The number of CCD to be installed at a site by an applicant may not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by that applicant. The applicant shall provide information on the general location of other towers/sites planned for the region.
- B. Collocation; New Tower - If the applicant proposes to build a tower (as opposed to mounting the CCD on an existing structure), the Municipality may require the applicant to demonstrate that it contacted in writing the owners of tall structures within a five-mile radius of the site proposed, asked for permission to install the CCD on those structures, and was denied. This would include smoke stacks, water towers, tall buildings, CCD support structures of other cellular phone companies, other communications towers (fire, police, etc.) and other tall structures. The Municipality may deny the application to construct a new tower if the applicant has not made a

good faith effort to mount the CCD on an existing structure thereby documenting that there exists no other support structure which can reasonably serve the needs of the owner of the proposed CCD. A good faith effort shall demonstrate that one (1) or more of the following reasons apply to a particular structure:

1. The proposed equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
  2. The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
  3. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  4. Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the federal communications commission governing human exposure to electromagnetic radiation.
  5. A commercially reasonable agreement could not be reached with the owners of such structures.
- C. CCD Height - The applicant shall demonstrate that the CCD does not exceed the minimum height required to function satisfactorily and provide adequate height for five (5) service providers. The Municipality may require the tower to be designed and constructed to be *stackable* (structurally capable of being increased in height) so that additional antennae arrays can be accommodated in addition to the arrays on the original tower to facilitate future collocation. CD equipment buildings shall comply with the accessory structure height limitations of the applicable zoning district. The Municipality may require *stealth* design (typically resembling a common tree) to ensure that the CCD is compatible with the surrounding landscape.
- D. Setbacks - If a new CCD support structure is constructed (as opposed to mounting the CCD on an existing structure) or if the CCD height exceeds the height of the existing structure on which it is mounted by more than twenty (20) feet, the minimum setbacks in this §§D shall apply.
1. Separate Parcel - If the parcel on which the CCD and support structure is a separate and distinct parcel, the distance between the base of the support structure and any adjoining property line shall not be less than the height of the CCD structure. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet.
  2. Lease, License or Easement - If the land on which the CCD and support structure is leased, or is used by license or easement, the setback for any part of the CCD, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement. In any case, the distance between the base of the support structure and any adjoining property line (not lease, license or easement line) shall not be less than the height of the CCD structure.
- E. CCD Support Structure Safety - The applicant shall demonstrate that the proposed CCD and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency or emergency communications interference. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed CCD and support structure 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 and applicable requirements of any applicable building code. Within forty-five (45) days of initial operation, the owner and/or operator of the CCD and support structure shall provide a certification from a Pennsylvania registered professional engineer that the CCD and support structure comply with all applicable

regulations.

- F. Fencing - A fence shall be required around the CCD support structure and other equipment, unless the CCD is mounted on an existing structure. The fence shall be a minimum of eight (8) feet in height.
- G. Landscaping - Landscaping may be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the CCD and support structure site from neighboring properties. The Municipality may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping. If the CCD is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
- H. Collocation; Other Uses - In order to reduce the number of CCD support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including but not limited to other cellular phone companies, and local fire, police, and ambulance companies. The applicant shall provide evidence of written contact with all wireless service providers who supply service within the Municipality for the purpose of assessing the feasibility of co-located facilities. The proposed structure, if evidenced by need as determined by the Municipality, shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.
- I. Licenses; Other Regulations; Insurance - The applicant must demonstrate that it has obtained the required licenses from the Federal Communications Commission, the PA Public Utility Commission and other agencies. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the CCD; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the CCD and support structure.
- J. Access - The Applicant shall provide and maintain access to the CCD and support structure by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length.
- K. Color and Lighting; FAA and PA DOT Notice - CCD support structures under two hundred (200) feet in height should be painted silver or have a galvanized finish retained, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures two hundred (200) feet in height or taller, those near airports, or those which are otherwise subject to Federal Aviation Administration (FAA) regulations shall comply with the said regulations. No CCD support structure may be artificially lighted except in accord with Federal Aviation Administration requirements. The applicant shall provide a copy of the response to *Notice of Proposed Construction or Alteration* forms submitted to the FAA and PA DOT Bureau of Aviation, and the CCD and support structure shall comply with all FAA and PA DOT requirements.
- L. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished.
- M. Historic Structures - A CCD shall not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.
- N. Discontinued Use - Should any CCD or support structure cease to be used as a communications facility, the owner or operator or then owner of the land on which the CCD and support structure is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Municipality to remove the facility and assess the cost of removal to the foregoing parties. The Municipality may

also require a financial guarantee for the removal of the structure, such guarantee in an amount deemed adequate by the Municipality and in a form approved by the Municipality Solicitor.

- O. Fire Suppression System - The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the CCD.
- P. Site Plan - A full site plan shall be required for all CCD and support structure sites, showing the CCD, CCD support structure, building, fencing, buffering, access, and all other items required in the Subdivision and Land Development Ordinance. The site plan shall not be required if the CCD is to be mounted on an existing structure and the CCD does not exceed the height of the existing structure by more than twenty (20) feet.
- Q. Review Fees - The Applicant shall pay all professional costs incurred by the Municipality for review of structural, radio frequency and other technical aspects of the proposal, and shall deposit with the Municipality an amount deemed adequate by the Municipality to cover the anticipated costs. Should the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

### **810 Concentrated Animal Feeding Operations (CAFO)**

Concentrated animal feeding operations are permitted as conditional uses in the RA District only and in addition to all applicable requirements of this Ordinance, shall comply with all state and federal regulations. CAFO applicants and operators shall provide copies of all state and federal applications, reports and other required documents to the Municipality/Borough concurrently with submission to and immediately following receipt from governing state and federal agencies.

### **811 - 812 Reserved**

### **813 Detention Facilities**

In addition to all other applicable standards, detention facilities shall be in strict conformity with the following specific requirements and regulations and shall be permitted only in those districts as specified in the Schedule of Uses.

#### **813.1 Parcel Size**

In order to provide an adequate buffer area for adjoining private property owners the site shall contain a minimum of ten (10) acres.

#### **813.2 Site Design Standards**

The site shall be improved in accordance with the following minimum requirements:

- A. The building and all secure areas shall not be less than two hundred (200) feet from any property line and the right-of-way line of any abutting public road, and one thousand (1,000) feet from any:
  - 1. residence
  - 2. group care facility
  - 3. commercial enterprises catering primarily to persons under eighteen (18) years of age
  - 4. public or semi-public building or
  - 5. public park or public recreation facility
  - 6. health facility
  - 7. church or synagogue
  - 8. public or private school
- B. A perimeter security fence, of a height and type determined by the Municipality, may be required.

### 813.3 Security

All applications for institutions shall include a plan addressing security needs to protect the health and safety of the public as well as residents of the proposed facility. Such plan shall include a description of the specific services to be offered, types of residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.

### 813.4 Accessory Uses and Ancillary Activities

Accessory uses permitted in conjunction with an institution shall include laboratories, offices, snack bars, educational facilities and programs, vocational training facilities and programs, recreational and sports facilities and other accessory uses ordinarily provided in conjunction with such institutions.

### 813.5 State and Federal Regulations

The Applicant shall provide documentation of compliance with all applicable state and federal regulations governing the proposed detention facility.

## **814 - 819 Reserved**

### **820 Junk Yards**

Junk yards shall be permitted only in those districts as specified in the Schedule of Uses and, in addition to the standards in Article VII, §1208 and other applicable regulations, shall comply with the following requirements:

#### 820.1 Reserved

#### 820.2 Property Owner Responsibility

It shall be the ultimate responsibility of the property owner of the premises upon which any junk is situated and the owner of any such junk to comply with this Ordinance; and to provide for the removal of such junk and remediation of any environmental problems associated with any junk.

#### 820.3 Operating Standards

All existing and proposed junk yards licensed under the provisions of this Ordinance shall be established, maintained, and operated in accord with the following standards:

- A. Federal and State Regulations - Any junk yard located adjacent to a Federal Aid Highway shall comply with all regulations of the Federal Highway Administration, and all junk yards shall meet the licensing and screening requirements of the Commonwealth of Pennsylvania.
- B. Fencing - All junk yards shall be completely enclosed by a chain link fence not less than eight (8) feet in height. All fences and gates shall be maintained in good repair and in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence. The foregoing fencing provisions shall be applicable only to that portion of the premises being immediately used for the storage of junk and shall not be applicable to the balance of the property owned or used by said junk yard operator so long as said remaining portion of land is not being used for the storage of junk as defined in this Ordinance.
- C. Screening - All junk yards shall be screened, to the satisfaction of the Municipality, from any adjoining or neighboring property, any public road right-of-way, or any other premises; and, natural vegetative cover shall be maintained in all required setback areas. Vegetative plantings of sufficient height and density, berms, topography or fencing of such design may be used to effect the required screening as determined by the Municipality. All

screening shall be maintained in such fashion as to continue to provide the required screening.

- D. Setbacks - The fence enclosing any junk yard and any structures associated with the junk yard shall be located not less than one hundred (100) feet from any public road right-of-way, one hundred (100) feet to any property line or one hundred and fifty (150) feet from any principal residential or commercial structures not on the junkyard premises and existing at the time of adoption of this Ordinance. The requirements of this §D shall not apply to junk yards existing prior to the effective date of this Ordinance and which fully complied with prior Municipal regulations applicable to junk yards. However, the expansion of any such existing junk yard into an area already not used for the storage of junk shall comply with this §D.
- E. Dumping - The area used for a junk yard shall not be used as a dump area for any solid waste as defined by this Ordinance.
- F. Burning - No burning shall be permitted on the premises except in accord with local, state and federal regulations.
- G. Water Bodies - No junk yard shall be located less than two hundred (200) feet from any body of water, stream, wetland or well.
- H. Hazardous Materials - In cases where the junk yard includes ten (10) or more junk vehicles or where the Municipality deems it necessary to meet the intent of this Ordinance, and to further protect ground water and surface water, all batteries, coolants, gasoline, diesel fuel, engine oil, any other petroleum products and any other noxious or potentially contaminating materials must be removed from all junk within two (2) working days after arrival to the premises and shall be disposed of in a manner meeting all state and federal requirements. Such liquids and materials, while stored on the premises, shall be kept separately in leak-proof containers at a central location on the premises.
- I. Water Quality - In cases where the junk yard includes ten (10) or more junk vehicles or where the Municipality deems it necessary to meet the intent of this Ordinance, the owner of any junk yard shall be required to monitor the ground and surface water in the vicinity of the junk yard. Water testing shall be conducted every three (3) months on any stream located on the premises or any stream within five hundred (500) feet of any area used for the storage of junk if water drainage from the junk yard area is to said stream. For each testing period two (2) samples shall be collected; one sample shall be taken from the stream at a point upstream of the junkyard drainage area and one sample shall be taken from the stream at a point below the junk yard drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Municipality, and results shall be provided to the Municipality. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the junkyard shall cease operation until such time as the source of the contamination has been identified and corrected in accord with DEP requirements.
- J. Fire Lanes - Fire lanes of a minimum width of twenty (20) feet shall be maintained so that no area of junk shall span a distance of more than fifty (50) feet.
- K. Hours of Operation - Any activity associated with the operation of the junk yard that produces any noise audible beyond the property line shall be conducted only between the hours of 7:00 a.m. and dusk. During business hours, an adult attendant shall, at all times, remain on the premises.
- L. Stacking of Junk - Junk vehicles or major parts thereof shall not be stacked on top of any other junk vehicle or major part. No junk shall be stacked or piled to a height of greater than six (6) feet.
- M. Nuisances - All premises shall, at all times, be maintained so as not to constitute a nuisance, or a menace to the health, safety, and welfare of the community or to the residents nearby, or a place for the breeding of rodents and vermin. Within two (2) days of arrival on the premises, all glass shall be removed from any broken windshield,

window or mirror, and all trunk lids, appliance doors and similar closure devices shall be removed. Grass and weeds on the premises shall be kept mowed.

- N. Waste - Waste shall not be stored outside and shall not be accumulated or remain on any premises except temporarily awaiting disposal in accord with this Ordinance. No junk yard shall be operated or maintained in violation of any state or federal regulations governing the disposal of any solid or liquid waste.
- O. Fireproof Structures - Every structure erected upon the premises and used in connection therewith shall be of fireproof construction.

## **821 - 824 Reserved**

### **825 Mineral Extraction**

#### 825.1 Findings; Pennsylvania Municipalities Planning Code

The Pennsylvania Municipalities Planning Code clearly recognizes mineral extraction as a lawful use. Along with other community effects, such uses can have impacts on water supply sources and are governed by state statutes that specify replacement and restoration of affected water supplies. Planning Code §603(I) states that *zoning ordinances shall provide for the reasonable development of minerals in each municipality*. The Code definition of minerals is: *Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas*. The Code, at §603(b) allows zoning ordinances to regulate mineral extraction, but only to the extent that such uses are not regulated by the Pennsylvania Surface Mining Conservation and Reclamation Act, the Noncoal Surface Mining Conservation and Reclamation Act, and the Oil and Gas Act

#### 825.2 Intent

The intent of this section is to ensure the Municipality is supplied with all necessary information for making an informed decision about the proposed mineral extraction and, in the case of conditional uses, to establish the foundation for any conditions required to protect the public health, safety and general welfare.

#### 825.3 Mineral Extraction Use Classification; Mineral Processing a Separate Use

Mineral extraction shall be permitted only in those Districts as listed in the Schedule of Uses in accord with the following:

- A. Mineral Extraction as a Conditional Use - The following types of mineral extraction, as defined and regulated by the Pennsylvania Department of Environmental Protection (DEP), shall be considered conditional uses:
1. Any Noncoal Surface Mining Activity which requires a *large license/small permit* or a *large license/large permit* from DEP.
  2. Any Underground Noncoal Mining Activity
  3. Any oil or gas well..
- B. Mineral Extraction as a Principal Permitted Use - The following types of mineral extraction, as defined and regulated by the Pennsylvania Department of Environmental Protection (DEP), shall be considered principal permitted uses:
1. Any Noncoal Surface Mining Activity, which requires a *small license/small permit* from DEP.
  2. Other mineral extraction activities which are not classified as conditional uses.

C. Mineral Processing (See also §826.)

1. Separate and Distinct Use; Conditional Use in CI District - Any use which involves the refinement of minerals to specifications for sale including, but not limited to, the crushing, screening, cutting, sawing, washing, grading, refinement or purification of minerals; and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of stone, concrete and clay products, shall be considered mineral processing, which is a separate and distinct use regulated by this Zoning Ordinance as a conditional use in the CI District.
2. Incidental with Extraction Operation - This shall not preclude the incidental screening, washing, crushing and grading of materials originating on the site as part of a mineral extraction operation.
3. RA District - In the RA District, mineral processing shall be permitted only in association with a conforming mineral extraction operation. Mineral processing may be included as part of the initial conditional use application for new mineral extraction operations where required. In the case where mineral processing is proposed on the site of an existing mineral extraction operation, a separate conditional use application shall be required.

825.4 Standards; Setback; Buffer

In addition to the performance standards in §701 and all other applicable standards of this Ordinance which are not preempted by state statute, mineral extraction operations shall comply with the following:

- A. Setback - A setback of one hundred (100) feet shall be maintained between any mineral extraction operation and adjoining properties (unless reduced by mutual agreement of the adjoining owners) and public road rights-of-way.
- B. Undisturbed Buffer - The required setback areas shall be undisturbed to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads.
- C. Conditional Use Buffers - In determining the type and extent of the buffer required for conditional uses, the Municipality shall take into consideration the design of any project activities and/or structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
  1. If required, the landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide.
  2. Buffers shall be designed in accord with §701.1 of this Ordinance and the design details shall be included on the site plan. Buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Municipality Subdivision and Land Development Ordinance.
  3. It shall be the responsibility of the property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- D. Other Conditions of Approval - If the Municipality determines that the standards in §701 which are not preempted are not adequate, the Governing Body shall attach such other conditions deemed necessary to protect the public health, safety and welfare, provided the conditions do not include requirements which are preempted by state statute. Such conditions may be related to hours of operation, more stringent noise control, outdoor operations and storage, lighting and glare, stormwater management, security, and other necessary safeguards.

825.5 Local, State and Federal Regulations

Mineral extraction operations shall comply with all applicable local, state and federal laws and rules and regulations.

No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations. Applicable laws and rules and regulations include, but are not limited to, the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law.

#### 825.6 Informational Requirements

The applicant shall provide:

- A. Application Information - The information required by this §825, §1202.3,C, and all other necessary information to enable the Municipality to assess compliance with this Ordinance.
- B. DEP Application Information - A copy of all applications and information required by the applicable DEP Rules and Regulations.

#### 825.7 Reporting Requirements

For any mineral extraction operation approved by the Municipality, the operator shall submit to the Municipality copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

#### 825.8 Expansion of Nonconforming Mineral Extraction Operations

Mineral extraction operations which are nonconforming by location in a zoning district where such operations are not allowed by the Schedule of Uses may expand to the limits of the DEP permit in effect at the time the operation became nonconforming. Any such expansion shall comply with the requirements of this §825.

### **826 Mineral Processing**

Mineral processing is considered a conditional use in the CI District; and, in the RA District, mineral processing shall be permitted only as a conditional use in association with a conforming mineral extraction operation. In addition to the performance standards in §701 and all other applicable standards of this Ordinance, the requirements of this §826 shall apply.

#### 826.1 Location Requirements

Mineral processing operations shall comply with the following location requirements:

- A. Setbacks - The following setbacks shall be maintained for any mineral processing operation:
  1. Property Lines, Road rights-of-Way - Two hundred (200) feet to adjoining properties and public road rights-of-way.
  2. Residential Structures - Three hundred (300) feet to any existing residential structure not located on the project parcel.
  3. Water Bodies - Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland.
- B. Buffer
  1. An undisturbed area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads. In determining the type and extent of the buffer required, the Municipality shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
  2. Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and

other vegetation and shall be a minimum of twenty-five (25) feet wide.

3. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.
4. It shall be the responsibility of the property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

#### 826.2 Local, State and Federal Regulations

All operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

#### 826.3 Informational Requirements

The applicant shall provide the information required by this §826.3 and all other necessary information to enable the Municipality to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Municipality based on this information shall serve as a basis for the establishment of conditions of approval in accord with §1208.4 of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code. The Applicant shall provide the following:

- A. Application Information - The information required by this §826, §1202.3,C, and all other necessary information to enable the Municipality to assess compliance with this Ordinance.
- B. DEP Application Information - A copy of all applications and information required by the applicable DEP Rules and Regulations.

#### 826.4 Reporting Requirements

For any mineral processing operation approved by the Municipality, the operator shall submit to the Municipality copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

### **827 - 840 Reserved**

#### **841 Self-Storage Facilities**

Self-storage facilities shall be permitted only in those districts as specified in the Schedule of Uses and shall comply with the following standards in addition to all other applicable standards of this Ordinance.

##### 841.1 Bulk Requirements

Minimum lot size, lot width and yards, and maximum lot coverage and building height shall conform to district standards. Minimum distance between buildings shall be twenty (20) feet.

##### 841.2 Setback Areas

There shall be no storage, use or structure within the setback area, with the exception of the access drive(s).

##### 841.3 Reserved

##### 841.4 Habitation

No storage unit shall be used for habitation or residential purposes and individual mini-warehouse units shall not be served by a water supply or a sewage disposal system.

##### 841.5 Storage Limitations

No storage unit shall be used for any other purpose except storage and shall not be used for any other type of commercial or manufacturing activity. No material, supplies, equipment or goods of any kind shall be stored outside of the warehouse structure, with the exception of the vehicles required for the operation of the warehouse and boats and recreational vehicles and trailers.

#### 841.6 Lighting

All facilities shall be provided with adequate outdoor lighting for security purposes; and such lighting shall be so directed as to prevent glare on adjoining properties.

#### 841.7 Fire - Water Damage

All storage units shall be fire-resistant and water-resistant.

#### 841.8 Materials Stored

All self-storage facilities shall prohibit the storage of hazardous and explosive materials and all proposals shall include detailed information on the nature of materials to be prohibited on the premises. Proposed space rental agreements shall be submitted with the conditional use application and shall provide specific rules and regulations to insure that the requirements of this §841 are or will be satisfied.

### **842 to 843 Reserved**

#### **844 Shooting Ranges and Archery Ranges -- Outdoor Commercial**

This §844 is intended to provide minimum standards to regulate commercial outdoor shooting ranges and commercial outdoor archery ranges (hereinafter referred to as *ranges*) in order to protect neighboring property owners and the public at large from dangers of wild or ricocheting projectiles and from excessive noise and other nuisances. Such ranges shall be permitted only in those districts as specified in the Schedule of Uses.

##### 844.1 Setbacks

- A. All outdoor shooting ranges shall be situated not less than five hundred (500) feet from any property line and any public road right-of-way.
- B. All outdoor archery ranges shall be situated not less than two hundred (200) feet from any property line and not less than three hundred (300) feet from any principal residential or commercial structure existing on the effective date of this §844. This shall not apply to structures on the same parcel as the shooting range.

##### 844.2 Safety Design

All ranges shall be designed and constructed with safety facilities to prevent accidental wild or ricocheting projectiles and stray arrows, and the Municipality may require such additional safety features deemed necessary to meet the intent of this §844. Such features may include but not be limited to increased setbacks, earthen berms and setbacks, range orientation, and a limitation of hours of operation.

##### 844.3 Noise Reduction

All ranges shall be designed and operated to minimize any noise created by the facility and shall at a minimum comply with the requirements of §701 of this Ordinance unless more restrictive standards are required by the Municipality as a condition of approval.

##### 844.4 Hours of Operation

No firearm shall be discharged outdoors between the hours of 9:00 P.M. and 9:00 AM prevailing local time. However, the Municipality may establish more restrictive time limits as a condition of approval.

##### 844.5 Fence

Security fencing may be required by the Municipality of such extent and design to restrict accidental access to any

range.

#### 844.6 Posting

A three hundred (300) foot perimeter around any outdoor range shall be posted with warning signs to adequately inform anyone entering the area.

#### 844.7 NRA, State and Federal Regulations

The applicant shall provide evidence of compliance with any applicable National Rifle Association guidelines and state and federal regulations.

### **845 Shopping Centers, Malls, and Multiple Occupant Commercial Establishments**

It is the intent of this §845 to provide standards for the flexibility of design of shopping centers and malls, and multiple occupant commercial establishments, (referred to as *multiple occupant commercial establishments*) while at the same time to assure the compatibility of the commercial development with the surrounding character of the Municipality. This shall be accomplished by:

- A. Siting buildings, parking areas and other facilities and improvements based upon the particular topography of development site;
- B. Designing buildings with consideration of architectural style and type of construction material in keeping with the surrounding landscape and development pattern;
- C. Providing safe and convenient vehicle and pedestrian access from the public right-of-way based on the existing area-wide traffic circulation pattern and the expected traffic generated by the proposed use;
- D. Designing parking areas to complement patterns of traffic and pedestrian flow and to provide adequate off-street parking for shopping center patrons;
- E. Maintaining to the greatest extent possible natural vegetation and provide landscaping as an integral part of the overall design of the proposed use and parking areas;
- F. Considering the impact of storm water, noise, traffic and lighting on surrounding land uses and providing buffers to minimize adverse impacts;

#### 845.1 Conditional Use and Land Development

Any proposed multiple occupant commercial establishment shall be considered a conditional use, and in addition to the other applicable requirements of this Ordinance, shall be subject to the requirements of this §845.

Said proposal shall also be considered a "land development" as defined by the Pennsylvania Municipalities Planning Code and the Subdivision and Land Development Ordinance and shall comply in all respects with all the requirements for plan submission and content for land developments contained therein, as well as the information which follows. The Municipality may also require any additional information, studies or reports as it deems necessary to meet the intent of this and other Municipal Ordinances.

- A. Location, widths, and names of all existing or prior platted streets and utility rights-of-way, parks, and other public open spaces, permanent buildings and structures, houses or permanent easements, and municipal boundary lines, within five hundred (500) feet of the tract;
- B. A traffic and pedestrian flow chart showing circulation patterns from the public right-of-way and within the confines of the shopping center.
- C. Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes;

- D. Location, arrangement, and dimensions of automobile parking space, width of aisles, width of bays, angle of parking;
- E. Location, arrangement, and dimensions of truck loading and unloading spaces and docks;
- F. Location and dimensions of pedestrian entrances, exits, walks;
- G. Location, height, and materials of walls, fences, screen plantings, and other landscaped areas.
- H. Preliminary architectural drawings for all buildings;
- I. Location, size, height, and orientation of all signs other than signs flat on building facades;

#### 845.2 Ownership

The site proposed for any multiple occupant commercial establishment shall be held in single ownership or in unified control; and the applicant shall provide to the Municipality evidence of said ownership and/or control.

### **846 to 847 Reserved**

#### **848 Solid Waste**

Solid waste facilities, including transfer stations, and staging areas, herein referred to as facilities, shall be permitted only in those districts as specified in the Schedule of Uses, and shall, in addition to the other applicable standards in this Ordinance, be subject to all applicable state and federal regulations and the requirements of this §848.

##### 848.1 Traffic Study

The applicant shall provide a traffic study in accord with §708 of this Ordinance.

##### 848.2 Yards

No part of any facility created after the effective date of this Ordinance shall be located closer than five hundred (500) feet to an existing public right-of-way, property line or stream. The yard areas shall remain unoccupied with no improvements except required fencing and access road(s). A buffer not less than fifty (50) feet in width shall be provided in all yards in accord with §701 of this Ordinance. Additional buffers and setbacks may be required in accord with this Ordinance.

##### 848.3 Fencing

All facilities shall be completely enclosed by a chain link fence not less than ten (10) feet in height. The erection of said fence shall be completed within six (6) months after the effective date of this Ordinance for existing facilities and prior to the issuance of a certificate -of-use for a new facility. All gates shall be closed and locked when closed for business. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence.

##### 848.4 Environmental Impact Statement

As part of the conditional use process, the Municipality may require the applicant to prepare and submit an Environmental Impact Statement pursuant to §703 of this Ordinance.

##### 848.5 Storage and Loading/Unloading

Storage of materials, supplies or solid waste in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted. Any solid waste stored for more than three (3) hours shall be stored in an enclosed building. For any facility other than a sanitary landfill, all transfer, loading and unloading of solid waste shall only occur within an enclosed building with negative pressure, and over an impervious surface which drains into a holding tank that is then adequately treated.

#### 848.6 Effluent Treatment

The facility shall provide for treatment and disposal for all liquid effluent and discharges generated by the facility due to the storage, loading or unloading, transfer, container or vehicle washing, or other activity undertaken in processing or transporting the solid waste. All such activities shall be conducted only over an impervious surface and all drainage shall be collected for treatment. Any water discharge from the facility after being treated by the wastewater treatment system shall meet all applicable Department of Environmental Protection regulations and Sewer Authority requirements.

#### 848.7 Dangerous Materials

No radioactive, hazardous, chemotherapeutic or infectious materials may be disposed of or stored or processed in any way, except for types and amounts of hazardous substances customarily kept in a commercial business for on-site use. Infectious materials are defined as medical wastes used or created in the treatment of persons or animals with seriously contagious diseases.

#### 848.8 Water Quality

The owner of any facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three months on any stream located on the premises or any stream within five hundred (500) feet of any area used for the storage or disposal of solid waste if water drainage from the facility is to said stream. For each testing period two (2) samples shall be collected; one sample shall be taken from the stream at a point upstream of the solid waste disposal facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Municipality, and results shall be provided to the Municipality. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall cease operation until such time as the source of the contamination has been identified and corrected.

#### 848.9 Emergency Access

The operator of the facility shall cooperate fully with local emergency services. This should include allowing practice exercises on the site and the provision of all information needed by the emergency services to determine potential hazards. Adequate means of emergency access shall be provided.

#### 848.10 Hours of Operation

Under the authority granted to the Municipality under State Act 101 of 1988, all such uses shall be permitted to operate only between the hours of 7:00 a.m. to 7:00 p.m. and are not permitted to operate on Sundays, Christmas Eve, Christmas Day, New Year's Day, 4th of July, Labor Day, Memorial Day or Thanksgiving Day. All deliveries of solid waste shall be made during the hours between 7:00 a.m. to 5:00 p.m. and not on Sundays or the above specified holidays.

#### 848.11 Nuisances

Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors. The applicant shall prove to the satisfaction of the Municipality that the use would not routinely create noxious odors off of the tract. The operator shall regularly police the area of the facility and surrounding street to collect litter that may escape from the facility or truck. The applicant shall provide documentation to the satisfaction of the Municipality that proposed facility shall operate in such a manner as to not create a general nuisance, endanger the public health, safety and welfare or inhibit the public's use or enjoyment of their property.

#### 848.12 Attendant and Inspections

An attendant shall be present during all periods of operation or dumping. The applicant shall, if granted a Conditional Use Permit, allow access at any time to the facility for inspection by appropriate Municipal Officials and provide the Municipality with the name and phone number of a responsible person(s) to be contacted at any time in the event of an inspection.

**848.13 State and Federal Regulations and Reporting**

The operation and day-to-day maintenance of the facility shall comply with all applicable State and Federal regulations as a condition of the continuance of any permit of the Municipality. Violations of this condition shall also be considered to be violations of this Ordinance. All solid waste transfer facilities (as defined by this Ordinance) shall be subject to all requirements of 25 PA Code Chapter 279 (as amended) Transfer Facilities, regardless of whether a permit pursuant to said requirement is required. Where a difference exists between applicable State regulations and Municipal regulations, it is intended for the purposes of this §848 that the more stringent requirements shall apply. A copy of all written materials and plans that are submitted to DEP by the applicant shall be concurrently submitted to the Zoning Officer.

**849 Reserved****850 Storage Yards for Forest Products and Minerals**

The intent of this section is to provide standards for access to public roads and setbacks for storage yards for forest products and minerals. (See definition of *storage yards for forest products and minerals* in Article III.)

**850.1 Access to Public Roads**

- A. Highway Occupancy Permit - Access roads to Municipal and State roads shall be in accord with a valid highway occupancy permit.
- B. Stabilization - The access road shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto the public road.
- C. Weight Limitations - All operations shall comply with all posted weight limits and road bonding regulations.
- D. Use of Public Roads - Felling or skidding on or across any public road shall be prohibited without the express written authorization of the Municipality or the Pennsylvania Department of Transportation, as applicable.

**850.2 Setbacks**

- A. Residential and Nonresidential Buildings - Storage yards shall not be less than three hundred (300) feet from any existing residential, commercial, institutional, public or semi-public building, other than such building located on the property on which the storage yard is located.
- B. Property Lines - Storage yards shall not be less than fifty (50) feet from any property line other than a property line along a public road right-of-way.
- C. Public Roads - Storage yards shall not be less than fifty (50) feet from any public road right-of-way.
- D. Streams, Water Bodies and Wetlands - Storage yards shall not be less than one hundred (100) feet from any stream, water body or wetland.
- E. Slope - Storage yards shall be located on gently sloping ground that will provide good drainage. Low spots and poorly drained places shall be avoided.

**851 Swimming Pool, Commercial**

Commercial swimming pools shall be permitted only in those districts as specified in the Schedule of Uses and, in addition to all other applicable requirements of this Ordinance, shall comply with the standards in this §851.

**851.1 Setback**

The water surface shall be not less than fifty (50) feet from any lot line.

**851.2 Parcel Size**

The minimum lot area shall be two (2) acres.

**851.3 Enclosure**

A fence, wall or other enclosure not less than six (6) feet high and of a design to restrict access shall completely surround the area of the swimming pool. This enclosure shall be designed to be difficult for children to climb or slip through. All gates or door openings through such enclosure shall be self-closing and include a self-latching device on the pool side for keeping the gate or door securely closed when the pool is not in use.

**851.4 Access**

Access to all pools shall be restricted when the pool is not in use.

**851.5 Hours of Operation**

The hours of operation of outdoor commercial pools shall be limited to the hours between 9:00 a.m. and 9:00 p.m.

**852 Reserved****853 Treatment Centers/Clinics, Medical Offices, and Health Facilities**

In addition to all other applicable standards, treatment centers/clinics, and medical offices and health facilities including, but not limited to, hospital facilities, and nursing and adult homes, whether publicly or privately operated, shall comply with the following requirements and shall be permitted only in those districts as specified in the Schedule of Uses.

**853.1 Waste Disposal**

Details shall be provided by the applicant about the types and amount of medical and hazardous waste generated anticipated to be generated at the facility and how such waste will be handled, stored and disposed of in accord with state and federal requirements.

**853.2 Security**

In cases where deemed necessary by the Municipality, the applicant shall provide a plan addressing security needs to protect the health and safety of the public as well as the occupants of the proposed facility. Such plan shall include a description of the specific services to be offered, types of patients and/or residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.

**853.3 Treatment Centers/Clinics**

The following additional standards shall apply to treatment centers/clinics.

- A. In order to provide an adequate buffer area for adjoining private property owners the site shall contain a minimum of five (5) acres.
- B. The building and all secure areas shall not be less than two hundred (200) feet from any property line and the right-of-way line of any abutting public road, and five hundred (500) feet from any:
  1. residence
  2. group care facility
  3. commercial enterprises catering primarily to persons under eighteen (18) years of age
  4. public or semi-public building or use

5. public park or public recreation facility
  6. health facility
  7. church or synagogue
  8. public or private school
- C. A perimeter security fence may be required by the Municipality.
- D. Methadone treatment facilities, as defined by §621(d) of the Pennsylvania Municipalities Planning Code, shall, in addition to the other requirements of this §853, comply with the requirements of §621 of the Pennsylvania Municipalities Planning Code.

#### **854 - 855 Reserved**

#### **856 Vehicle Related Uses**

Vehicle related uses shall be permitted only in those districts as specified in the Schedule of Uses, and in addition to all other applicable standards, shall comply with the standards in this §856.

##### **856.1 Car and Truck Wash Facilities**

All car and truck wash facilities shall be subject to the following specific regulations and requirements:

- A. The principal building housing the said facility shall be set back a minimum of sixty (60) feet from the road or street right-of-way line and thirty (30) feet from the side or rear property lines.
- B. Appropriate facilities for the handling of waste water from the washing activities shall be provided including, the prevention of water being dripped onto the adjoining road or street from freshly washed vehicles during periods of freezing weather.
- C. The facility shall have adequate means of ingress and egress to prevent adverse effects to either vehicular or pedestrian traffic. When a wash facility occupies a corner lot, the access driveways shall be located at least seventy-five (75) feet from the intersections of the front and side street right-of-way lines.
- D. The site shall be sufficiently large to accommodate vehicles awaiting washing during peak periods, but in no case shall the waiting area for each stall accommodate less than three (3) automobiles.
- E. Any wash facility located within two hundred (200) feet of any residential district shall not operate between the hours of 9:00 p.m. and 7:00 a.m.

##### **856.2 Gasoline Service Stations and Vehicle or Equipment Repair Operations**

All gasoline service stations and vehicle or equipment repair operations shall be subject to the following specific regulations and requirements:

- A. All service and repair activities shall be conducted within completely enclosed buildings where adequate measures shall be taken to minimize motor noise, fumes, and glare; except that minor servicing such as changing tires, sale of gasoline or oil, windshield washing and other similar normal activities may be conducted outside the said building.
- B. Only vehicles with current licenses and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored outdoors. If a legitimate, bonafide, service station stores more than four (4) vehicles per interior service stall in exterior areas, such vehicles shall be stored to the rear of the building or inside a fully enclosed building. Proof of current license and current registration or ownership of any vehicle will be required upon demand by the Zoning Officer.
- C. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall

be used for complying with the off-street parking requirements of this Ordinance.

- D. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening and under cover to prevent breeding of mosquitoes. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a month of normal operation.
- E. Gasoline pumps and other service appliance may be located in the required front yard but shall not be situated closer than thirty (30) feet from the road or street right-of-way line. Any above ground storage tanks shall not be placed in the front setback area.
- F. No vehicles shall be stored within seventy-five (75) feet of any public road right-of-way or fifty (50) of any other property line.
- G. Any operation which is primarily intended to serve trucks with three (3) or more axles or tractor-trailer trucks shall have a minimum lot area of two (2) acres, and all areas for fueling and servicing shall be not less than one hundred (100) feet from any R District.
- H. All major repair, welding, auto body, painting and similar work shall be performed within a building with a fume collection and ventilation system that directs noxious fumes away from any adjacent buildings. All such systems shall meet all required state and federal health and safety standards.

#### 856.3 Vehicle or Equipment Sales Operations

All vehicle or equipment display and sales operations of new and used automobiles, trucks, motorcycles, mobile homes, recreation vehicles, boats, and travel trailers and other vehicles and equipment shall be subject to the following specific requirements:

- A. All principal and accessory buildings and structures shall be in accord with the yard setback, building height and lot coverage requirements of the district.
- B. The outdoor display of new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers shall meet the appropriate front, side and rear setback requirements as for the district.
- C. Activities which are normally accessory to such sales operations, such as engine tuneup and repairs, body repairs, painting, undercoating and other similar activities shall be conducted in accord with the applicable standards in §856.2 above.
- D. Only vehicles with current license and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored in any exterior area. If a legitimate, bonafide, service station stores more than four (4) vehicles per service stall in exterior areas, such vehicles shall be stored to the rear of the building or inside a fully enclosed building. Proof of current license and current registration or ownership of any vehicle will be required upon demand by the Zoning Officer.
- E. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- F. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening and under cover to prevent breeding of mosquitoes. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a month of normal operation.
- G. No vehicles awaiting repair shall be stored within seventy-five (75) feet of any public road right-of-way or fifty (50) of any other property line.

**856.4 Race Tracks**

- A. All race tracks for motor driven vehicles, including but not limited to automobiles, trucks, go-carts, motorcycles, motor scooters, dune buggies, water craft, and the like, shall be located not less than one (1) mile from any R District.
- B. The track/course shall not be less than five hundred (500) feet from any property line or public road right-of-way.
- C. No race shall be conducted between the hours of 9:00 P.M. and 9:00 AM prevailing local time. However, the Municipality may establish more restrictive time limits as a condition of approval.
- D. All service and repair activities shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes, and glare; except that minor servicing such as changing tires, sale of gasoline or oil, windshield washing and other similar normal activities may be conducted outside the said building.
- E. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- F. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.
- G. Gasoline pumps and other service appliance may be located in the required front yard but shall not be situated closer than thirty (30) feet from the road or street right-of-way line. Any above ground storage tanks shall not be placed in the front setback area.
- H. No vehicles, supplies, parts, or any other material shall be stored in any required setback areas normally required for the district.
- I. All major repair, welding, auto body, painting and similar work shall be performed within a building with a fume collection and ventilation system that directs noxious fumes away from any adjacent buildings. All such systems shall meet all required state and federal health and safety standards.

**857 Reserved****858 Wind Energy Facilities**

In addition to all other applicable standards in this Ordinance, the following regulations shall apply to wind energy facilities:

**858.1 Purposes**

- A. To accommodate the need for wind energy facilities while regulating their location and number in the Municipality in recognition of the need to protect the public health, safety, and welfare.
- B. To avoid potential damage to adjacent properties from wind turbine structure failure and falling ice, through engineering and proper siting of such structures.

**858.2 Number**

The number of wind turbines on a particular parcel shall be governed by compliance with all setback, separation and height requirements.

### 858.3 Permits; Use Regulations

- A. Permits - A zoning permit shall be required for every wind energy facility and wind turbine installed in the Municipality, and all such facilities shall comply with the Municipality Wind turbine Generator Ordinance.
- B. Associated Use - All other uses ancillary to the wind energy facility (including a business office, maintenance depot,, etc., greater than 1,000 sq. ft.) are prohibited from the wind energy facility, unless otherwise permitted in the District in which the wind energy facility is located. This shall not prohibit the installation, as accessory structures, of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the wind energy facility.
- C. Wind Energy Facility as a Second Principal Use - A wind energy facility shall be permitted on a property with an existing use in districts where permitted subject to the following land development standards:
1. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the wind energy facility and wind turbines shall apply; and, the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
  2. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  3. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

### 858.4 Standards

- A. Wind Energy Facility Height - The applicant shall demonstrate that the wind turbines are at the minimum height required to function satisfactorily. No wind turbine that is taller than this minimum height shall be approved.
- B. Parcel Size; Setbacks
1. Separate Parcel - If the parcel on which the wind energy facility is a separate and distinct parcel, the District minimum lot size shall apply; and, in all cases, the lot shall be of such size that all required setbacks are satisfied.
  2. Lease, License or Easement - If the land on which the wind energy facility is leased, or is used by license or easement, the setback for any wind turbine, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement. In any case, no wind turbine shall be located closer to any property line (not lease, license or easement line) than 1.1 times the hub height of the turbine.
  3. Public and Semi-Public Structures - No wind turbine shall be located less than two thousand (2,000) feet from any existing public or semi-public principal structure measured from the center point of the turbine base. (For the purposes of this §858, *existing principal structure* shall mean any existing principal structure or any principal structure for which a zoning permit has been issued.)
  4. Principal Structures on Wind Energy Facility Parcel - No wind turbine shall be located less than five (5) times the total height of the wind turbine as measured from the highest point of the rotor plane from any existing principal structure on the wind energy facility parcel or lease, license or easement parcel as measured from the center point of the turbine base, unless the property owner provides written permission allowing for a lesser distance. (For the purposes of this §858, *existing principal structure* shall mean any existing principal

structure or any principal structure for which a zoning permit has been issued.) In no event shall the setback distance be less than 1.1 times the total height of the wind turbine as measured from the highest point of the rotor plane.

5. Principal Structures on Other Parcels - No wind turbine shall be located less than two thousand (2,000) feet from any principal structure existing on any other parcel prior to the erection of the wind turbine as measured from the center point of the turbine base unless the owner of such existing principal structure shall have executed a written waiver or non-disturbance easement, covenant or consent, any of the aforementioned which has been recorded in the Office of the Recorder of Deeds. Such easement or covenant shall run with the land and, at a minimum, provide that the said property owner waives and releases any and all claims, damages and/or losses resulting from higher noise levels, visual impacts or flickering reflections and/or shadows which may arise as a result of the location of a wind turbine generator within the established setback distance of an existing principal structure on the property of the owner executing same. Such easement, covenant or consent shall meet such requirements as to form and content as may be required by the Municipality. In no event shall the setback distance be less than 1.1 times the total height of the wind turbine as measured from the highest point of the rotor plane.
6. Property Lines and Public Roads - No wind turbine shall be located not less than 1.1 times the total height of the wind turbine from property lines and public road rights-of-way as measured from the highest point of the rotor plane.
7. Communication and Electric Lines - No wind turbine shall be located not less than 1.1 times the total height of the wind turbine from the nearest above ground public electric power line or public telephone line or other public communication line as measured from the highest point of the rotor plane.

#### C. Wind Energy Facility Design

1. Standards; Certification - The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations. The operator shall repair, maintain and replace the wind turbine generators and associated equipment during the Term of this Agreement in like manner as needed to keep the Project in good repair and operating condition.
2. Uniform Construction Code - The wind energy facility shall comply with the Pennsylvania Uniform Construction Code.
3. Controls and Brakes - All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
4. Electrical Components - All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
5. Warnings - A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (ten) feet from the ground.
6. Signs - No advertising material or signage other than warning, equipment information or indicia of ownership

shall be allowed on the wind turbine generators. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners, or waiving, fluttering or revolving devices, but not including weather devices.

7. Climb Prevention/Locks/Fence

- a. Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
- b. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- c. A fence shall be required around each wind turbine support structure and other equipment. The fence shall be a minimum of eight (8) feet in height.

8. Emergency Services - The facility shall comply with all applicable local, state and federal fire code and emergency services guidelines; and, all wind turbine generators shall be equipped with portable fire extinguishers, unless the local fire department or Municipal Engineer provides written documentation establishing that the same is not necessary.

9. Other Regulations - The applicant shall document compliance with all applicable state and federal regulations.

D. Noise and Shadow Flicker

1. Audible sound from a wind energy facility shall not exceed forty-five (45) dBA as measured at the exterior of any occupied building on any other parcel. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*.
2. The facility owner and operator shall use best efforts to minimize shadow flicker to any occupied building on any other parcel.
3. For the purposes of this Subsection D, *occupied building* shall mean a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted

E. Landscaping - Landscaping shall be required to screen as much of the support structure as possible and any other ground level features (such as a building); and, in general, buffer the wind turbine and support structure site from neighboring properties. Any required vegetation shall be maintained in good condition. The Municipality may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping.

F. Water Supplies. All wind turbine generator sites shall be designed and constructed in such a fashion as to avoid any disruption and or interference with private wells, springs and/or other water sources. In the event any problems occur with any private water source, which problems are proximately caused by the operator, the operator shall immediately supply potable water in such quality and quantity as supplied by the original private water source.

G. Licenses - The applicant shall demonstrate that it has obtained the required licenses from the Municipality and governing state and federal agencies.

H. Access; Required Parking - Access to the wind energy facility shall be provided by means of a public street or

easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length. If the wind energy facility site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift.

- I. Color and Lighting; FAA and PA DOT Notice - Wind turbines, including rotors, shall be a non-obtrusive color such as white, off-white or gray. Wind turbines shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No wind turbine may be artificially lighted, except as required by FAA requirements. If lighting is required, the lighting alternatives and design chosen shall minimize the disturbance to the surrounding views. The applicant shall provide a copy of the response to *Notice of Proposed Construction or Alteration* forms submitted to the FAA and PA DOT Bureau of Aviation.
- J. Transmission and Power Lines - On-site transmission and power lines between wind turbines shall, to the greatest extent possible, be placed underground.
- K. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished; and, this may be accomplished by remedial measures instituted by the wind energy facility operator.
- L. Stray Voltage/Electromagnetic Fields (EMF) - The operator shall utilize Good Utility Practice to minimize the impact, if any, of stray voltage and/or EMF.
- L. Water and Sewer - Water, other than for facility cooling and fire suppression purposes, and sewage facilities shall not be permitted at wind energy facility sites to preclude person(s) from living or staying on the site, unless such facilities serve a use otherwise approved in accord with this Ordinance.
- M. Emergency Services - The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the wind energy facility. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.
- N. Site Plan - A full site plan shall be required for all wind energy facility sites, showing the wind energy facility, wind turbines, building, fencing, buffering, access, and all other items required by this Ordinance and the Subdivision and Land Development Ordinance.

#### 858.5 Insurance

The applicant shall submit a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence covering the proposed wind energy facility, related structures and site, and an additional umbrella policy in the amount of \$10,000,000 covering the same items, both having the Municipality named as an additional insured party. This shall be maintained for the duration that the wind energy facility is erected in the Municipality, and both policies shall have clauses that give thirty (30) days notice to the Municipality before coverage under the policies cease. All policies shall be written on an occurrence and not on a claims made basis.

#### 858.6 Maintenance; Identification; Notice of Problems

- A. Monitoring - Maintenance - The wind energy facility will be monitored by the Municipality. There will be affixed to the security fence in an accessible, visible place the name and mailing address of the owner(s) and a 24-hour emergency telephone number. This information shall be kept current by the owner(s). The Municipality shall inform the owner(s) of any safety problems, maintenance problems or any matter relative to the wind energy facility. If the problem outlined in the letter from the Municipality is not resolved within thirty (30) days of receipt of notice, or within such other period as allowed in writing by the Municipality, this shall constitute a violation. An unresolved violation shall constitute grounds for revoking the conditional use permit.

- B. Inspection and O&M - The operations and maintenance of the facility shall be conducted by qualified personnel who are regularly involved in the maintenance, inspection and/or erection of wind turbine and shall comply with the following schedule:
1. At least once every thirty-six (36) months the individual wind turbine generators shall be inspected. At a minimum, this inspection shall be conducted in accord with the provisions of the Development Agreement and in accord with the wind turbine generator inspection check list provided by the operator. This is considered a major inspection.
  2. At least once every twelve (12) months a visual inspection from ground shall be conducted. This inspection shall include, but not be limited to, visual inspection of wind turbine generator foundations, structures, guys, and connections for evidence of settlement or lateral movement; soil erosion; condition of paint or galvanizing; rust or corrosion, loose or missing bolts, loose or corroded lightning protection connectors; wind turbine generator tower plumbness; significant variation in guy sags (i.e. guy tensions), and other material areas or matters relating to the structural integrity of the wind turbine generator. This is considered a minor inspection.
  3. In addition to the regularly scheduled major and minor inspections set forth in Sections 1 and 2 above, a minor inspection, at a minimum shall be conducted if a wind turbine generator or its appurtenances are noted at any time to be visibly damaged. Additionally a major inspection should be conducted if the visible damage to a wind turbine generator is significant or when, after conducting a minor inspection, significant questions remain about the structural integrity of a wind turbine generator.
  4. The operator shall provide an annual letter to the Municipal certifying compliance with the inspection requirements.

#### 858.7 Public Inquiries and Complaints

The facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project, and the facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.

#### 858.8 Decommissioning

- A. The facility owner and operator shall, at its own expense, complete decommissioning of the wind energy facility, or individual wind turbines, within (12) twelve months after the end of the useful life of the facility or individual wind turbines. The wind energy facility or individual wind turbines shall be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
- B.. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.
- C. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- D. An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning (*decommissioning costs*) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (*net decommissioning costs*). Said estimates shall be submitted to the Municipality after the first year of operation and every fifth year thereafter.
- E. The facility owner or operator shall post and maintain decommissioning funds in an amount equal to net decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the facility owner or operator and

participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth and is approved by the Municipality.

- F. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Municipality.
- G. If the facility owner or operator fails to complete decommissioning within the prescribed time period, then the landowner shall have six (6) months to complete decommissioning.
- H. If neither the facility owner or operator, nor the landowner complete decommissioning within the prescribed periods, then the Municipality may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating landowner agreement to the Municipality shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Municipality may take such action as necessary to implement the decommissioning plan.
- I. The escrow agent shall release the decommissioning funds when the facility owner or operator has demonstrated and the Municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the Municipality in order to implement the decommissioning plan.

#### 858.9 Review Fees

In addition to the normal application fees, the applicant shall pay all professional costs incurred by the Municipality for review of structural, radio frequency and other technical aspects of the proposal and shall deposit with the Municipality an amount deemed adequate by the Governing Body to cover the anticipated costs. If the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the applicant. No approval shall become effective until all costs have been paid by the applicant.

#### 858.10 Wind Test Towers

Temporary wind test towers may be erected as a conditional use in Districts where wind energy facilities are permitted in accord with §501.4 and other applicable requirements of this Zoning Ordinance. Such towers shall be removed within twelve (12) months of installation.

### **859 Wind Turbine Generators, Accessory**

An accessory wind turbine generator is a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any, and which is sized and intended to be used to generate electricity for the principal structure to which it is accessory. Accessory wind turbine generators are permitted in all districts only in compliance with the following:

#### A. Setback

- 1. No part of the wind turbine generator structure shall be located closer to any property line or road-right-of-way than the two-thirds (2/3) of the height of the structure as measured from the highest point of the rotor plane.
- 2. Guy wire anchors shall not extend closer than ten (10) feet to any property line or road-right-of-way.

B. Noise - Noise from the accessory wind turbine generator shall comply with §701.6. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

C. Uniform Construction Code - Applications for accessory wind turbine generators shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings documenting compliance with the Uniform Construction Code. The generator and support structure shall be installed in accord with all Uniform Construction Code and manufacturer requirements.

- D. Compliance with FAA Regulations - Accessory wind turbine generators shall comply with applicable FAA regulations.