

## **ARTICLE XXIV SUPPLEMENTAL USE REGULATIONS**

### **Section 2400 PURPOSE**

The purpose of this Article is to establish standards for specific uses which require special design considerations. These regulations are set forth to achieve compatibility with the principal uses permitted in a zoning district. These regulations shall apply to all zoning districts in which the particular use being regulated is permitted. It is the intent of the Borough that, where these uses are permitted, they comply strictly with the standards that have been created to address their particular impacts and characteristics. The provisions for this Article shall apply in addition to any other applicable zoning regulations.

### **Section 2401 ACCESSORY USES, BUILDINGS, AND STRUCTURES**

The following may be permitted as Accessory Uses in addition to a permitted principal use in a district, but must always be incidental and subordinate to the principal use and located on the same tract or lot as the principal use. The Accessory Use shall be located in the rear or side yard of the lot and shall be located no further forward than the front line of the principal building. The minimum setback for an Accessory Use shall not be less than seven (7) feet from the lot lines, and the Accessory Use shall have a maximum height of fifteen (15) feet and shall specifically be deemed accessory in accordance with the following terms:

- A. **Residential Accessory Uses, Buildings, or Structures.** Only when noncommercial and only for the use of residents of the dwelling, Accessory Uses to residential uses include, but are not limited to:
1. Garage or parking area for the parking of passenger automobiles including noncommercial trucks and vans, and driveways in accordance with this Ordinance and the Borough Subdivision and Land Development Ordinance.
  2. Structures such as, but not limited to, shelter for household pets, storage sheds, bathhouses, gazebos, decks, patios, tennis courts, and noncommercial greenhouses. Storage tanks located in areas subject to traffic shall be protected against physical damage and screened from view on all sides to the greatest extent feasible.
  3. Noncommercial Swimming Pool subject to the following:
    - a. Noncommercial Swimming Pool, including both above-ground or in-ground pools, designed with a depth of two (2) feet or more shall be for use of residents and their guests and shall not be operated commercially as to charge a fee for its use.
    - b. A permit shall be required to locate, construct or maintain a Noncommercial Swimming Pool.
    - c. Swimming pools and buildings related to the pool may be located in the rear or side yard of the lot and shall not be closer to any rear or side lot line than the minimum required building setbacks of the district in which the lot is located. Any paved areas or decks related to the pool shall be no closer than five (5) feet to a lot line.

- d. Outdoor lighting, if any, shall be shielded and/or reflected away from adjacent properties so that the lighting is neither directed nor reflected upon adjacent properties.
  - e. Noncommercial Swimming Pools shall be completely enclosed by a fence of a minimum of four (4) feet in height with no openings greater than four (4) inches in width and built to deter accidental entrance to the pool, and shall be maintained in a good, safe condition. All fence gate openings shall be equipped with self-closing and self-latching devices for keeping the gate(s) securely closed at all times.
  - f. At the time of application for a building permit, it shall be demonstrated that the drainage of the pool is adequate and will not interfere with the water supply system, with existing sewage facilities, with public streets, and shall not drain into the neighboring property.
4. Garage or yard sales shall meet the following:
    - a. Such temporary uses shall be last no more than three (3) consecutive days, and shall be limited to not more than four (4) times within one (1) calendar year. There shall be at least thirty (30) days between each occurrence.
    - b. Signs advertising garage or yard sales shall be limited to limited to two (2) square feet in size, and shall be posted no more than two (2) days prior to the sale and removed within twenty-four (24) hours after said event. No more than four (4) off-premise signs shall be placed, and the location of off-premises signs shall be approved by the property owners of the properties on which they are placed.
    - c. There shall be no more than one (1) motor vehicle for sale per residential lot, and that sale shall not exceed ninety (90) days in length.
  5. Radio and television, or microwave dish antennae subject to Section 2414.
  6. Structures such as fences or walls in accordance with Article XXIII.
  7. Signs in accordance with Article XXVI.
  8. Uses designed to serve the residents of a residential development, including areas for washing machines and dryers, lockers or storage areas, recreational facilities and lounges.
  9. Major Home Occupations in accordance with Section 2412.
  10. Minor Home Occupations in accordance with Section 2412.
  11. Supplemental Dwelling Unit or Accessory Apartment. This accessory use allows a smaller secondary dwelling unit within an existing single-family detached dwelling or accessory building on the same lot as the principal dwelling without substantial exterior modification to the existing building. The purpose is to protect and allow efficient use of the existing housing stock, and to provide opportunity to allow housing to meet the specific housing needs of Borough families and allow the owners to remain residents of that dwelling and the Borough. Supplemental Dwelling Units shall meet the following:
    - a. A Supplemental Dwelling Unit shall be permitted only in single-family detached dwellings and their accessory buildings.

- b. The Supplemental Dwelling Unit shall remain accessory and secondary to the principal single-family detached dwelling.
  - c. The area and bulk regulations of the zoning district shall apply to the lot on which the Supplemental Dwelling Unit is located.
  - d. No more than one (1) Supplemental Dwelling Unit shall be allowed on each lot.
  - e. The Supplemental Dwelling Unit shall be permitted only in one (1) of the following configurations:
    - 1) Located in the existing principal dwelling and may be a conversion of an existing floor area, such as a garage or upper story of the dwelling, and designed so that to the greatest extent possible, the appearance of the principal dwelling remains that of a single-family detached dwelling.
    - 2) Entrances to the Supplemental Dwelling Unit shall be located to the rear or side of the building, and there shall be no additions permitted in conjunction with the creation of a supplemental dwelling unit, except those as may be needed for enclosed stairwells or to meet Borough and state safety codes.
    - 3) Contained within an accessory building on the same lot as the principal dwelling.
  - f. Either the principal single-family dwelling or the Supplemental Dwelling Unit shall be occupied by the bona fide owner of the property on which both dwelling units are located.
  - g. The Supplemental Dwelling Unit shall be no more than thirty-five (35) percent of the principal dwelling's total floor area, and shall have a minimum floor area of four hundred (400) square feet.
  - h. One (1) off street parking space shall be provided for a Supplemental Dwelling Unit in addition to the parking requirements for the principal use, in accordance with Article XXV.
12. One (1) boarder shall be permitted per each residential single family detached dwelling use.
- B. Commercial, Institutional, or Industrial Accessory Uses, Buildings, or Structures.** The following uses shall be permitted when incidental and subordinate to an existing commercial or industrial use:
1. Off-street parking facilities in accordance with Article XXV.
  2. Signage in accordance with Article XXVI.
  3. Outdoor Storage or Display of materials in accordance with Section 2310.
  4. Fences or walls in accordance with Section 2308.
  5. Radio and television, or microwave dish antennae subject to Section 2414.

6. Driveways, and accessways for internal circulation in accordance with the Borough Subdivision and Land Development Ordinance.
  7. Storage tanks located in areas subject to traffic shall be protected against physical damage and screened from view on all sides to the greatest extent feasible.
  8. The following regulations shall apply in addition for Institutional Uses:
    - a. Swimming Pool in accordance with Section 2401.A.3.
    - b. Garage or yard sales in accordance with Section 2401.A.4.
- C. **Temporary Structure, Building, or Use.** Temporary Structures, Buildings, or Use shall be subject to the following:
1. A temporary building permit may be issued for structures or uses necessary during construction or other special circumstances of a nonrecurring nature, subject to the Borough permitting process.
  2. A temporary structure or use could include, but is not limited to, offices for contractors, bookmobile, mobile unit for medical screening, political campaign headquarters, temporary structures for business operations which have been displaced from the principal building due to damage.
  3. The time period of the initial permit shall be three (3) months. The permit may be renewed for six (6) months if the applicant can demonstrate reasonable progress towards the completion of the project necessitating the temporary structure, building, or use.
  4. Such structure, building, or use shall be removed completely within five (5) days of the expiration of the permit without cost to the Borough.
- D. **Temporary Community Event.** A temporary activity could include, but is not limited to, special events, flea markets, public exhibits, municipal activities, non-profit events, street fairs, festivals, fund raisers, and similar organizational activities, subject to the following:
1. Such temporary uses shall be limited to not more than seven (7) consecutive days per event, and shall be limited to not more than four (4) events in a calendar year for each organization. There shall be a thirty (30) day period between each event.
  2. Signs advertising a temporary community event shall be subject to the provisions of Article XXVI. Additionally, such signs shall be limited to twelve (12) square feet in size, and shall be posted no more than fourteen (14) days prior to the first day of the event and shall be removed on the final day of the event. No more than four (4) off-premise signs shall be placed and the location of these signs shall be approved by the property owners of the properties on which they are placed.
  3. The applicant for the use shall provide Borough Council with plans to ensure adequate parking, emergency access, road access, sanitary facilities, refuse collection, noise control, and clean-up after the event.

**Section 2402 ADULT COMMERCIAL USE**

Adult Commercial Uses, being those uses as listed in the Pennsylvania Adult Oriented Establishment Statute, 68 P.S. § 5502, shall be subject to the following regulations:

- A. Adult entertainment uses shall be located a minimum of two hundred fifty (250) feet from any residential use, church, school, day care facility, or public playground or park.
- B. Signs and visible messages based on the allowable sign area within the applicable zoning district shall be permitted, provided:
  - 1. Sign messages shall be limited to verbal description of materials or services available on the premises and shall not be obscene in nature.
  - 2. Sign messages may not include any graphic or pictorial depiction of material or services available on the premises.
  - 3. Messages which are visible or intended to be visible from outside the property, such as on or within the doors or windows, shall not display materials, items, publications, pictures, films, or printed material available on the premises.
- C. Adult Commercial Uses shall require application for a conditional use permit from Borough Council prior to commencement of operation. Application for such a conditional use permit shall consist of:
  - 1. A description of the premises for which the permit is sought.
  - 2. A statement of the intended use(s).
  - 3. Hours of operation.
  - 4. Type, size, and location of proposed sign(s).
  - 5. Any additional information required by Article XXIX.
- D. Should any Adult Commercial Use cease or discontinue operation for a period of ninety (90) or more consecutive days, it shall not resume, nor may it be replaced by another adult entertainment use, unless said use complies with all the requirements of this Section.
- E. Nothing in this Ordinance shall be deemed to allow any uses that are “obscene” as that term has been interpreted from time to time by the courts of the United States or the Commonwealth of Pennsylvania.

**Section 2403 ADULT HOUSING/CARE FACILITY**

An Adult Housing/Care Facility is a residential complex design and operated for mature adults, of fifty-five (55) years and over, that may include one (1) or any combination of life care facility, nursing home, or retirement community as follows (such facilities are subject to the Fair Housing Act, the Pennsylvania Human Relations Act, and the regulations promulgated thereunder):

- A Life Care Facility is a form of residential use designed and operated primarily for mature adults, of fifty-five (55) years of age or over, containing certain support facilities including a combination of a senior center, independent living, personal care, and/or acute care.
  - A Retirement Community may provide a combination of individual dwelling units in any combination of single-family, two-family, townhouse or multi-family buildings and may include a community center consisting of one (1) or more buildings in which accessory uses may be permitted.
  - A Nursing Home is a facility providing bed care, or chronic or convalescent care for persons who, by reasons of illness, physical infirmity or age, are unable to properly care for themselves.
- A. The tract of land on which the use is conducted shall, in its entirety, be owned and operated under single or common management.
  - B. Maximum building coverage shall be forty (40) percent and maximum lot coverage shall be fifty (50) percent.
  - C. Wheelchair access to all dwelling units and community facilities, in accordance with the Americans with Disabilities Act, shall be provided in the design of structures, pedestrian walkways and parking lots. Where practical and desirable, buildings shall be interconnected by means of covered or enclosed walkways.
  - D. Location, design and layout of buildings containing dwelling units shall be so designed to ensure open space and privacy between units.
  - E. The minimum tract size shall be thirty thousand (30,000) square feet.
  - F. A minimum building setback from the entire tract perimeter of twenty-five (25) feet shall be provided.
  - G. Maximum building height shall be three (3) stories or thirty-five (35) feet.
  - H. The following accessory support uses shall be permitted for this use:
    1. Indoor and outdoor recreational facilities including auditoriums, activity rooms, craft rooms, libraries, lounges, and similar recreational facilities for members of the retirement community.
    2. Dining Facilities.
    3. Office and retail service facilities designed and adequate to serve only the members of the community, including, but not limited to: pharmacy, gift shop, coffee shop, bank, beauty shop and barber shop.

4. Accessory medical offices, nursing and convalescent facilities limited to residents of the facility for temporary care and not operating as the principal office of any medical practice serving the general public.
  5. Senior Center.
  6. Adult Day Care Center, in accordance with Section 2409.
- I. Outdoor lighting shall be consistent with the requirements of Section 2307 and buffering shall be consistent with the requirements of Section 2309.
  - J. A nursing home shall have a minimum of not less than one thousand (1,000) square feet of lot area provided per bed.
  - K. A retirement community use shall have a maximum gross density of eight (8) units per acre.
  - L. A retirement community shall follow the requirements for Multi-Family Dwelling, Section 2416 in addition to the requirements of this Section, however the requirements of Section 2416 shall prevail when there is conflict between the requirements.
  - M. A life care facility shall have a maximum density of ten (10) units per acre. Long term care beds within this facility shall not exceed one (1) bed per two (2) dwelling units.
  - N. This use shall provide an outdoor sitting area which shall be landscaped and shall not be located adjacent to parking lots, detention basins, or collector or arterial streets unless adequate screening is provided. Sitting areas shall not be located on slopes of over five (5) percent grade.
  - O. This use shall have a minimum of ten (10) percent of the land reserved for recreational area. Maintenance of these areas shall be the responsibility of the common management.
  - P. Parking requirements shall be in accordance with Article XXV.
  - Q. The proposed use shall obtain all applicable state and federal permits, licenses, and certificate of need, as applicable to the proposed use, as well as conditional use approval, prior to the issuance of a Zoning Permit.

#### **Section 2404      AMUSEMENT CENTER**

An amusement center operated as a gainful business within a building or structure providing automatic amusement and video games, including pool or billiard tables or similar facilities, shall be subject to the following regulations:

- A. An automatic amusement game shall include coin operated machines, mechanical machines, or electronic machines which operate as a game of skill or amusement. Such games shall be in this use in any location where three (3) or more such games are located.
- B. No audio speakers or equipment shall be installed inside or outside the location of such use which would cause sounds to emanate to the exterior of the premises.
- C. All amusement centers shall have at least one (1) attendant on duty during operating hours.

- D. This use shall not be located within seven-hundred (700) feet of a school.

### **Section 2405 BED AND BREAKFAST**

A Bed and Breakfast being a residential structure occupied by a resident innkeeper for the commercial use of the temporary lodging of guests for compensation and providing those guests such lodging services as maid service and accessory limited eating facilities for the serving of breakfast and/or afternoon tea, shall be subject to the following regulations:

- A. A Bed and Breakfast shall only be permitted in a single-family detached dwelling which is the bona fide residence of the operator. The appearance of the building shall not be altered as to detract from its principal purpose as a residential structure, except for purposes of safety in meeting Borough and state regulations.
- B. The use shall be carried on primarily by members of the immediate family who reside on the premises. No more than two (2) non-residents of the Bed and Breakfast shall be employed by the operation.
- C. The minimum lot size shall be that of the underlying zoning district in which this use is located, and a Bed and Breakfast shall be permitted by Special Exception.
- D. No more than three (3) guests rooms suitable to accommodate six (6) guests shall be provided. No guest shall be accommodated for more than seven (7) consecutive nights.
- E. Breakfast and/or afternoon tea shall be the only meals provided, and shall be provided only to guests of the Bed and Breakfast. There shall be no separate cooking facilities in any guest room.
- F. Amenities provided by the Bed and Breakfast such as swimming pool, porches, or decks shall be limited for the use of the residents and guests of the facility.
- G. In addition to applicable parking requirements in Article XXV, there shall be one (1) off-street parking space per guest room and one (1) space for each non-resident employee. The off-street spaces shall be screened from adjacent residential properties by fencing or natural vegetation in accordance with Article XXIII.
- H. Only one (1) non-illuminated sign no larger than four (4) square feet may be displayed to identify the Bed and Breakfast facility, in accordance with Article XXVI.

### **Section 2406 BOARDING HOUSE**

Boarding House is a building the primary or partial use of which is the housing of roomers, boarders, or lodgers including dormitories, hostels, or other like uses, which shall comply with the following standards:

- A. A maximum of six (6) boarders shall be permitted in a Boarding House.
- B. Each boarding unit shall have a minimum floor area of two hundred (200) square feet. A maximum of two (2) boarders may share a boarding unit.

- C. Each Boarding House shall contain a common kitchen facility.
- D. A complete bathroom facility shall be provided for every two (2) units.
- E. An operator shall be on the premises.

#### **Section 2407 CLUB OR LODGE**

A building being utilized as a club or social organization generally offering restaurant or bar services for members, shall be subject to the following regulations:

- A. The minimum area for a Club or Lodge shall be that of the underlying zoning district.
- B. The use of the facility shall be for authorized members and guests only.
- C. Lodging of overnight guests is prohibited in any Club or Lodge building.
- D. Outdoor activity areas shall be setback a minimum of twenty-five (25) feet from any property line.
- E. Outdoor lighting shall comply with the appropriate provisions in Section 2307.
- F. A buffer, in accordance with Section 2309, shall be maintained adjacent to any residential use or district.

#### **Section 2408 CLUSTER RESIDENTIAL DEVELOPMENT STANDARDS**

Cluster Residential Development is a development design which allows the minimum lot area and yard requirements to be reduced so that buildings and lots can be grouped together in a more efficient and environmentally sensitive configuration, provided that the remaining area is set aside and preserved as common open space. Such use shall be subject to the following:

- A. **Permitted Number of Lots.** The number of lots permitted within a cluster development shall be determined by dividing the number of gross acres in the parcel by one (1) and rounding down to the nearest whole number. For example, on a 28.6 acre parcel, twenty-eight (28) lots would be permitted.
- B. **Dimensional Standards.** The following dimensional standards shall be met:
  - 1. Minimum Tract Size. Ten (10) acres.
  - 2. Minimum Lot Size. Ten thousand (10,000) square feet.
  - 3. Minimum Front Yard. Twenty-five (25) feet.
  - 4. Minimum Lot Width. Sixty (60) feet.

5. **Minimum Side Yards.** Each side yard shall have a width not less than five (5) feet, provided that the combined total of both side yards must be a minimum of fifteen (15) feet.
  6. **Minimum Rear Yard.** Twenty-five (25) feet.
  7. **Maximum Building Coverage.** Twenty-five (25) percent.
  8. **Maximum Lot Coverage.** Thirty-five (35) percent.
  9. **Maximum Building Height.** Three (3) stories or thirty-five (35) feet, whichever is less.
- C. **Development Design Standards.** The following shall be met:
1. Development within a cluster development should be designed on a traditional grid street pattern consistent with that in Olde Towne Malvern.
  2. Garages that have their garage doors facing the street must be set back at least ten (10) feet from the front façade of the residence.
  3. Developed portions of any cluster development should be located in the northern portion of the district, adjacent to the existing Olde Towne neighborhood, with the open space located south of the developed portion.
- D. **Open Space Design Standards.** The following shall be met:
1. A minimum of forty-five (45) percent of the gross tract area shall be designated on the plan as common open space and held in a parcel or parcels separate from the developable lots.
  2. Common open space areas shall be restricted in perpetuity from any further subdivision by an instrument, duly recorded in the office of the Recorder of Deeds for Chester County, at the time the subdivision plan for the development is recorded, which instrument shall be effective to so restrict the common open space in perpetuity and to allow the Borough to enforce such restrictions. The instrument shall be subject to the Borough's prior written approval and the Borough shall be a party to the instrument.
  3. Except where this Ordinance expressly authorizes other standards, the design standards of the zoning district shall be strictly adhered to.
- E. **Uses Permitted in Common Open Space.** The following uses, and no others, shall be permitted within designated open space areas:
1. Woodland Preserve or Wildlife Sanctuary, consisting of resources such as, but not limited to, steep slope areas, woodlands, meadows, wetlands, streams. No more than seventy-five (75) percent of the minimum required common open space shall be in floodplains, wetlands, and steep slopes.
  2. Lawn, a grass area with or without trees which may be used by the residents for a variety of purposes and which shall be mowed regularly to insure a neat and tidy appearance. Lawn shall

- not be permitted on steep slope areas, within wetlands, or within the floodway portion of the Flood Hazard District.
3. Outdoor recreation areas, either active or passive.
  4. Storm water management facilities or portions thereof that can be integrated into the natural environment, such as swales, retention ponds, and other like facilities, but not concrete or other detention basins that are empty except after a storm event or other facilities that are not integrated into the natural environment, at the Borough's discretion.
  5. Planned Campus Development, involving educational and/or religious use, provided that such use shall only be permitted in structures existing per the date of adoption of this Ordinance, so long as no more than fifty (50) percent of the minimum required common open space is in this use.
- F. **Open Space Ownership Standards.** Common open space created pursuant to a cluster development shall be owned, administered and maintained by one (1) of the following, subject to approval by Borough Council:
1. Fee simple dedication to the Borough. The Borough Council may take dedicated open space lands and associated facilities. The Borough has no obligation to accept such property, nor needs to require common property to be dedicated as a condition for approval.
  2. Homeowners' Association. The open space areas and their facilities may be held in common ownership by a homeowners' association. The association shall be formed and operated in accordance with the provisions contained herein and the provisions of the Pennsylvania Uniform Planned Community Act, if applicable.
  3. Condominium. The open space areas and their facilities may be held as common elements under a condominium agreement, pursuant to the Uniform Condominium Act of 1980, as amended.
  4. Dedication of Easements. Easements within common areas along such unique natural features as waterbodies, may be offered for dedication to the Borough for public use, or to a private conservancy. Title to such lands remains in ownership by homeowners' association or condominium.
  5. Lease Back Option. Open space may be leased back to the original owner.
  6. Retained Ownership. The owner of the original parcel may retain ownership of the restricted open space.
- G. **Homeowners' Association Regulations.** The documents creating the homeowners' association shall include the following provisions which shall be subject to Borough review and approval:
1. A declaration describing the formation and duties of the association, including the responsibilities for maintenance of the common open areas shall be defined and presented to the Borough for review.
  2. Membership shall be mandatory for all residents of the cluster development. Membership and voting rights shall be defined.

3. Rights and duties of the Borough and members of the association, in the event of a breach of the covenants and restrictions, shall be defined, including provisions for raising money from members to maintain the common open space and to immediately correct safety hazards and ordinance violations.
4. The declaration shall include a statement which grants to the Borough such power, but not the duty, to maintain the common open space and common facilities, and to assess the cost of the same, as in municipal lien and as provided within the Pennsylvania Municipalities Planning Code.

H. **Maintenance Standards.** The following shall apply:

1. Maintenance Plan. A plan for the maintenance of the common open space portion of the development shall be submitted by the applicant and must meet with the Borough's approval prior to preliminary plan approval. This maintenance plan shall specify how the open space will be maintained and by whom, and shall include measurable standards by which the Borough can determine whether the open space is or is not being adequately maintained.
2. Failure to Maintain. In the event that the organization established to own and maintain common open space, or any successor organization, shall, at any time after establishment of the cluster development, fail to maintain the common open space in reasonable order, the condition in accordance with the development plan, the Borough Council may serve written notice upon such organization, or to the residents of the cluster development, which notice shall state:
  - a. The manner in which the organization has failed to maintain the common open space in reasonable condition.
  - b. A demand that such deficiencies of maintenance be corrected within thirty (30) days.
  - c. The date and place of a hearing, which shall be held within fourteen (14) days of the notice.
3. Public Hearing. At such hearing, the Borough Council may modify the terms of the original notice concerning the deficiencies and may give an extension of the time within which they shall be corrected. If the deficiencies, or if the modifications thereof shall not be corrected within thirty (30) days or within any extension, the Borough may enter upon the common open space and maintain the same for a period of one (1) year. Said maintenance by the Borough shall not constitute a taking of said common open space, nor vest in the public any rights to use the same.
4. Burden of Proof. Before the expiration of said year, the Borough shall, upon its initiative or upon the request of the organization responsible for the maintenance of the common open space, call a Public Hearing upon notice to such organization and to the residents of the cluster development. At the hearing, such organization or the residents of the development shall show cause why such maintenance by the Borough shall not continue for a succeeding year. If the Council shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the Borough shall cease to maintain common open space at the end of said year. If the Borough Council shall determine that such organization is not ready and able to maintain said common open space in a reasonable

condition, the Borough may, in its discretion, continue to maintain common open space during the next year, succeeding year and, subject to a similar hearing and determination, in years thereafter.

5. Cost of Maintenance. The cost of such maintenance and enforcement proceedings by the Borough shall be assessed ratably, in accordance with present tax assessments against the properties within the development which includes the common open space and shall become a lien on the said properties. The Borough, upon entering the common open space for the purposes of maintenance, shall file a notice for such lien in the County Office of the Prothonotary.

## **Section 2409 DAY CARE CENTER**

Commercial facilities where daytime supervision is provided for the care of children or adults, not related to the caregiver or operator, and where the child or adult care area is not part of a family residence. Commercial Day Care Center must be licensed or approved to provide services as required by the Commonwealth of Pennsylvania. Day Care Centers shall be subject to the following regulations:

- A. Prior to issuing Borough approval for a permit, the applicant shall have received all pertinent approval and licenses from appropriate State and other agencies.
- B. Minimum indoor areas and outdoor play area requirements per child shall meet the most current Pennsylvania Department of Public Welfare requirements, and the applicant shall submit proof to the Borough, prior to the Borough's issuing of permits, that these requirements have been met. In addition, an outdoor play area shall be provided according to the following:
  1. The outdoor recreation area shall be located to the rear or side of the building.
  2. The outdoor recreation area shall be enclosed by a fence suitable to restrict children to the play area and fencing shall be a minimum of five (5) feet in height.
  3. The outdoor recreation area shall not include driveways, parking areas, or any other area unsuited to active recreation.
  4. The outdoor recreation shall be on the same site as the principal structure.
  5. Outdoor recreation areas shall be sufficiently screened as to protect residential areas from disturbance.
  6. Outdoor recreation areas shall be limited to daylight hours.
- C. Signage shall be permitted in accordance with Article XXVI.
- D. Off-street parking and passenger unloading and loading space shall be provided to prevent interference with traffic flow on any adjacent street or road, in accordance with Article XXV.

**Section 2410 DRIVE-THROUGH SERVICE**

An establishment that, by design, physical facilities, services, or by packaging procedures encourages or permits customers to receive services, or obtain goods while remaining in their vehicles. Such use shall include any establishment for the sale and consumption of food and beverages, any establishment providing banking services or other services in which there is a drive-through window, and shall comply with the following provisions:

- A. The use shall have direct access to either a collector or arterial street as defined in the Borough Comprehensive Plan.
- B. There shall only be one (1) point of ingress and one (1) point of egress to the collector or arterial street.
- C. The drive-through window shall not be located facing or adjacent to a residential use or district.
- D. Drive-through service windows for restaurants must have a cartway that has a dedicated area for conducting business, a vehicle stacking lane which can accommodate a minimum of eight (8) cars for those waiting to conduct business, and an area for departing vehicles. The stacking lane shall not be used for parking lot circulation aisles or in any way conflict with parking or circulation. The stacking lane shall be clearly marked to distinguish it from other traffic.
- E. Drive-through service windows for banks or other services must have a cartway that has a dedicated area for conducting business, a vehicle stacking lane which can accommodate a minimum of five (5) cars for banking and other uses for those waiting to conduct business, and an area for departing vehicles. The stacking lane shall not be used for parking lot circulation aisles or in any way conflict with parking or circulation. The stacking lane shall be clearly marked to distinguish it from other traffic.
- F. Access shall be a minimum of forty (40) feet from street intersections. The distance shall be measured from the closest street line to the closest edge of the access driveway.
- G. When this use is adjacent to or on the same lot as other commercial establishments, it shall use a common access with the other establishments and not have a separate entrance to the street.
- H. A sidewalk shall be provided between an existing sidewalk and the entrance to the facility. If there is no existing sidewalk, one shall be provided along the street frontage.
- I. Trash receptacles shall be provided outside the restaurant for patron use, but shall not be located within fifteen (15) feet of any residential properties.
- J. A trash or solid waste storage unit shall be provided which is designed to be screened from the street and adjacent properties.

**Section 2411 FUNERAL HOME**

A Funeral Home is a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation, and shall comply with the following:

- A. The minimum lot area shall be one (1) acre.

- B. The hours of operation nor the parking shall not interfere with neighboring properties, and shall be set by the Zoning Hearing Board.
- C. Off-Street Parking and Loading shall comply with Article XXV.

#### **Section 2412 HOME OCCUPATION (HOME BASED BUSINESS)**

A business or commercial activity administered or conducted as an accessory use, which is clearly secondary to the use as a residential dwelling. There shall be two (2) categories of Home Occupations/Home-based businesses: major and minor/no-impact. For the purposes of this Ordinance, the terms ‘Minor Home Occupation’ and ‘No-Impact Home-Based Business’ shall be synonymous, and likewise the terms ‘Major Home Occupation’ and ‘Major Home Based Business’ shall be synonymous. Such uses shall be permitted when in accordance with the following standards:

- A. **Minor Home Occupation/No-Impact Home-Based Business.** Minor Home Occupations/No-Impact Home-Based Business shall meet all of the following:
  - 1. The business activity shall be compatible with the residential use of the property and surrounding uses.
  - 2. The use is carried on entirely by the inhabitants of the dwelling, and shall employ no employees other than family members residing in the dwelling.
  - 3. The use does not involve any customer, client, or patient visits, whether vehicular or pedestrian, to the dwelling.
  - 4. Such use involves no pickup, delivery, or removal functions to or from the premises in excess of those normally associated with the residential use.
  - 5. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
  - 6. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
  - 7. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
  - 8. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
  - 9. The business activity shall only be conducted within the dwelling and shall not exceed twenty-five (25) percent of the total floor area of the principal residential structure.
  - 10. Such business use shall not involve any illegal activity.
  - 11. Minor Home Occupations shall be permitted in any dwelling type.

- B. **Major Home Occupation/Major Home-Based Business.** A Home Occupation that does not meet one (1) or more of the criteria listed under Subsection A., above shall be defined as a Major Home Occupation/Major Home-Based Business, a Home Occupation which requires additional regulations because of its greater potential impact on the area in which it is located. Major Home Occupations shall only be allowed in single family detached dwellings, with one (1) Major Home Occupation per single-family detached dwelling. Major Home Occupations shall be permitted only by special exception in those zoning districts where Major Home Occupations are permitted and when other applicable criteria of this Section and Ordinance can be met.
- C. **Prohibited Home Occupations.** The following uses, but not limited to these uses, shall not be permitted as Home Occupations under any conditions:
1. Home Occupations which cannot meet any of the criteria of Subsection A., above for a Minor Home Occupation.
  2. The following uses are prohibited as Home Occupations and shall be classified as commercial uses:
    - a. Animal Shelter, Commercial Kennel or Veterinary Office.
    - b. Rooming or Boarding Home.
    - c. Bed and Breakfast.
    - d. Funeral Home.
    - e. Restaurant.
    - f. Outdoor Café.
    - g. Club or Lodge.
    - h. Medical or Dental Clinic (two or more doctors or dentists).
    - i. Retail Shop.
    - j. Convalescent Home or Nursing Home.
    - k. Rental Business.
    - l. Furniture Stripping.
    - m. Auto or Small Engine Repair.
    - n. Painting of Vehicles, Trailers, or Boats.
    - o. Manufacturing, repairing or other mechanical work performed in connection with the Home Occupation shall not be performed in any outdoor area unless it is fenced or screened in accordance with Article XXIII.
    - p. Private School with organized classes.
    - q. Welding Shop.
    - r. Other uses of similar character to those listed above.
- D. **Determination.** The Zoning Officer shall determine whether a proposed Home Occupation falls under the category of minor, major, or prohibited. The applicant shall be responsible for supplying such information as deemed necessary by the Zoning Officer to make this determination. Major Home Occupations shall be required to obtain and renew a Home Occupation Permit on an annual basis. The following procedure for approval and permitting shall apply:
1. Upon determining that the proposed use is a Minor Home Occupation and is in conformance with the requirements of this Ordinance, the Zoning Officer shall issue a Home Occupation Permit.
  2. Where the Zoning Officer determines that the proposed use is a Major Home Occupation, the use shall require review and approval by the Zoning Hearing Board in accordance with the

provisions of Article XXVIII, Granting of Special Exceptions and the criteria of this Section. The Zoning Hearing Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this Ordinance. Following approval, the Zoning Officer shall issue a Home Occupation Permit.

3. A Home Occupation Permit shall not be transferable to another property or to another type of home occupation. The permit issued shall only be valid for the use and on the property for which it was originally issued. In the event that a property with an existing home occupation is sold, leased, or rented to someone other than the original permit holder, the new owner, leasee or renter, shall be required to obtain a Home Occupation Permit, demonstrating full compliance with the requirements of this Ordinance and any other applicable regulations.

**E. General Standards Applicable to Home Occupations.** The following standards shall apply to all Home Occupations, whether major or minor:

1. No more than one (1) Major Home Occupation or two (2) Minor Home Occupations shall be permitted per lot.
2. The practice of a Home Occupation shall be carried on entirely within the dwelling which is the bona fide residence and under ownership of the principal practitioner and/or an accessory building, used also as a residential garage and located on the same lot as the dwelling.
3. All applicants for a Home Occupation shall be required to obtain a permit from the Borough in accordance with the requirements of Section 2412.D., above, within thirty (30) days prior to beginning operation of the use.
4. There shall be no change in the outward appearance of the dwelling, any accessory building and/or the lot so as to suggest that any use other than the principal residential dwelling use is conducted there by the use of signs, advertising, materials, show windows, or special lighting or to create building spaces or improvements not useful for normal residential purposes. No public display of any goods and/or product, information and/or advertising concerning any goods and/or product shall be allowed.
5. The home occupation shall not cause noise, odor, dust and/or electrical interference and/or have any sensory impact, different from normal residential use, which a person may perceive on any other property.
6. There shall be no storage or use upon the premises of toxic, explosive, polluting, dangerous, or other substances defined as "Hazardous" by the Pennsylvania Department of Environmental Protection.
7. With the exception of Family Day Care Home, below, no home occupation activity shall be conducted between the hours of 8 p.m. prevailing time and 7 a.m. prevailing time which involves individuals to enter or leave the premises or which requires mechanical operations.
8. Such use involves no pickup, delivery, or removal functions to or from the premises in excess of those normally associated with the residential use. Any deliveries from major commercial suppliers which may be disruptive to the neighborhood in which the use is located shall not be made between the hours of 8 p.m. prevailing time and 8 a.m. prevailing time.

9. Storage of material or products in outdoor areas shall be screened in accordance with Section 2309.
10. Minimum off-street parking requirements shall apply as designated in Article XXV.
11. All commercial vehicles shall be parked on the same lot as the home occupation, and only one (1) commercial vehicle may be parked outside of a garage, enclosed structure, or screened parking space.

F. **Standards Applicable to Major Home Occupations.** In addition to other applicable criteria of this Ordinance, the following standards shall apply to Major Home Occupations:

1. Major Home Occupations shall be permitted only in single-family detached structures or an accessory structure to a single-family detached dwelling.
2. The total area used for a Major Home Occupation shall not exceed thirty (35) percent of the floor area of the principal residential structure.
3. No more than one (1) person, other than residents of the dwelling may be employed or subcontracted at the Major Home Occupation. Use of non-resident employees must have prior approval from the Zoning Hearing Board.
4. No more than two (2) clients at any one (1) given time are allowed to be visiting the premises to conduct business on the premises related to the Major Home Occupation.
5. No articles shall be sold or offered for sale on-site, except those produced on the premises. Such sales must have prior approval by the Zoning Hearing Board.
6. Where employees, or customer visits are anticipated, off-street parking shall be provided in sufficient capacity to prevent interference with normal residential parking in the neighborhood. Off-street parking, inclusive of required residential parking, shall be in accordance with Article XXV, in addition to two (2) additional parking spaces required for a Major Home Occupation.
7. Beauty parlors and barber shops may be permitted as a Major Home Occupation provided that no more than two (2) stylist or barber chairs are provided and all other provisions of this Ordinance are met.
8. Instructional services may be permitted as a Major Home Occupation provided that a maximum of two (2) students may be instructed at any one (1) time, and no more than two (2) trips per hour.
9. Family Day Care Home. Family Day Care Home is a Major Home Occupation in which a private residence is used for the care and supervision of between three (3) and six (6) children or adults, not related to the caregiver. A Family Day Care Home must be registered with the Pennsylvania Department of Public Welfare. When in compliance with the provisions outlined below and all other applicable requirements, Family Day Care Home shall be permitted as a Major Home Occupation:
  - a. Prior to final Borough approval of this use and the issuing of a permit by the Zoning Officer, the applicant shall demonstrate receipt and holding of all pertinent approvals and registration certificates from appropriate state or county agencies, and shall provide

evidence that all criteria set by the Zoning Hearing Board have been met. These shall be conditions of Borough permit approval.

- b. A Family Day Care Home use shall only be permitted in a single-family detached dwelling.
- c. There shall be no alterations to exterior facades of residential structures to accommodate Family Day Care Home facilities in a residential district, except for safety purposes which shall be confined to rear or side walls not visible from any public right-of-way.
- d. For a Family Day Care Home intended for children, a minimum outdoor play area meeting the most current Pennsylvania Department of Welfare regulations shall be provided for each child. The outdoor play area shall be located to the side or rear of the property. Setbacks for this play area shall meet the side and rear setback requirements for the applicable district.
- e. The outdoor play area shall be enclosed by a suitable fence with a minimum height of five (5) feet or other barrier suitable to prevent children from crossing. This requirement shall also apply to adult Family Day Care Home where outdoor sitting areas are provided for the use of clients.
- f. In addition to the off-street parking required for a single-family home, at least one (1) additional space is required for each non-resident employee. There shall be sufficient area on the lot or available parking on the street abutting the lot to accommodate the pick-up and drop-off of children without interference with local traffic.

### **Section 2413        INSTITUTIONAL HOMES**

An Institutional Home is a dwelling providing non-transient special care lodging for a minimum for seven (7) and a maximum of fifteen (15) persons, and not more than four (4) resident supervisors, in which some or all of the occupants are unrelated. The Borough Council shall grant conditional use approval for a proposed Institutional Home only if it complies with all of the following conditions:

- A. The number of residents requiring special care shall be a minimum of seven (7) and a maximum of fifteen (15), and there shall be a maximum of four (4) resident supervisors.
- B. The resident supervisors shall provide twenty-four (24) hour supervision, and shall be qualified by training and experience in the field for which the home is intended.
- C. The use shall be licensed under the applicable state program for which the home is intended.
- D. Any medical or counseling services provided on the premises shall be limited to providing such services for the residents of the home only.
- E. Parking shall be in accordance with Article XXV.

**Section 2414      MICROWAVE DISH, RADIO, TELEVISION ANTENNAE AND COMMERCIAL COMMUNICATION ANTENNAE/FACILITY**

A. **Microwave Dish, Radio or Television Antennae.** Such antennae shall be considered a permissible accessory use, subject to the following standards:

1. Radio or Television Antennae. Radio or television antennae is a device primarily an arrangement of wire or metal rods, freestanding, attached to a building or attached to a support structure, used for receiving frequency signals, including television and radio antennae, and not used for commercial broadcasting or communication purposes. Such devices shall include amateur radio service band radio antennae used by Federal Communications Commission (FCC) licensed amateur radio service operators. Radio or Television Antennae shall be subject to the following:

a. *General Provisions.*

- 1) Where applicable, structures shall comply to FCC regulations and the Borough Building Code.
- 2) Permitting. It shall be unlawful for any person to install, construct, or increase the height of any antennae support structure without first obtaining a building permit, except no permit shall be required if the height of the antennae support structure (excluding the height of any building to which it is attached) is fifteen (15) feet or less.
- 3) Applications for a building permit shall be made upon such forms prescribed by the Borough and shall have attached the following items in addition to any other items as required by the Borough:
  - a) A location site plan, drawn to scale, showing any existing structures and indicating the location of the proposed antennae support structure and any required guy wiring and/or braces.
  - b) Manufacturer's drawings and specifications for the antennae support structure including written manufacturer's and/or licensed professional structural engineer certification that the structure and prescribed footings, and guy wiring and braces, if required, have been designed in compliance with the minimum applicable design load and wind load requirements.
  - c) A permit fee as required by the Borough fee schedule.
- 4) No antennae shall protrude in any manner upon the adjoining property without the written permission of the adjoining property owner, and no antennae shall protrude upon the public right-of-way.
- 5) The structure shall meet all yard requirements of the zoning district in which it is located, however no freestanding antennae support, including antennae(s) shall exceed a height of thirty-five (35) feet, except that such height may be increased provided that for every foot of height in excess of thirty-five (35) feet there shall be added to each yard requirement for the structure one (1) corresponding foot of width and depth. Freestanding support structures may be erected only in a rear or side yard.

- 6) Any antennae support structure which has not been in service for more than six (6) months shall be removed.
- b. *Television Antennae.*
- 1) The maximum height of an antennae support structure and antennae(s) shall not exceed the peak of the roof of the principal building by more than fifteen (15) feet, or if freestanding, a height of fifty (50) feet above ground level.
  - 2) No more than one (1) television antennae and support structure shall be permitted per lot.
- c. *Amateur Radio Antennae.*
- 1) The installation and use of Amateur Radio service antennae(s) within the Borough shall be limited to FCC licensed amateur radio operators.
  - 2) No antennae support structure(s) and antennas, shall exceed a height of thirty-five (35) feet except that such height may be increased to a maximum height of sixty-five (65) feet for Amateur Radio antennae installations provided that for every foot of height in excess of thirty-five (35) feet there shall be added to each yard requirement for the structure one (1) corresponding foot of width and depth.
2. Microwave Dish Antennae. Microwave dish antennas are parabolic earth based reflectors, together with a pedestal and any other attachment and parts thereof, commonly referred to as a dish antennae, used or intended to receive microwaves, radio or electromagnetic waves from an overhead satellite, and shall be subject to the following requirements:
- a. *General Regulations.* Microwave dish antennas in all districts shall be subject to the following additional general regulations:
- 1) All microwave dish antennae shall remain accessory to the principal use of the lot on which it is located.
  - 2) No microwave antennae may be erected in any district or any location within a district which does not meet regulations of the Federal Communications Commission (FCC) or other regulatory agency having jurisdiction.
  - 3) Microwave antennas shall be properly anchored and installed to resist a minimum wind load of thirty (30) pounds per square foot of projected horizontal area. Supports, anchors and foundations shall take into account overturning movements and forces created by wind loading. The safety factor against overturning or sliding for wind forces on microwave antennas shall be 2.0.
- b. *All Residential Districts.* Microwave antennas in residential districts shall be subject to the following:
- 1) The diameter of the microwave antennae shall not exceed four (4) feet.
  - 2) When freestanding (not roof mounted), the following shall apply:

- a) The total height of the microwave antennae from the antennae base shall not exceed six (6) feet, unless approved as a special exception by the Zoning Hearing Board in accordance with Article XXVIII and Section 2414.A.2.c, below.
  - b) Such an arrangement should be screened, to the greatest extent feasible, with staggered plantings or fencing to the extent that such screening does not substantially interfere with reception.
  - c) Supporting material shall comply with the Borough Building Code.
  - d) The microwave antennae should, if possible, be located only in the side or rear yard and not closer than ten (10) feet to any property line.
- 3) When roof or wall mounted mounting materials and methods shall comply with the Borough Building Code.
- 4) Permit Requirements. Before erection or installation of any microwave dish antennae in a residential district, a permit application shall be made to the Borough and a permit issued and an appropriate fee, as established by the Borough Council, shall be paid. The application process shall be in conformity with this Section and all applications shall be accompanied by plans in duplicate and to scale, showing:
- a) The dimensions of the lot and location of the buildings thereon.
  - b) Details of all microwave antennae anchors, supports and foundations, and the exact proposed location thereon on the lot.
  - c) When microwave antennas are attached to an existing structure, provide details of how microwave antennae loads will be distributed to the existing structure.
- c. *All Commercial, Institutional, and Industrial Districts.* Microwave antennas shall be subject to the following regulations:
- 1) Microwave dish antennas up to four (4) feet in diameter may be installed, subject to those specific regulations set forth for residential uses, as established above.
  - 2) Microwave dish antennas exceeding four (4) feet in diameter, but not more than nine (9) feet in diameter, shall be permitted, subject to the following restrictions:
    - a) The total height of the microwave dish antennae from its base shall not exceed twelve (12) feet.
    - b) The microwave dish antennae shall be located not less than twenty-five (25) feet from any property line.
    - c) Screening shall be provided to the greatest extent feasible, with staggered plantings or fencing to the extent that such screening does not substantially interfere with reception.
  - 3) Permit Requirements. A permit shall be required prior to the erection or installation of any microwave dish antennae in any Commercial, Institutional, or Industrial

District. The application process shall be in conformity with this Section and all applications shall be accompanied by plans in duplicate and to scale, showing:

- a) The dimensions of the lot and location of the buildings thereon.
- b) Details of all microwave antennae anchors, supports and foundations, and the exact proposed location thereon on the lot.
- c) Design wind load on each anchor and allowable wind load on each anchor.
- d) Forces on foundation, including live load and dead load.
- e) Allowable soil bearing pressure and actual soil bearing pressure.
- f) Strength and allowable stresses of cables, rods or braces. Actual force and allowable force for each cable, rod or brace.
- g) When microwave antennas are attached to an existing structure, provide details of how microwave antennae loads will be distributed to the existing structure.

**B. Commercial Communications Antennae and Facilities.** Such facility is a structure that includes a transmitting, receiving, or relay tower and support structures and accessory buildings that is licensed by the Federal Communications Commission (FCC) for the specified purpose of television, radio, or telephone communication beyond that which would be used for normal personal or residential use. Such uses shall include cellular, television, radio, or microwave tower. The following regulations shall apply to all commercial communication antennae and facilities constructed in the Borough.

1. Purposes. The purpose of these regulations shall be as follows:

- a. Accommodate the need for commercial communications antennae and facilities while regulating their location and number in the Borough.
- b. Encourage the joint use or co-location of any new antennae support structures in order to reduce the number of such structures needed in the future.
- c. Minimize adverse visual effects of commercial communications antennae and facilities, and antennae support structures through proper design, siting, and vegetative screening.
- d. Avoid potential damage to adjacent properties from antennae support structure failure and falling ice, through proper structural engineering and proper site location of antennae support structures.

2. Standards for the Location of Such Commercial Communications Antennae and Associated Uses. All commercial communication antennae and facilities shall meet the following locational requirements:

- a. A cell site with antennae that is attached to an existing communications tower, smoke stack, water tower, or other tall structure, is permitted in commercial, institutional and industrial zoning districts and shall not exceed the height of the existing structure by more than fifteen

(15) feet, otherwise Subsection b., below, shall apply. If the antennae is to be mounted on an existing structure, a full site plan shall not be required.

- b. A commercial communications site with antennae that is either not mounted on an existing structure, or is greater than fifteen (15) feet above the structure on which it is mounted, requires approval as a Conditional Use in accordance with Section 2910, shall meet the requirements of this Section, and shall be permitted only in the LI Industrial District and LI1 Industrial District.
  - c. All other uses ancillary to the antennae and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the commercial communications antennae, unless otherwise permitted in the zoning district in which the cell is located.
  - d. If located on the same lot with another permitted use, the antennae shall not be located in the front or side yard. This requirement shall not apply to an antennae mounted on an existing structure.
3. Standards for Approval Applicable to All Commercial Communication Antennae. All commercial communication antennae and facilities shall meet the following requirements:
- a. *Height.* The applicant shall demonstrate that the antennae is the minimum height required to function satisfactorily, unless it can be demonstrated that the purpose of increased height beyond the minimum necessary is to allow for future co-location of facilities on said antennae, which in no case shall exceed two hundred (200) feet for antennae not mounted to an existing structure. Height shall be the vertical distance measured from the base pad of the antennae to the highest point of the support structure or antennae, whichever is higher. If the support structure is on sloped grade, the lowest grade shall be used in the calculation.
  - b. *Setbacks.* If a new antennae structure is to be constructed, the minimum distance between the base of the support structure or any guy wire anchors, and any property line shall be equal to or greater than the antennae height, as defined in Subsection a., above. However, the setback required can be modified by the Borough Council if Council determines that a lesser setback will reduce the commercial communication antennae's visual impact and if safety issues are satisfied.
  - c. *Structure Safety.* The applicant shall demonstrate that the proposed antennae and support structure are safe, designed and built in accordance with the Borough Building Code, Federal Aviation Administration (FAA) and FCC regulations, and other applicable codes and standards, and that the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturer of the support structure and Borough Engineer. The owner or operator of the commercial communication antennae and facility shall submit to the Borough an annual inspection report regarding the structural safety of the commercial communications support structure and facility.
  - d. *Fencing.* A fence shall be required around the antennae support structure and other equipment, unless the antennae is mounted on an existing structure. The fence shall be eight (8) feet in height.

- e. *Landscaping.* Landscaping shall be required to screen as much of the support structure, fence, and other ground level features as possible. A combination of existing vegetation, topography, walls, decorative fences, or other features may be permitted if they achieve the same degree of screening as required below. If the antennae is mounted on an existing structure, such landscaping shall not be required.
  - 1) An evergreen screen consisting of either a hedge planted every four (4) feet minimum or evergreen trees planted every ten (10) feet.
  - 2) Existing vegetation on and around the site shall be preserved to the greatest extent possible.
- f. *Joint Use/Co-location.* To reduce the number of antennae support structures needed in the community in the future, antennae shall co-locate and the proposed support structure shall be required to accommodate other users, including other commercial communication companies, and local police, fire, and ambulance companies, unless there are mechanical, structural or other factors preventing the joint use/co-location of facilities.
- g. *Licensing.* The commercial communications company must provide evidence to the Borough that it is licensed by the FCC.
- h. *Electromagnetic Emission.* The commercial communications company shall comply with FCC regulations and requirements promulgated by the FCC for safe human exposure to radio frequency electromagnetic fields, and shall provide copies to the Borough of the latest FCC information regarding emission standards and shall also submit information on the power intensity of the facility annually demonstrating compliance with current FCC standards. Once installed, any increase in power or output of the facility shall be reported immediately to the Borough.
- i. *Parking.* If the commercial communications site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of parking spaces shall equal the number of people on the largest shift.
- j. *Design.* Commercial communication antennae mounted on an existing structure shall be designed and maintained, to the greatest extent feasible, to blend with the existing structure, Commercial communication support structures shall, to the greatest extent feasible, blend with the existing surroundings, and support structures shall be painted or have a galvanized finish to reduce visual impact. Painting of support structures shall meet all FAA regulations.
- k. *Lighting.* No antennae support structure shall be artificially lighted except as required by the FAA. Such lights shall be shielded so as to reduce intrusion upon nearby properties.
- l. *Interference.* The applicants shall provide to the satisfaction of the Borough proof of evidence from a qualified licensed professional engineer in the State of Pennsylvania that the placement of the commercial communications antennae and facility will not interfere with public safety nor the usual and customary transmission or reception of radio, television, or other communication services for adjacent residential and nonresidential properties.
- m. *Site Plan.* Site Plan Requirements are as follows:

- 1) A site plan conforming to the requirements of the Borough Subdivision and Land Development Ordinance shall be required for all commercial communication sites proposing a new structure or an antennae fifteen (15) feet or higher than the existing structure on which it is mounted. The site plan shall show the antennae, antennae support structure and specifications, equipment facility, building, fencing, buffering, grounding, adjacent uses within two-hundred (200) feet of the site, description and illustration of the design of the commercial communication antennae and facility in order for the Borough to assess visual impact, and all other items required by the Subdivision and Land Development Ordinance, and shall meet all other applicable requirements of the Zoning Ordinance for the district in which it is located. Additionally, a report prepared by a qualified licensed professional engineer in the Commonwealth of Pennsylvania shall certify as to the proper design of the foundation and support structure in accordance with all applicable requirements.
  - 2) The site plan shall not be required if the antennae is to be mounted on an existing structure and is less than fifteen (15) feet higher than the existing structure. In such cases, information necessary for the applicable zoning permit and building permit shall be provided as well as a report prepared by a qualified licensed professional engineer in the Commonwealth of Pennsylvania shall certify as to the proper design of the foundation and support structure in accordance with all applicable requirements.
4. Standards for Commercial Communication Antennae Requiring Conditional Use Approval. In addition to the requirements of Section 2910 and Section 2414.B.3 above, the following standards shall be met when a commercial communications antennae requires approval as a Conditional Use:
- a. The commercial communications company is required to demonstrate, using technological evidence, that the antennae must be located where it is proposed in order to satisfy its function in the company's grid system, and demonstrate that there is a need for this facility in the community where it will be located.
  - b. If the commercial communications company proposes to build a tower, as opposed to mounting the antennae on an existing structure, it is required to demonstrate that it contacted the owners of tall structures within a one-quarter (0.25) mile radius of the site proposed, requesting permission to install the antennae on those structures, offered market compensation to such owners, and was denied permission for reasons other than economic ones. Tall structures shall include, but are not limited to, smoke stacks, water towers, tall buildings, and antennae support structures of other communications towers (fire, police, etc.). The Borough may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antennae on an existing structure.
  - c. If Conditional Use is granted, it shall be subject to the condition that the use of the commercial communication antennae support structure shall be made available to other users as per Section 2414.B.3.f., above.
5. Installation and Maintenance. Commercial communications antennae and facility owners shall employ ordinary and reasonable care in the installation and maintenance of such facilities. They shall maintain no less than the best available technology for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

6. Removal of Commercial Communication Antennae and Facility. The commercial communication antennae/facility owner is required to notify the Borough immediately upon cessation and abandonment of the operation. Commercial communication antennae that are no longer licensed and active commercial transmitting facilities shall be removed at the owner's expense within sixty (60) days of the last date that the facility was licensed by the FCC. At the time of issuance of the permit for construction of the commercial communication antennae/facility, a bond or escrow account shall be posted with the Borough in an amount sufficient to ensure the expense of the dismantling and removal of said structure.
7. Fees. An applicant seeking the approval of a commercial communication antennae and facility shall establish an escrow account with the Borough from which the Borough will make payment of fees and charges for consultants it deems necessary for the processing and reasonable expenses related to the application.

### **Section 2415      MOBILE HOME PARK**

The following design standards shall govern the creation of a Mobile Home Park, being a parcel of land under a single and separate ownership which has been planned and improved for the placement of mobile homes for non-transient uses, consisting of two (2) or more mobile home lots:

- A. **Minimum Tract Size.** A mobile home park shall have a contiguous area of not less than three (3) acres.
- B. **Mobile Home Lot Area and Width.** The following minimum standards shall apply to each lot, unit or rental pad within a Mobile Home Park:
  1. Lot Area.      Four thousand (4,000) square feet
  2. Lot Width.     Forty (40) feet.
- C. **Setbacks.** The following minimum setback provisions shall apply to a Mobile Home Park:
  1. No mobile home shall be closer than twenty (20) feet from:
    - a. The cartway edge of an internal street;
    - b. Another mobile home;
    - c. Accessory park building; or
    - d. Common trash receptacles.
  2. No accessory structure to a mobile home shall be closer than fifteen (15) feet from:
    - a. The cartway edge of an internal street;
    - b. Another mobile home; or
    - c. An accessory structure to a different mobile home.

- D. **Open Space.** A minimum of fifteen (15) percent of the gross tract area shall be in open space for the use and enjoyment of the residents of the Mobile Home Park. The following standards shall apply to the open space:
1. The open space shall not be located within or be included in calculating the buffer area required, or setback areas, but shall be included in calculating the maximum density permitted.
  2. Open space shall be substantially free of structures, except those designed for recreational purposes or the preservation of historic structures, and shall be usable.
  3. Open space shall be located and designed so as to be easily accessible by residents of the Mobile Home Park and to preserve natural features.
  4. Open space shall have a minimum of ten (10) percent of its total area suitable for active recreational use. Active recreation areas shall be free of obstructions, including watercourses, floodplains, steep slopes, and wetlands. Such areas shall be no less than one-quarter (0.25) acre in size and no less than seventy-five (75) feet in width measured in any horizontal direction.
  5. Such areas shall be setback a minimum of ten (10) feet from residential uses.
  6. When an area is designed for active recreation and abuts an arterial or collector street, it shall be fenced, provided with an earthen berm, or combination thereof, that physically separates it from the street.
  7. Shall be operated and maintained in accordance with the provisions under this Section.
- E. **Buffer.** There shall be a minimum buffer area of twenty (20) feet around the perimeter of the tract to be used as a Mobile Home Park. No mobile home, accessory building or structure shall be located within the buffer area.
- F. **Sidewalks.** Sidewalks shall be provided to connect dwellings with parking areas, recreational/open areas, and refuse facilities.
- G. **Parking.** Off-street parking shall be provided in conformity with Article XXV. On-street parking shall be permitted on the internal Mobile Home Park roads.
- H. **Public Sewage and Water.** Public water service and public sanitary sewer systems service shall be provided for each mobile home. Confirmation of service availability shall be a condition of plan approval.
- I. **Mobile Home Pad and Skirting.**
1. Every mobile home shall be placed on a concrete pad at least six (6) inches in thickness, with at least six (6) tie-downs provided, either:
    - a. On the pad (if such pad is equal in length and width to the mobile home placed thereon);
    - or

- b. Piers twelve (12) inches in diameter by thirty (30) inches deep, placed no greater than ten (10) feet on center under each side of the lateral frame.
2. Every mobile home shall have solid, all-weather skirting enclosing the area between the ground and the mobile home floor so that it shall prevent that area from forming a harborage for rodents, avoid the creation of a fire hazard and to prevent unsightly conditions.
- J. **Maintenance of Facilities.** The operator and owner of the Mobile Home Park shall be responsible for maintaining all common facilities, including but not limited to roads, parking areas, sidewalks or pathways, common open space, water supply and sewage disposal systems and service buildings, in a condition of proper repair, maintenance and cleanliness, in compliance with the applicable Borough Ordinance, code and regulations. If, upon inspection by the Zoning Officer or other representative, it is determined that the Mobile Home Park is not in compliance with this standard of maintenance, the owner and operator shall be considered to be in violation of this Ordinance and the Zoning Officer shall notify the operator or licensee of the particulars of any such violation.
- K. **Mobile Home Park Management.** Every Mobile Home Park shall include an office for the person in charge of such park. A copy of the operating permit, along with the register, shall at all times be open for inspection by any Borough officials. The register shall include, but not be limited to the following information:
1. A number assigned to each mobile home lot or site.
  2. Names and addresses of all residents of the park and their designated mobile home lot or size.
  3. The arrival date of each mobile home to the park.
  4. The departure date of each mobile home from the park.

## Section 2416 MULTI-FAMILY DWELLING

A Multi-Family Dwelling is a building containing three (3) or more dwelling units, each with independent kitchen, bathroom and bedroom facilities, which may have independent outside access, including, but not limited to triplexes, quadraplexes, townhouses, and apartments. Multi-Family Dwellings shall be permitted in accordance with the following:

- A. The area and bulk regulations under the applicable zoning district shall apply.
- B. Multi-Family developments consisting of multiple buildings shall adhere to the following regulations:
  1. The maximum length of a Multi-Family building shall be onehundred and seventy-five (175) feet.
  2. Multi-Family buildings are encouraged to be located in clusters which create common open areas, rather than situated parallel to one (1) another. Where clustering is not feasible due to site conditions, there shall be no more than three (3) abutting buildings parallel to each other within the development.

3. Staggered setback of dwelling units and a variation in façade design shall be encouraged to offer visual variety, individualism, and some private yard area. It is recommended that no more than two (2) contiguous units shall have the same façade setback within a building. Changes in setbacks shall be a minimum of four (4) feet.
4. Buildings within the development shall be designed to provide individual dwelling units with views and direct access to required open areas.
5. Dwelling units shall be set back a minimum of fifteen (15) feet from common parking areas and shall be set back a minimum of twenty-five (25) feet from common refuse areas.
6. Dwelling units must be setback a minimum of twenty-five (25) feet from the tract boundary.
7. Sidewalks shall be provided to connect dwellings with parking areas, recreational/open areas, and refuse facilities. Sidewalks should adhere to Olde Towne Design Guidelines, as outlined in the Borough Subdivision and Land Development Ordinance.
8. The following building separation distances shall be met in order to provide individual units with some level of privacy:
  - a. Front or facing walls (long wall) 45 feet.
  - b. Facing end walls (short wall) 25 feet.
9. Outdoor Lighting shall be in accordance with Section 2307.
10. Buffering shall be in accordance with Section 2309, in addition to which all areas not covered by impervious surfaces shall be landscaped and, maintained with suitable ground cover and plants. Existing vegetation is encouraged to be maintained for landscaping purposes.
11. Required parking shall adhere to those standards set forth in Article XXV. Parking areas shall be adequately landscaped to provide shade, to screen vehicles from public streets, and to reduce glare and noise within the development. Parking lots shall be setback a minimum of twenty-five (25) feet from any right-of-way and shall be screened with landscaping. Landscaping shall be provided around the perimeter of all parking areas, except for access points and walkways.
12. All Multi-Family developments shall have a minimum of fifteen (15) percent of the land reserved for recreational areas. Recreation areas shall be free of obstructions, including watercourses, floodplains, steep slopes, and wetlands. Such an area shall be contiguous, and shall be setback a minimum of ten (10) feet from any residential uses or residential accessory uses, and shall be a minimum of fifty (50) feet in width . Maintenance of this area shall be the responsibility of the landowners', homeowners', or condominium owners' association. This area shall not be located within or be included in calculating the required buffer area or setback areas, but shall be included in calculating the maximum density permitted. This area shall be substantially free of structures, except those designed for recreational purposes or the preservation of historic structures, and shall be usable. This area shall be located and designed so as to be easily accessible by residents of the Multi-Family dwelling development. When an area is designed for active recreation and abuts an arterial street, it shall be fenced, provided with an earthen berm, or combination thereof, that physically separates it from the street. Failure to maintain any recreational areas shall constitute a violation of this Ordinance and shall be actionable by the Borough.

13. Circulation and access shall be as provided in this Ordinance and in the Borough Subdivision and Land Development Ordinance.

### **Section 2417      MULTI-SHOP RETAIL**

A Multi-Shop Retail is a shopping center containing two (2) or more retail uses located in one (1) building or on a single lot and preplanned and designed as a complex of related structures and circulation patterns, and shall be in accordance with the following:

- A. The area and bulk regulations for Multi-Shop Retail under the applicable zoning districts shall apply.
- B. Primary access shall be from a collector or arterial street as defined in the Borough Comprehensive Plan.
- C. Parking shall be in accordance with Article XXV.
- D. Multi-Shop Retail Uses including parking and service areas shall be fully screened from all adjacent residential uses and districts in accordance with Section 2309.
- E. Outdoor Storage shall comply with standards set forth in Section 2310.
- F. Outdoor Lighting shall comply with standards set forth in Section 2307.
- G. Establishments furnishing shopping carts shall provide defined areas on the site for the storage of such carts which shall be clearly marked and designed for such use.
- H. Trash receptacles for patron use shall be provided outside of any establishment with take-out service or convenience shopping.
- I. Sidewalks shall be provided along all street frontage and pedestrian access to sidewalks on or adjacent to the property.

### **Section 2418      OUTDOOR CAFÉ**

An Outdoor Café is an outdoor patio area of an associated restaurant or tavern, used for the express purpose of furnishing food and beverages to the public to be consumed on the premises, and directly abutting and on the same lot as the principal building in which the associated restaurant or premises licensed by the Pennsylvania Liquor Control Board pursuant to the regulations of the said Board to conduct business on the above-mentioned premises is located. Outdoor Cafes, and shall adhere to the following:

- A. Prior to constructing or maintaining an Outdoor Café, an applicant shall first apply for and secure a permit from the Borough in accordance with the following:
  - 1. An applicant shall submit in writing to the Zoning Officer, along with the required fee, an application including the following:

- a. Name of address of the applicant.
  - b. Plan specifying the location of the Outdoor Café, including a calculation of proposed occupant amount, seating capacity, and location.
  - c. Written consent of the property owner, if other than the applicant.
  - d. Indoor seating capacity.
  - e. Statement of indemnity as per Section 2418.A.3 below.
  - f. Other similar information as may be required.
  - g. Information sufficient to demonstrate compliance with Sections 2418.B. through 2418.G., below.
2. No action shall be taken on any application for a permit under this Section until the application has been completed fully and the application fee, as required by the schedule of fees established and amended by resolution of Borough Council, paid in full.
  3. The applicant shall indemnify and keep harmless the Borough, its officers, employees, and agents from and against any and all actions, suits, demands, payments, costs, and charges for and by reason of the existence of an Outdoor Café, and all damages to persons or property resulting from or in a manner caused by the presence, location, use, operation, installation, maintenance, replacement, or removal of such use, or by the acts or omission of the employees of agents of the applicant for such use.
- B. The associated restaurant or tavern shall have a minimum indoor seating capacity of fifteen (15) persons.
  - C. Outdoor Café uses, abutting or adjacent to residential districts, shall stop serving customers on or before 9 p.m. prevailing time on Sunday through Thursday and clear all tables of food, beverages, and customers on or before 10 p.m. On Friday and Saturday, customer service shall stop at 10 p.m. prevailing time, and all tables shall be cleared of food, beverages, and customers on or before 11 p.m.
  - D. This use shall not be located on or extend onto a public sidewalk, street, or rights-of-way.
  - E. This use shall be associated with a principal use of a restaurant or tavern and shall be located abutting that building in which the principal use is located, and shall be located on the same lot as that principal use.
  - F. The Outdoor Café shall be separated from parking areas or traffic flow areas by fencing or buffering. However, in any location where the Outdoor Café is not separated from the flow of traffic or parking areas, no table shall be located within six (6) feet of the curb or the boundary of that area, whichever is closer.
  - G. The Outdoor Café shall provide table service.

- H. The applicant shall maintain the Outdoor Café in accordance with all Borough ordinances and state and federal laws, as well as rules and regulations promulgated and adopted by the Borough which pertain to this use.
- I. The applicant shall remove the Outdoor Café within thirty (30) days after written notice if the Borough or Zoning Officer determines that the use is detrimental to the health, safety, and general welfare of the Borough or its residents as follows:
1. The Outdoor Café is no longer being used as such.
  2. The use has been temporarily or permanently closed for violation of any Borough, state, or federal law and/or regulation.
  3. The use is operated in violation of any ordinance or regulations of Malvern Borough.
  4. In the event that the applicant fails to remove the Outdoor Café within seven (7) days after the thirty (30) day period after written notice, the Borough may proceed to remove and restore the area and charge the applicant for the cost thereof. In this instance, the applicant is entitled to the return of furnishings or equipment so removed, only after the payment for all costs for the removal due to the Borough, and requesting the return in writing. The responsibility for removal under the provisions of this Section shall be the sole responsibility of the applicant without any obligation or cost assessed against the Borough.
- J. The Borough may, from time to time, add regulations or rules that it deems necessary to facilitate the purposes, as defined, and functioning of this use, and these rules and regulations shall be approved by Borough Council.

**Section 2419 PLANNED CAMPUS DEVELOPMENT, INVOLVING EDUCATIONAL AND/OR RELIGIOUS USES**

Such use shall involve a grouping of two (2) or more buildings for education or religious purposes, which are developed according to a unified plan including the layout of lots, buildings, access streets, landscaping, and other improvements typically in a campus-like setting, and shall be in accordance with the following:

- A. The area and bulk regulations as defined in the applicable zoning districts shall apply.
- B. Uses shall include: educational uses, religious uses, or philanthropic uses.
- C. Parking requirements shall be in accordance with Article XXV.
- D. The tract of land to be developed shall be in one (1) ownership or in the case of multiple ownership, shall be developed according to a single overall unified plan with common authority and ownership.
- E. The tract and uses therein shall have access only to an arterial or collector street as defined by the Borough Comprehensive Plan with a common ingress and egress.

**Section 2420 PLANNED CAMPUS DEVELOPMENT FOR PROFESSIONAL, EXECUTIVE OR BUSINESS OFFICE USE**

Such use shall involve a grouping of two (2) or more office buildings which are developed according to a unified plan including the layout of lots, buildings, access streets, landscaping, and other improvements typically in a campus-like setting, and shall be in accordance with the following:

- A. The area and bulk regulations as defined in the applicable zoning district shall apply.
- B. Uses shall include: Professional offices, administrative offices, business office, governmental offices.
- C. Parking requirements shall be in accordance with Article XXV.
- D. The tract of land to be developed shall be in one (1) ownership or in the case of multiple ownership, shall be developed according to a single overall unified plan with common authority and ownership.
- E. The tract and uses therein shall have access only to an arterial or collector street as defined by the Borough Comprehensive Plan with a common ingress and egress.
- F. A Planned Office Campus shall, whenever practical, reuse the existing buildings and facilities within the district to promote maintenance of the Borough character and architecture. Whenever possible, it is encouraged that reuse of the existing buildings should maintain the architectural integrity and facades of the buildings. Building plans indicating the overall extent of exterior alterations should be submitted as part of the Conditional Use review application. Any building listed on or eligible for the National Register of Historic Places shall be listed on the building plan. It is strongly encouraged that additional buildings be designed to complement the architectural character and development layout of existing buildings.

**Section 2421 RELIGIOUS USE**

Churches, place of worship, and other Religious Uses shall be subject to the following regulations:

- A. Minimum lot area for a religious use shall be twentythousand (20,000) square feet.
- B. The Uses permitted under this Use shall include:
  - 1. Church, synagogue, or other place of worship
  - 2. Accessory uses, including the following:
    - a. Institutional classrooms or educational use.
    - b. Kitchen.
    - c. Office for the Religious Use.
    - d. Gymnasium/recreational facility.

- e. Day care center as per Section 2409.
- f. Rectory or other lodging for minister, priest, rabbi, or similarly qualified individual.
- g. Cemetery, as per the following regulations:
  - 1) Aside from soil disturbance associated with internment, ground cover shall be maintained at all times. Retention of natural buffer areas shall be maintained to the greatest degree possible along with the use of landscaping material for Commercial Buffers, as per Article XXIII, in order to mitigate the visual impacts to neighboring properties and the water recharge capacity.
  - 2) No buildings other than mausoleums, mortuaries, and the like shall be permitted and no building shall be more than fifteen (15) feet in height.
  - 3) Individual plots shall be set back a minimum of fifty (50) feet from all lot boundaries and public rights-of-way.
  - 4) No vault or plot shall be located where at its greatest depth below the ground surface, it may intrude upon the seasonal high water table.
- C. Accessory Uses to a Religious Use and on the same lot as a primary Religious Use shall meet the following:
  - 1. Accessory Uses shall meet area and bulk requirements of the zoning district in which they are located and shall be in accordance with Section 2401.
  - 2. Accessory uses shall be setback a minimum of twenty-five (25) feet from a residential use or district, and shall be sufficiently screened to minimize disturbance of residential areas.
- D. Off-street parking facilities shall be in accordance with Article XXV.
- E. Screening and Buffering shall be in accordance with Section 2309.
- F. Lighting shall be in accordance with Section 2307.

## **Section 2422      RESIDENTIAL CONVERSIONS**

A Residential Conversion is the dividing of a single-family detached dwelling into two (2) or more dwelling units, with the resulting units each having independent kitchen, bath, and sleeping facilities. The intent is to provide an alternative use for structurally sound, larger, older homes which may no longer be able to function economically viably as a single unit and which provide an excess amount of living space for today's decreasing family size. The following shall apply:

- A. The following minimum floor areas shall be met:

<u>Type of Unit</u>	<u>Minimum Floor Area</u>
Efficiency	450 sq. ft.
1 bedroom	550 sq. ft.
2 bedrooms	700 sq. ft.
3 bedrooms	800 sq. ft.

- B. The minimum lot area and bulk regulations for single-family dwellings in the district in which the Residential Conversion is proposed shall be met. There shall be a lot area not less than the product of the minimum lot area prescribed in the district regulations and the number of families for the use of which such dwelling is to be converted.
- C. Separate kitchen and bathroom facilities shall be provided per unit. All applicable Borough Building Code and Chester County Health Department regulations and permit requirements regarding the installation of these facilities shall be met and indicated on all plans. Approval from all applicable agencies is necessary prior to issuance of a building permit by the Borough.
- D. Trash receptacles shall be screened so as not to be visible from the street or abutting properties, except on scheduled days for trash pick-up. The yard and building area requirements for the district in which the building is located must be complied with.
- E. Residential Conversions shall not be permitted on an existing nonconforming lot or in a nonconforming structure.
- F. Single-family dwellings which are converted shall maintain the appearance of the original single-family dwelling with a single front entrance. The dwelling units may share the single front entrance. An additional entrance may be placed on the side or rear of the building. Fire escapes and outside stairways shall, where practicable, be located on the rear of the building, no preference to any side wall, and shall in no case be located on the front façade facing a street. Except as may be necessary for these reasons of safety, there shall be no major structural change of the building in connection with the Residential Conversion.
- G. Site and floor plans for the Residential Conversion shall be included with the application for conversion indicating both exterior and interior building alterations.
- H. The off-street parking requirements of this Ordinance shall be met, in accordance with Article XXV.

### **Section 2423      UPPER FLOOR DWELLING UNIT**

An Upper Floor Dwelling Unit is a room or rooms within a building connected together, constituting a separate, living area containing independent cooking and sleeping facilities for one (1) family, physically separated from any other dwelling unit and located on the second floor or higher above either a separate residential or commercial use located in the same structure, and shall be required to meet the following criteria:

- A. Where an Upper Floor Dwelling Unit is proposed, the requirements of Section 2422.C., D., E., F., and H. shall be met for the residential use.

- B. Parking requirements, in accordance with Article XXV, shall be calculated for each use, but may be designed as a common parking lot.
- C. An Upper Floor Dwelling Unit shall have independent access and no access to an Upper Floor Dwelling Unit shall be from the non-residential use below.
- D. Any non-residential use should not be a nuisance to the Upper Floor Dwelling Unit.

