



Herbert, Rowland & Grubic, Inc.  
220 West Kensing Drive, Suite 100  
Cranberry Township, PA 16066  
724.779.4777  
www.hrg-inc.com

## ZONING ORDINANCE AMENDMENTS DRAFT AMENDMENT FOR PUBLIC REVIEW

Middlesex Township, Butler County, Pennsylvania

November 7, 2023

### INTRODUCTION

The following document outlines the amendments being made to the Middlesex Township Zoning Ordinance. This text is not the official amendment text, but outlines the revisions being made, in a more user-friendly document. The exact amendment language is also available on the Township website. If any discrepancies exist between this document and the official amendment text, it should be assumed that the official amendment text is correct.

The Pennsylvania Municipalities Planning Code (PA MPC) required public meeting to discuss this amendment was held at the regularly schedule meeting of the Middlesex Township Planning Commission on October 25, 2023, where the Planning Commission voted to recommend adoption to the Township Board of Supervisors.

The PA MPC required public hearing will be held on December 20, 2023, at the regularly scheduled Board of Supervisors meeting.

### DEFINITIONS TO BE ADDED TO ARTICLE II. WORD USAGE; DEFINITIONS

The following definitions should be added to Article II. Word Usage; Definitions, §175-8 Terms defined.

**ACCESSORY DWELLING UNIT** – A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

**AGRITOURISM** – The practice of attracting travelers or visitors to an area or areas used primarily for agricultural purposes, including but not limited to overnight stays (lodging and camping), special events and festivals, recreation activities and events, fresh products and value-added products, tourism-enhanced direct marketing, and/or education. Agritourism may serve as a supplementary, complimentary, or primary enterprise of the area(s).

**ANTENNA** – Any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc), or any other wireless antenna. An antenna shall not include “Tower-Based Wireless Communications Facilities” as defined in this Section.

**APIARY** – Any place where one (1) or more colonies of bees are kept at a single location.

**BAR** – An establishment where the principal use is the serving of alcoholic beverages by the drink to the general public and where food or packaged beverages may be served or sold as an accessory use.

**BREWERY** – A facility that holds a license to manufacture, store and distribute malt or brewed beverages as regulated the Pennsylvania Liquor Code, as amended. Sales of malt and brewed beverages of alcoholic and or non-alcoholic content that are manufactured outside the facility are prohibited. Holders of a brewery license may allow patrons to consume alcohol on the premises only in accordance with Title 40 of the Pennsylvania Liquor Code. See also “Micro-brewery” And “Brewpub.”

**BREW PUB** – A restaurant in which beer or malt beverages, wine, and other alcoholic beverages are manufactured, brewed or distilled on site for retail purchase only and which establishment is licensed and operated in accordance with the Pennsylvania Liquor Code and in compliance with the requirements of the Pennsylvania Liquor Control Board.

**CATERING/EVENT VENUE**– A facility that provides a location for a planned occasion or activity, such as a wedding, reunion, graduation, or other social gathering. Event halls, when authorized, may sometimes include a catering use.

**CHICKEN** – Common domestic fowl (*Gallus domesticus*) or its young. Within this Ordinance, a chicken refers only to a female chicken.

**CHICKEN RUN OR RUNWAY** – A covered, secure enclosure that allows chicken hens access to the outdoors.

**CHICKEN TRACTOR** – A movable, fully enclosed structure commonly used for pastured chicken hens that graze on fresh grass daily. The chicken tractor is moved every day or week as needed for the chicken hens to have fresh grass underneath them. Chicken tractors can be used as permanent or temporary housing for chicken hens and are considered a type of chicken coop. **COOP** – Any fully enclosed and covered henhouse providing a predator-resistant shelter that is thoroughly ventilated, provides adequate sun and shade, and all-season protection from the elements, designed to be easily accessed and cleaned where poultry and/or chickens live.

**DECK** – A freestanding or attached accessory structure to a dwelling which is constructed of natural or synthetic wood, either on or above the ground, without a roof or awning, and with flooring that is not completely impervious, and which may include steps or railings.

**DISTILLERY** – A facility that holds a license to manufacture, store and distribute alcoholic liquors as regulated the Pennsylvania Liquor Code, as amended. Sales beverages of alcoholic and or non-alcoholic content that are manufactured outside the facility are prohibited. Holders of a brewery license may allow patrons to consume alcohol on the premises only in accordance with Title 40 of the Pennsylvania Liquor Code. See also “Micro-distillery” And “Brewpub.”

**DUCK** – Any breed of domestic duck of the Anatidae family, excluding swans and geese.

**FORESTRY** – The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development.

**FORESTRY ACTIVITIES** – The management, cultivating, maintaining, and harvesting of timber from a site. Forestry activities do not include the production or processing of lumber mills or similar activities/uses of timber, whether grown on site or off site.

**FOWL** – Any domesticated bird kept for consumption (meat and eggs) or for feathers.

**GRANNY FLAT/CARRIAGE HOUSE/IN-LAW SUITE** – An accessory dwelling unit situated on a lot which has its own entrance, kitchen, bathroom, and living area. Such an accessory dwelling often is one (1) of the following types:

- A. A dwelling unit situated above a rear detached garage;
- B. A dwelling unit attached to a single detached principal dwelling at grade; or
- C. A dwelling unit detached from the principal dwelling.

**HIVE** – A receptacle or container, that includes modern movable frames or combs, in which an active bee colony inhabits and exceeds a volume of 50 liters (i.e. a single standard Lanstroth 9 5/8” deep body with ten (10) frames plus one (1) additional hive body).

**HONEY BEE** – All life stages of the common domestic honeybee, *Apis mellifera* species (“European” honey bee) and does not include the Africanized Honey Bee.

**ICE THROW** – Any ice gathered on the rotating blades of a wind turbine that detaches and is thrown.

**LAND FOWL** – For the purposes of this Ordinance, land fowl shall include any domestic breed of chicken, turkey, or guineafowl.

**MICRO-BREWERY**– A small, usually independent brewery that produces limited quantities of specialized beers. A micro-brewery provides for the retail sales of the beer at the location where it is produced. A micro-brewery may also include a tasting room and restaurant in conjunction with the use. A micro-brewery must meet all applicable State licensing requirements. See also “Brewery” And “Brewpub.”

**MICRO-DISTILLERY** – A small, often boutique-style distillery established to produce beverage grade spirit alcohol in relatively small quantities, usually done in single or small batches. A micro-distillery provides for the retail sales of the distilled beverage at the location where beverages are distilled. A micro-distillery may also include a tasting room and restaurant in conjunction with the use. A micro-distillery must meet all applicable State licensing requirements. See also “Distillery” And “Brewpub.”

**NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF)** – All non-tower WCFs, including but not limited to, antennae and related equipment. Non-tower WCFs shall not include support structures for antennae or any related equipment that is mounted to the ground or at ground-level.

**RECREATION, MUNICIPAL** – An enterprise operated by the Township, County, or State, available to the general public, whether or not an admission fee is charged, including either indoor or outdoor facilities for the pursuit of sports, recreation, or leisure activities, including, but not limited to, parks, playgrounds, playing fields, golf courses, golf or batting practice facilities, ice rinks, tennis courts, swimming pools and similar facilities.

**RECREATION, NONMUNICIPAL** – An enterprise operated by an individual, association or corporation, other than a public entity, whether or not for profit and whether or not the facilities are advertised to the general public, including either indoor or outdoor facilities for the pursuit of sports, recreation and leisure activities, the use of which is limited to members and their guests, including, but not limited to, such establishments as country clubs, golf courses, sportsmen's clubs, golf practice facilities, playing fields, tennis or racquet clubs, fitness clubs, swimming pools and similar facilities.

**RENEWABLE ENERGY SOURCE** – Any method, process, or substance whose supply is rejuvenated through natural processes and, subject to those natural processes, remains relatively constant, including, but not limited to, biomass conversion, geothermal energy, solar and wind energy, and hydroelectric energy and excluding those sources of energy used in the fission and fusion processes.

**ROOSTER** – A male adult chicken.

**SHORT-TERM RENTAL** – A dwelling in which the owner rents any area of the dwelling to one (1) or more individuals, for compensation or a fee, including offer of exchange in kind, of any type (whether or not involving overnight accommodations or separate sleeping quarters) for less than 30 consecutive days. This definition applies to all types of residential dwellings including but not limited to single-family detached residential, two-family residential, multi-family residential, and residential properties commonly considered as seasonal homes, vacation homes, or tourist homes.

**SMALL WIRELESS FACILITY** – The equipment and network components, including antennas, transmitters, and receivers, used by a wireless provider that meets the following requirements:

1. Each antenna associated with the deployment is no more than three (3) cubic feet in volume.
2. The volume of all other equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet. Any equipment used solely for the concealment of the small wireless facility shall not be included in the calculation of equipment volume under this paragraph.

**SOLAR COLLECTION SYSTEM** – A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

**SOLAR ENERGY PRODUCTION FACILITY, LARGE** – An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy. Large solar energy production facilities consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines, and other appurtenant structures and facilities. A facility is

considered a large solar energy production facility if it supplies electrical or thermal power solely for off-site use.

**SOLAR ENERGY SYSTEM, RESIDENTIAL** – A solar collection system consisting of one (1) or more roof and/or ground mounted solar collector devices and solar related equipment and is intended to primarily reduce on-site consumption of utility power. A system is considered a small solar energy system only if it supplies electrical or thermal power solely for on-site use, except that when a property upon which the facility is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

**SOLAR RELATED EQUIPMENT** – Items including a solar photovoltaic cell, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing, and possibly foundations used for or intended to be used for collection of solar energy.

**STEALTH TECHNOLOGY** – Camouflaging methods applied to wireless communications towers, antennae, and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

**TASTING ROOM (STANDALONE)** – A room, place or portion of a winery, brewery, or distillery designated for the sampling or tasting of agricultural products grown, produced, or processed on-site, including wine or wine products, by members of the public. This shall refer to a standalone facility, located away from the winery, brewery, or distillery.

**TAVERN OR BAR** – Any use in which the primary purpose is the sale of alcoholic beverages for on-premises consumption, which may or may not include dancing. Taverns may include prepared food sales but such prepared foods are typically accessory or incidental to the primary purpose as a Tavern. See also “Brewpub.”

**TIMBER HARVESTING OR LOGGING** – The cutting down and removal of trees and logs to be converted to any forest product or for sale to others or for other purposes. Timber harvesting shall not include the removal of dead or diseased trees or a homeowner cutting on his own property for his own use.

**TIMBER HARVESTING/LOGGING OPERATOR** – Any individual, partnership, company, firm, association, or corporation engaged in timber harvesting, including agents, subcontractors, and employees thereof.

**TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF)** – A structure that is used for the purpose of supporting one (1) or more antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles, and light poles. DAS hub facilities are considered to be tower-based WCFs.

**TRAFFIC IMPACT STUDY** – A study, provided in letter or report format and prepared by a professional engineer, that provides a review of existing conditions and the effects of a proposed development or land use on site access and circulation as well as new trips on roadways and intersections.

**WATERFOWL** – For the purposes of this Ordinance, waterfowl shall include any domestic breed of duck or goose.

**WIND CHARGER** – A wind-driven, direct-current generator used for charging storage batteries.

**WIND ENERGY CONVERSION SYSTEM (WECS)** – A device such as a wind charger, wind turbine or windmill, and/or other electric generation facility whose main purpose is to convert wind power into another form of energy such as electricity or heat, consisting of one (1) or more wind turbine and other structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities.

**WIND ENERGY SYTEM, RESIDENTIAL** – A wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and is intended to primarily reduce on-site consumption of utility power. A system is considered a small wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

**WIND ENERGY PRODUCTION FACILITY, LARGE** – An electric generating facility, with the purpose of electricity supply, consisting of one (1) or more wind turbines and other ancillary associated buildings and structures, including sub-stations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities.

**WINDMILL** – A device that runs on the energy generated by a wheel of adjustable blades or slats rotated by the wind.

**WIND TURBINE** – A device that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

**WINERY** – An area devoted to the growing of grapes or other fruit and the process of fermenting the product into wine. Wineries shall also include the structures or areas provided for the tasting or sale of the wine so long as such areas are on the same site as the products grown.

**WIRELESS** – Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

**WIRELESS COMMUNICATIONS FACILITY (WCF)** – The antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics, and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.

**WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF APPLICANT OR APPLICANT)** – Any person that applies for a wireless communication facility building permit, zoning approval, and/or permission to use the public ROW or other Township-owned land or property.

**WIRELESS COMMUNICATIONS RELATED EQUIPMENT** – Any piece of equipment related to, incidental to, or necessary for, the operation of a tower-based WCF or non-tower WCF. By way of illustration, not limitation, "Related Equipment" includes generators and base stations.

**WIRELESS SUPPORT STRUCTURE** – A freestanding structure, such as a tower-based WCF or any other support structure that could support the placement or installation of a WCF, if approved by the Township.

## **BREWERIES, DISTILLERIES, WINERIES, ETC.**

In response to concerns from the public about Angel’s Share, which is the amount of distilled spirits lost to evaporation from the barrel or cask into the air as spirits age, and resulting issues with the growth *Baudoinia compniacensis*, a fungus that grows in airborne alcohol, sometimes covering buildings and other structures surrounding large scale distilleries, there is little that can be done to regulate these issues, especially through zoning. The US Clean Air Act does not regulate the release of ethanol into the air. There is no evidence that this fungus causes any damage to structures or human health, and it can be removed with power washing. Only further restriction of the districts in which distilleries are permitted would reduce or prevent this potential issue. It is unlikely, but not impossible, that a large-scale distillery would locate in the Township and given the regulations as currently drafted, the proposed development would be reviewed as a conditional use, which would allow additional requirements to be imposed, within reason.

### **Breweries and Distilleries**

Breweries and distilleries should be added as conditional uses in Article VII. C-1 Neighborhood Commercial District, §175-35; Article VIII. C-2 Highway Commercial District, §175-45; Article XX. TC Town Center District, §175-210; Article XXI. C-3 Regional Commerce District, §175-221; and Article XXIV. RT-228 Route 228 Corridor Commercial and Mixed Use Overlay District, §175-253.

The following conditional use criteria for breweries and distilleries should be added to Article XI. Standards and Criteria for Conditional Uses and Uses by Special Exception:

- A. Operations shall cease between the hours of 2:00 a.m. and 9:00 a.m. prevailing time, and the establishment may not be open to the public during those hours.
- B. Brewery and distillery operations shall be conducted in accordance with all applicable Federal, State, County, and Township laws and regulations governing the production of crops and related operations.
- C. The provision and sale of alcohol shall comply with Pennsylvania Liquor Control Board permitting requirements.
- D. The use shall not be located closer than 600 feet to another similar use.
- E. Operations shall be regulated so that nuisances such as excessive noise levels shall not be created. The Township may attach such reasonable conditions as it deems necessary to ensure the operation complies with this requirement.
- F. Indoor and outdoor display areas associated with retail activity shall not exceed a total of 3,000 square feet in gross floor area. Display areas within parking lots and outdoor storage areas shall be included within the calculated gross floor area.

- G. The minimum number of required parking spaces shall not be utilized for display areas and/or outdoor storage areas.
- H. To promote adequate vehicular safety and circulation, an entrance drive surfaced with bituminous brick, concrete, or stabilized aggregate shall be constructed between the nearest public road ROW and the retail area. The entrance drive shall be a minimum of twenty (20) feet wide. Loading and equipment storage areas shall, at a minimum, be paved with crushed limestone aggregate.
- I. No more than one (1) business identification sign associated with advertising the distillery shall be permitted. The identification sign shall be a ground or wall sign and shall have a maximum graphic area of thirty-two (32) square feet.
- J. The minimum distance between buildings shall be thirty (30) feet.
- K. No storage or transfer of toxic, corrosive, flammable, carcinogenic, or explosive materials, chemicals, liquids, gases, or solids shall be permitted on the lot(s), with the exception of gasoline, diesel fuel, and oil for the operation and maintenance of motorized vehicles and equipment.
- L. A traffic impact study, in accordance with Institute of Transportation Engineers (ITE) standards, may be required to be submitted where the proposed development could generate 100 trips in addition to the adjacent roadways' peak-hour volumes or the traffic movements produced by the development could have the potential to create adverse conditions on public road ROW. A description of future level of service (LOS) and compliance with standards for traffic capacity of streets, intersections and driveways shall be provided. New streets shall be designed for adequate traffic capacity. All reference to LOS shall be defined by the Highway Capacity Manual, published by Transportation Research Board. These standards may be waived by the Township if sufficient evidence is provided that the criteria cannot be met with reasonable mitigation.

Parking requirements for breweries and distilleries should be based on a parking needs assessment. This should be indicated in Article XIII. Off-Street Parking and Loading, §175-156 Off-street parking, Table 3: Off-Street Parking Requirements.

### Micro-Breweries, Micro-Distilleries, and Taverns/Bars

Micro-breweries, micro-distilleries, and taverns/bars should be added as conditional uses in Article VII. C-1 Neighborhood Commercial District, §175-35; Article VIII. C-2 Highway Commercial District, §175-45; Article XX. TC Town Center District, §175-210; Article XXI. C-3 Regional Commerce District, §175-221; and Article XXIV. RT-228 Route 228 Corridor Commercial and Mixed Use Overlay District, §175-253.

The following conditional use criteria micro-breweries, micro-distilleries, and taverns/bars should be added to Article XI. Standards and Criteria for Conditional Uses and Uses by Special Exception:

- A. Operations shall cease between the hours of 2:00 a.m. and 11:00 a.m. prevailing time, and the establishment may not be open to the public during those hours.



- B. Micro-brewery, micro-distillery, tavern, and bar operations shall be conducted in accordance with all applicable Federal, State, County, and Township laws and regulations governing the production of crops and related operations.
- C. The provision and sale of alcohol shall comply with Pennsylvania Liquor Control Board permitting requirements.
- D. A micro-brewery, micro-distillery, tavern, or bar shall not be located closer than 600 feet to another similar existing use.
- E. In micro-breweries and micro-distilleries, retail sales shall be allowed. Indoor and outdoor display areas associated with retail activity shall not exceed 25% of the gross floor area. Display areas within parking lots and outdoor storage areas shall be included in the calculated area.
- F. Indoor and outdoor display areas associated with retail activity shall not exceed a total of 3,000 square feet in gross floor area. Display areas within parking lots and outdoor storage areas shall be included within the calculated gross floor area.
- G. If applicable, outdoor dining space shall not exceed 25% of the gross floor area.
- H. Operations shall be regulated so that nuisances such as excessive noise levels shall not be created. The Township may attach such reasonable conditions as it deems necessary to ensure the operation complies with this requirement.
  - a. Outdoor music, including recordings, broadcasts, and live performances, shall be prohibited between the hours of 10:00 PM and 10:00 AM.

Parking requirements for micro-breweries, micro-distilleries, and taverns/bars should be based on a parking needs assessment. This should be indicated in Article XIII. Off-Street Parking and Loading, §175-156 Off-street parking, Table 3: Off-Street Parking Requirements.

## Wineries

Wineries should be added as a conditional use in Article IV. AG-A Rural Residential District, §175-14; Article V. AG-B Agriculture District, §175-21; Article VI.R-1 Suburban Residential District, §175-28; Article XIX.R-2 Residential District, §175-200; and Article XXIII. R-AG Residential Agriculture District, §175-244.

The following conditional use criteria for wineries should be added to Article XI. Standards and Criteria for Conditional Uses and Uses by Special Exception:

- A. The minimum lot size required is five (5) acres.
- B. Winery operations shall be conducted in accordance with all applicable Federal, State, County, and Township laws and regulations governing the production of crops and related operations.
- C. The provision and sale of alcohol shall comply with Pennsylvania Liquor Control Board permitting requirements.

- D. A business established as a winery shall have at least one (1) point of ingress and egress to a public road ROW. The point of ingress and egress shall be located in a manner that minimizes detrimental traffic impacts to both pedestrians and vehicles.
- E. Indoor and outdoor display areas associated with retail activity shall not exceed a total of 3,000 square feet in gross floor area. Display areas within parking lots and outdoor storage areas shall be included within the calculated gross floor area.
- F. The minimum number of required parking spaces shall not be utilized for display areas and/or outdoor storage areas.
- G. To promote adequate vehicular safety and circulation, an entrance drive surfaced with bituminous brick, concrete, or stabilized aggregate shall be constructed between the nearest public road ROW and the retail area. The entrance drive shall be a minimum of twenty-five (25) feet wide. Loading and equipment storage areas shall, at a minimum, be paved with crushed limestone aggregate.
- H. No more than one (1) business identification sign associated with advertising the winery shall be permitted. The identification sign shall be a ground or wall sign and shall have a maximum graphic area of thirty-two (32) square feet.
- I. No storage or transfer of toxic, corrosive, flammable, carcinogenic, or explosive materials, chemicals, liquids, gases, or solids shall be permitted on the lot(s), with the exception of gasoline, diesel fuel, and oil for the operation and maintenance of motorized vehicles and equipment.
- J. A traffic impact study, in accordance with ITE standards, may be required to be submitted where the proposed development could generate 100 trips in addition to the adjacent roadways' peak-hour volumes or the traffic movements produced by the development could have the potential to create adverse conditions on public road ROW. A description of future LOS and their compliance with standards for traffic capacity of streets, intersections and driveways shall be provided. New streets shall be designed for adequate traffic capacity. All reference to LOS shall be defined by the Highway Capacity Manual, published by Transportation Research Board. These standards may be waived by the Township if sufficient evidence is provided that the criteria cannot be met with reasonable mitigation.

Parking requirements for wineries should be based on a parking needs assessment. This should be indicated in Article XIII. Off-Street Parking and Loading, §175-156 Off-street parking, Table 3: Off-Street Parking Requirements.

## Tasting Room (Standalone)

Tasting rooms (standalone) should be added as conditional uses in Article VII. C-1 Neighborhood Commercial District, §175-35; Article VIII. C-2 Highway Commercial District, §175-45; Article XX. TC Town Center District, §175-210; Article XXI. C-3 Regional Commerce District, §175-221; and Article XXIV. RT-228 Route 228 Corridor Commercial and Mixed Use Overlay District, §175-253.

The following conditional use criteria for tasting rooms (standalone) should be added to Article XI. Standards and Criteria for Conditional Uses and Uses by Special Exception:

- A. Operations shall cease between the hours of 2:00 a.m. and 11:00 a.m. prevailing time, and the establishment may not be open to the public during those hours.
- B. Tasting room operations shall be conducted in accordance with all applicable Federal, State, County, and Township laws and regulations governing the production of crops and related operations.
- C. The provision and sale of alcohol shall comply with Pennsylvania Liquor Control Board permitting requirements.
- D. Indoor and outdoor display areas associated with retail activity shall not exceed 25% of the gross floor area. Display areas within parking lots and outdoor storage areas shall be included in the calculated area.
  - a. Retail sales may include the provision of snacks and food items requiring minimal preparation, such as meats, cheeses, nuts, fruits, and vegetables. The preparation of food items beyond minimal preparation shall constitute a restaurant or catering/event venue.
- E. A tasting room shall not be located closer than 600 feet to another similar existing use.
- F. Operations shall be regulated so that nuisances such as excessive noise levels shall not be created. The Township may attach such reasonable conditions as it deems necessary to ensure the operation complies with this requirement.
  - a. Music, including recordings, broadcasts, and live performances, shall be limited to inside the establishment.

Parking requirements for tasting rooms should be based on a parking needs assessment. This should be indicated in Article XIII. Off-Street Parking and Loading, §175-156 Off-street parking, Table 3: Off-Street Parking Requirements.

## BARN VENUES/ TOURISM

This use is being addressed by the addition of agritourism and catering/event venues.

### Agritourism

Agritourism should be added as a permitted conditional use in Article IV. AG-A Rural Residential District, §175-14; Article V. AG-B Agriculture District, §175-21; Article VI.R-1 Suburban Residential District, §175-28; Article XIX.R-2 Residential District, §175-200; and Article XXIII. R-AG Residential Agriculture District, §175-244. The following supplemental regulations should be added to Article XI. Standards and Criteria for Conditional Uses and Uses by Special Exception:

- A. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhoods.
- B. Agritourism operations shall be conducted in accordance with all applicable Federal, State, County, and Township laws and regulations governing the production of crops and related operations.
- C. Agritourism operations shall be conducted in compliance with all relevant building, fire, and Department of Environmental Protection sanitary sewer regulations.
- D. The provision and sale of food shall comply with Pennsylvania Department of Agriculture, Bureau of Food Safety regulations.
- E. The provision and sale of alcohol shall comply with Pennsylvania Liquor Control Board permitting requirements.
- F. The minimum lot size required is five (5) acres.
- G. The site shall have direct vehicular access from an arterial or collector street.
- H. The site shall have a minimum of two access points.
- I. The primary visitor drop-off and pick-up area shall be located in a manner that minimizes detrimental traffic impacts (both pedestrian and vehicular) on the surrounding neighborhood and subject property.
- J. No outdoor loading or service areas, including dumpsters, shall be located within the side or rear yard setback areas.
- K. Applicants must clearly demonstrate that the use will not adversely impact the surrounding neighborhood, particularly with regard to traffic circulation, parking, and character.
  - a. The development of an event circulation plan must be included as evidence of this. This plan shall include:



Residential District, §175-28; Article XIX.R-2 Residential District, §175-200; and Article XXIII. R-AG Residential Agriculture District, §175-244.

The following supplemental regulations should be added to Article XI. Standards and Criteria for Conditional Uses and Uses by Special Exception:

- A. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhoods.
- B. Catering/event venue operations shall be conducted in accordance with all applicable Federal, State, County, and Township laws and regulations governing the production of crops and related operations.
- C. Catering/event venue operations shall be conducted in compliance with all relevant building, fire, and Department of Environmental Protection sanitary sewer regulations.
- D. The provision and sale of alcohol shall comply with Pennsylvania Liquor Control Board permitting requirements.
- E. The site shall have direct vehicular access from an arterial or collector street.
- F. The primary visitor drop-off and pick-up area shall be located in a manner that minimizes detrimental traffic impacts (both pedestrian and vehicular) on the surrounding neighborhood and subject property.
- G. No outdoor loading or service areas, including dumpsters, shall be located within the side or rear yard setback areas.
- H. Applicants must clearly demonstrate that the use will not adversely impact the surrounding neighborhood, particularly with regard to traffic circulation, parking, and character.
  - a. The development of an event circulation plan must be included as evidence of this.
    - i. Consideration for the safe and efficient movement of people and vehicles at times of maximum operation. This should include consideration of impacts to traffic flow on adjacent roadways and if applicable, the need for any additional staffing or assistance from local police to help ensure the safe and efficient movement of people and vehicles to and on the property. Payment for any additional services provided by the local police or other service providers are the responsibility of the property owner.
    - ii. Consideration of parking needs at times of maximum operation, which may demand vehicle parking in excess of the paved spaces required by this Ordinance.
  - b. All traffic, parking, and maintenance operations and equipment must be maintained within the property boundaries.

- c. A buffer yard may be required between the use and any adjacent residential uses if deemed necessary by the Township. The buffer yard shall be in keeping with the requirements of §175-140.
- I. A traffic impact study, in accordance with Institute of Transportation Engineers (ITE) standards, may be required to be submitted where the proposed development could generate 100 trips in addition to the adjacent roadways' peak-hour volumes or the traffic movements produced by the development could have the potential to create adverse conditions on public road ROW. A description of future level of service (LOS) and compliance with standards for traffic capacity of streets, intersections and driveways shall be provided. New streets shall be designed for adequate traffic capacity. All reference to LOS shall be defined by the Highway Capacity Manual, published by Transportation Research Board. These standards may be waived by the Township if sufficient evidence is provided that the criteria cannot be met with reasonable mitigation.
- J. Lighting shall be oriented away from adjacent properties and shall not exceed one (1) footcandle of illumination when measured from an adjacent lot line. Lighting levels visible from an adjacent lot line of a residential use or residential zoning district shall be reduced to at least half of the maximum permitted footcandles between 11:00 p.m. and 6:00 a.m., prevailing time. As part of its decision, the Board of Supervisors may further regulate outdoor lighting for the facility in order to prevent adverse impacts on adjoining properties.
- K. Vehicular and pedestrian access to the proposed development shall be designed and provided to maximize pedestrian and vehicle safety.
- L. The vehicular and pedestrian circulation system shall be designed to minimize conflicts between vehicular and pedestrian circulation.
- M. Catering/ event venues as an accessory use:
  - a. Shall have a minimum lot size requirement of five (5) acres.
  - b. May be accessory to a primary residential, agricultural, agritourism, winery, brewery, distillery, recreational use, or other appropriate primary use as determined by the Township.
  - c. Must comply with all conditional use requirements for catering/event venues and all other requirements for the district in which the use is located.

Parking requirements should be updated to require 1 parking space per 200 square feet of gross floor area dedicated to the catering/event venue use. This should be indicated in Article XIII. Off-Street Parking and Loading, §175-156 Off-street parking, Table 3: Off-Street Parking Requirements.

## **SOLAR AND WIND ENERGY PRODUCTION**

Small systems should be permitted as accessory uses in the Rural Residential (AG-A) District. Large systems should be permitted conditionally in the Agricultural (AG-B) District).

## Residential Solar Energy Systems

Residential solar energy systems should be added as an accessory use in all districts with permitted residential uses, which includes Article IV. AG-A Rural Residential District, §175-14; Article V. AG-B Agriculture District, §175-21; Article VI.R-1 Suburban Residential District, §175-28; Article XIX.R-2 Residential District, §175-200; Article XX. TC Town Center, §175-210; Article XXIII. R-AG Residential Agriculture District, §175-244; and Article XXIV.RT-228 Route 228 Corridor Commercial and Mixed Use Overlay District, §175-253.

The following supplemental regulations should be added to Article XII. Supplementary Regulations:

- A. The owner of the residential solar energy system shall provide written confirmation that the public utility company has been informed of the customer's intent to install an interconnected customer-owned solar generator and approves of such connection. Off-grid systems shall be exempt from this requirement.
- B. The Property owner installing the solar energy system shall notify the local fire department and Township about said installation in writing and pass any information received from the fire department or Township on to the installer in writing.
- C. The property owner installing the solar energy system shall be in compliance with:
  - a. Compliance with FAA Regulations. Construction of any solar energy facility shall comply with all applicable rules, laws and regulations of the United States Federal Aviation Administration, documentation of compliance shall be provided to Township.  
  
Solar energy systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - b. Compliance with State Construction Codes. To the extent applicable, all solar energy systems shall comply with the Pennsylvania Uniform Construction Code and regulations promulgated by the Pennsylvania Department of Labor and Industry.
  - c. All electrical components of solar energy systems shall conform to relevant and applicable local, State and National Codes, and relevant and applicable international standards.
  - d. In accordance with the National Electrical Code, solar panels that are less than eight (8) feet off of the ground shall be fenced with a barrier that is at least four (4) feet high. This would include all ground mounted solar panels. Fencing shall be compliance with this Ordinance and any other applicable Township Ordinances.
- D. Roof-mounted panels shall be in compliance with all applicable building standards.
- E. Ground mounted panels shall:
  - a. Only be permitted in the rear and side yards. They shall not be permitted in front yards, unless the panels are not visible from the roadway.
    - i. When a lot abuts two streets, the yard abutting each street shall be considered front yards for purposes of placing panels on the lot.



- F. No solar energy system(s) may exceed in total thirty percent (30%) of the total site and in no case shall exceed the maximum lot coverage for the district in which the lot is located.
- G. Solar energy systems shall have a setback from all lot lines of at least thirty (30) feet, unless the accessory structure setback requirements in the zoning district in which the facility is constructed are greater than thirty (30) feet.

### Solar Energy Production Facility, Large

Large solar energy production facilities should be added as a conditional use in Article V. AG-B Agriculture District, §175-2.

The following conditional use criteria should be added to Article XI. Standards and Criteria for Conditional Uses and Uses by Special Exception:

- A. The minimum lot size required is 50 contiguous acres.
- B. All solar collectors shall be placed with a minimum setback of 150 feet from the property lines.
- C. All solar energy facilities shall have a fifty (50) foot landscaped buffer.
- D. The layout, design, and installation of large solar energy production facilities shall conform to applicable industry standards, including those of the ANSI, Underwriters Laboratories, the American Standards Technical Manual, or other similar certifying organizations, and shall comply with the UCC, Act 45 of 1999, as amended and with all other applicable fire and life safety requirements. The manufacturer specifications shall be submitted as part of the application.
- E. All on-site utility and transmission lines extending to and from the large solar energy production facility shall be placed underground.
- F. All large solar energy production facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties as well as adjacent street ROW.
- G. Large solar energy production facilities mounted on the roof of any building shall be subject to the maximum height regulations specified within each Zoning District.
- H. The owner shall provide evidence in the form of stamped plans certified by a professional engineer that the roof is structurally sound.
- I. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations or fence.
- J. Noise from any solar energy facility shall not exceed forty-five (45) decibels (dB) at the lot line dividing the site developed and all adjoining properties during operation.
  - a. If a person or persons shall have a complaint about noise level of a certain Large Solar Energy Production Facility, they must provide the Township with dB test results along with

the calibration certificate of the instrument used to test the dB levels. A sound level meter, dosimeter or other similar device may be used for measuring and reporting acoustic emissions from a solar energy facility.

- K. Vacation, Abandonment, and/or Decommissioning of Solar Facilities.
- a. The solar energy production facility owner is required to notify the Township immediately upon cessation or abandonment of the operation.
  - b. Discontinuation/abandonment is presumed when a solar system has been disconnected from the net metering grid for a period of six (6) continuous months or has not produced electricity for a period of six (6) months. The burden of proof in the presumption of discontinuation/abandonment shall be upon the Township.
  - c. The solar facilities and all related equipment must be removed within twelve (12) months of the date of discontinuation or abandonment or upon the determination of the useful life of the solar system.
  - d. For ground-mounted and building-mounted systems, removal includes removal of all structural and electrical parts of the ground or building-mounted system and any associated facilities or equipment and removal of all net metering equipment.
  - e. The owner or operator of the solar facility, upon issuance of all final occupancy permits and approvals by the Township and any associated permitting agencies, shall provide a form of financial security satisfactory to the Township, in the form of a bond or a letter of credit, for potential use of decommissioning the facility.
  - f. If the owner fails to remove or repair the vacated, abandoned or decommissioned solar facilities within the twelve (12) month period outlined above, the Township reserves the right to enter the property, remove the system, and use the financial security in place mentioned in subsection (5) above by the owner or pursue other legal action as may be necessary to have the system removed at the owner's expense.
  - g. Any unpaid costs resulting from the Township's removal of a vacated, abandoned, or decommissioned solar system, if not covered by the financial security posted, shall constitute a lien upon the property against which the costs were charged. Each such lien may be continued, recorded, and released in the manner provided by the general statutes for continuing, recording, and releasing property tax liens.
  - h. At the time of issuance of the permit for the construction of the large solar energy production facility, the owner shall provide financial security in form and amount acceptable to the Township to secure the expense of dismantling and removing said structures.
  - i. At the time of dismantling, the owner shall obtain a Demolition Permit from the Township.

## Residential Wind Energy System

Residential wind energy systems, should be added as an accessory use in Article IV. AG-A Rural Residential District, §175-14; Article V. AG-B Agriculture District, §175-21; Article VI. R-1 Suburban Residential District, §175-28; Article XIX. R-2 Residential District, §175-200; and Article XXIII. R-AG Residential Agriculture District, §175-244.

The following supplemental regulations should be added to Article XII. Supplementary Regulations:

- A. The minimum lot size required is one (1) acre.
- B. The owner of the residential wind energy system shall provide written confirmation that the public utility company has been informed of the customer's intent to install an interconnected customer-owned wind generator and approves of such connection. Off-grid systems shall be exempt from this requirement.
- C. The property owner installing the wind energy system shall be in compliance with:
  - a. Compliance with FAA Regulations. Construction of any wind energy system shall comply with all rules, laws, and regulations of the United States Federal Aviation Administration. Documentation of compliance shall be provided to the Township.  
  
Wind energy systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - b. To the extent applicable, all wind energy systems shall comply with the Pennsylvania Uniform Construction Code and regulations promulgated by the Pennsylvania Department of Labor and Industry.
  - c. All electrical components of wind energy systems shall conform to relevant and applicable local, State and National Codes, and relevant and applicable international standards.
- D. Noise from any wind energy facility shall not exceed forty-five (45) decibels (dB) at the lot line dividing the site developed and all adjoining properties during operation.
  - a. If a person or persons shall have a complaint about noise level of a certain Large Wind Energy Production Facility, the complainant must provide the Township with dB test results along with the calibration certificate of the instrument used to test the dB levels. A sound level meter, dosimeter or other similar device may be used for measuring and reporting acoustic emissions from a solar energy facility.
- E. No more than two (2) wind turbines shall be permitted on any-one (1) lot. Separation of the wind turbines shall be a minimum of 1.1 times the height of the tower or pole.
- F. Ice throw from rotating wind turbine blades must be limited to within the subject lot.

- G. Wind energy systems shall be setback from all property lines a distance that is equal to or greater than the length of the system, unless setback requirements for the district in which the facility is located are greater than this length.

### Wind Energy Production Facility, Large

Large wind energy production facilities should be added as a conditional use in Article V. AG-B Agriculture District, §175-2.

The following conditional use criteria should be added to Article XI. Standards and Criteria for Conditional Uses and Uses by Special Exception:

- A. The minimum lot size required is 50 contiguous acres.
- B. All wind turbines shall be placed with a minimum setback of 150 feet from the property lines.
- C. All large wind energy production facilities shall have a fifty (50) foot landscaped buffer.
- D. The property owner installing the wind energy system shall be in compliance with:
  - a. Compliance with FAA Regulations. Construction of any wind energy facility shall comply with all rules, laws and regulations of the United States Federal Aviation Administration. Documentation of compliance shall be provided to the Township.  
  
Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - b. To the extent applicable, all wind energy facilities shall comply with the Pennsylvania Uniform Construction Code and regulations promulgated by the Pennsylvania Department of Labor and Industry.
  - c. To the extent applicable, all wind energy facilities shall comply with the Endangered Species Act and Migratory Bird Treaty Act. The Land-Based Wind Energy Guidelines created by U.S. Fish and Wildlife Service may be used as reference.
  - d. All electrical components of wind energy facilities shall conform to relevant and applicable local, State and National Codes, and relevant and applicable international standards.
- E. Noise from any wind energy facility shall not exceed forty-five (45) decibels (dB) at the lot line dividing the site developed and all adjoining properties during operation.
  - a. If a person or persons shall have a complaint about noise level of a certain Large Wind Energy Production Facility, the complainant must provide the Township with dB test results along with the calibration certificate of the instrument used to test the dB levels. A sound level meter, dosimeter or other similar device may be used for measuring and reporting acoustic emissions from a solar energy facility.
- F. Vacation, Abandonment, and/or Decommissioning of Wind Facilities.

- a. The wind energy production facility owner is required to notify the Township immediately upon cessation or abandonment of the operation.
- b. Discontinuation/abandonment is presumed when a wind system has been disconnected from the net metering grid for a period of six (6) continuous months or has not produced electricity for a period of six (6) months. The burden of proof in the presumption of discontinuation/abandonment shall be upon the Township.
- c. The wind facilities and all related equipment must be removed within twelve (12) months of the date of discontinuation or abandonment or upon the determination of the useful life of the solar system.
- d. For ground-mounted and building-mounted systems, removal includes removal of all structural and electrical parts of the ground or building-mounted system and any associated facilities or equipment and removal of all net metering equipment.
- e. The owner or operator of the wind facility, upon issuance of all final occupancy permits and approvals by the Township and any associated permitting agencies, shall provide a form of financial security satisfactory to the Township, in the form of a bond or a letter of credit, for potential use of decommissioning the facility.
- f. If the owner fails to remove or repair the vacated, abandoned or decommissioned wind facilities within the twelve (12) month period outlined above, the Township reserves the right to enter the property, remove the system, and use the financial security in place mentioned in subsection (5) above by the owner or pursue other legal action as may be necessary to have the system removed at the owner's expense.
- g. Any unpaid costs resulting from the Township's removal of a vacated, abandoned, or decommissioned wind system, if not covered by the financial security posted, shall constitute a lien upon the property against which the costs were charged. Each such lien may be continued, recorded, and released in the manner provided by the general statutes for continuing, recording, and releasing property tax liens.
- h. At the time of issuance of the permit for the construction of the large wind energy production facility, the owner shall provide financial security in form and amount acceptable to the Township to secure the expense of dismantling and removing said structures.
- i. At the time of dismantling, the owner shall obtain a Demolition Permit from the Township.

## **SHORT-TERM RENTALS**

The existing Ordinance defines Single Family Dwelling Units as, "A residential building containing one dwelling unit and which is the only principal building on the lot." This definition does not inherently preclude the use of these units for short-term rental and current Pennsylvania case law generally requires that ambiguity in the zoning ordinance, related to this topic should be resolved in favor of the homeowner

in the event of a conflict (<https://www.blakingerthomas.com/2018/11/13/zoning-matters-airbnb-and-the-short-term-rental-problem/>). Therefore, HRG staff recommends the addition of the short-term rental definition (included above) and conditional use criteria included here.

Short term rentals should be added as a special exception as a primary use or as an accessory use in all districts where residential uses are permitted, including Article IV. AG-A Rural Residential District, §175-14; Article V. AG-B Agriculture District, §175-21; Article VI. R-1 Suburban Residential District, §175-28; Article XX. TC Town Center, §175-210; Article XIX. R-2 Residential District, §175-200; Article XXIII. R-AG Residential Agriculture District, §175-244; and Article XXIV.RT-228 Route 228 Corridor Commercial and Mixed Use Overlay District, §175-253.

The following conditional use criteria for short-term rentals should be added to Article XI. Standards and Criteria for Conditional Uses and Uses by Special Exception:

- A. Short-term rental units will be allowed in single-family homes, townhouses, condos, mobile homes, apartments, and accessory dwelling units as a use by special exception in specified districts, with limitations.
- B. Short-term rental units shall not adversely affect the character of a neighborhood, nor shall the use generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her residence.
- C. The short-term rental use shall not cause an increase in the use of water, sewer, garbage, public safety, or any other municipal services beyond that which is considered normal for the subject property.
  - a. When applicable, short-term rentals shall meet Pennsylvania Department of Environmental Protection (DEP) requirements for on lot sewage facilities.
- D. Short-term rental units on lots that do not have access to municipal sewer will provide sufficient sewage facilities to accommodate renters in addition to permanent residents.
- E. Adequate parking shall be provided on the lot, including parking for the renters, one off-street space for every two rental occupants.
- F. All short-term rentals shall have a clearly visible and legible notice posted within the dwelling unit on or adjacent to the front door containing the following information:
  - a. The name of the owner of the unit, and a telephone number at which the owner and the person in charge can be reached on a twenty-four-hour basis.
  - b. The 911 address of the property.
  - c. The maximum number of occupants permitted to stay in the dwelling unit and the maximum number of day guests permitted at any one time.
  - d. The maximum number of all vehicles allowed to be on the property and the requirement that all guest parking must be parked in the available parking spaces on the property and not in or along any private, community or public street, or in any public right-of-way.

Parking vehicles on any lawn or vegetated area on the property shall be prohibited, except in agricultural zoning districts, including AG-A Rural Residential District, AG-B Agriculture District, and R-AG Residential Agriculture District.

- e. The trash pick-up day and notification that trash and refuse shall not be left or stored on the exterior of the property.
  - f. Notification that an occupant or guest may be cited and fined for creating a disturbance or for violating other provisions of the Middlesex Township Code, including parking and occupancy limits.
  - g. Notification that short-term rental occupants and guests are required to make the dwelling unit available for inspection by the Zoning Officer upon request.
- G. All short-term rentals shall be compliant with the building code currently in effect at the Township.
- H. Any other occupancy requirements which may be added by ordinance revision by the Board of Supervisors. Short-term rental operators must:
- a. Apply for a certificate of zoning occupancy prior to the initial short-term rental use and occupancy.
  - b. Obtain a one-time short-term rental permit from the Township, which the operator will be responsible for keeping a copy of on-site and should be able to produce it to prove permission to operate a short-term rental.
  - c. The owner shall be responsible to assure that the occupants or guests of the short-term rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or otherwise violate provisions of the Middlesex Township Code or any state law pertaining to noise or disorderly conduct including, but not limited to, notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws, ordinances or regulations regarding their occupancy.
- I. The owner shall, upon notification that occupants or guests of the short-term rental have created unreasonable noise or disturbances, engaged in disorderly conduct or otherwise violated provisions of the Middlesex Township Code or state law pertaining to noise or disorderly conduct, promptly take action to prevent a recurrence of such conduct by those occupants or guests. Compliance with the requirements of this section shall be considered conditions of a short-term rental permit, the violation of which may result in a revocation of that permit by the Zoning Officer.

## **ACCESSORY DWELLING UNITS**

Accessory dwelling units should be added as a use by special exception in Article IV. AG-A Rural Residential District, §175-14; Article V. AG-B Agriculture District, §175-21; Article VI. R-1 Suburban

Residential District, §175-28; Article XIX. R-2 Residential District, §175-200; and Article XXIII. R-AG Residential Agriculture District, §175-244.

The following special exception criteria should be added to Article XI. Standards and Criteria for Conditional Uses and Uses by Special Exception:

A. Accessory Dwelling Units.

- a. Accessory dwelling units shall be permitted as an accessory structure to a primary residence and shall meet all applicable setback and area and bulk requirements of the zoning district in which it is located.
- b. One accessory dwelling unit is permitted per lot.
- c. Accessory dwelling units shall have a gross floor area of at least 400 square feet.
- d. Maximum total gross floor area permitted for an accessory dwelling unit shall not exceed 1,200 square feet, or 50% of the total square footage of the primary dwelling unit, whichever is less.
- e. When applicable, accessory dwelling units shall meet Pennsylvania Department of Environmental Protection (DEP) requirements for on lot sewage facilities.

Parking requirements should be updated to require 1 off-street parking space in addition to the requirements of the primary dwelling unit. This should be indicated in Article XIII. Off-Street Parking and Loading, §175-156 Off-street parking, Table 3: Off-Street Parking Requirements.

## PROJECTIONS INTO REQUIRED YARDS

§175-143 Permitted projections into required yards, currently addresses any architectural features permitted to project into required yards.

### Decks

In addition to adding the definition of decks (above), decks should be added as an accessory use in all districts that allow residential uses- Article IV. AG-A Rural Residential District, §175-14; Article V. AG-B Agriculture District, §175-21; Article VI.R-1 Suburban Residential District, §175-28; Article XIX.R-2 Residential District, §175-200; Article XX. TC Town Center, §175-210; Article XXIII. R-AG Residential Agriculture District, §175-244; and Article XXIV.RT-228 Route 228 Corridor Commercial and Mixed Use Overlay District, §175-253.

§175-143, Section B will now read as follows:

*Decks and porches which are not enclosed and which do not have habitable areas underneath them shall be permitted to project into required front and side yards no more than five (5) feet and into the required rear yard no more than 15 feet.*



## Architectural Easements

This section has been removed from the draft, including the definition of architectural easements. It was determined that this language was redundant with the existing language of §175-143 which specifies allowed projection into required yards for architectural features.

## THE KEEPING OF FOWL

The keeping of fowl should be added as an accessory use by permit in Article IV. AG-A Rural Residential District, §175-14; Article V. AG-B Agriculture District, §175-21; Article VI. R-1 Suburban Residential District, §175-28; Article XIX. R-2 Residential District, §175-200; and Article XXIII. R-AG Residential Agriculture District, §175-244.

The following supplemental regulations should be added to Article XII. Supplementary Regulations:

- A. The keeping of fowl shall be allowed by right as an Accessory Use by Zoning Permit, on lots with principal residential uses in the Rural Residential (AG-A), Agricultural (AG-B), Suburban Residential (R-1) Residential (R-2), and Residential Agriculture (R-AG) Districts subject to the standards in this Section. Fowl on lots with principal agricultural uses and/or on any existing farms or hobby farms are exempt, regardless of the Zoning District in which it is located.
- B. Any person wishing to engage in this accessory use by permit shall submit an Application for Zoning Permit to the Zoning Officer for review and approval, with the fee for same to be established by resolution of the Board of Supervisors. Approval shall be subject to the following standards:
  - a. For land fowl:
    - i. Land fowl shall only be kept on properties that are one half acre (22,000 square feet) or larger.
    - ii. The first 4,000 square feet of any property, up to three (3) fowl are allowed. An additional fowl is permitted for every additional 2,000 square feet. A maximum number of ten (10) fowl may be kept at once on a parcel.
    - iii. An outside run shall be attached to the coop ten (10) feet from any lot line, and sufficiently contain the fowl; and any fowl not contained shall be considered "running at large."
  - b. For waterfowl:
    - i. Waterfowl shall only be kept on properties that are one (1) acre or larger.
    - ii. No person shall house more than five (5) fowl on a single residential parcel.
    - iii. Waterfowl shall be kept in the backyard only. All enclosed shelter with adequate protection from weather and predators is required. The shelter shall provide at least three (3) square feet per fowl. All fowl keeping facilities shall be setback at least 50 feet from lot lines.

- iv. Any waterfowl not contained on an owner's property shall be considered "running at large."
- c. Fowl, including the coop shall be located in a backyard only, a minimum of ten (10) feet from any lot line, and shall sufficiently contain the land fowl. Any fowl not contained shall be considered "running at large."
- d. All feed, water, and other items for keeping fowl shall be secured to prevent rats, mice, and other vermin from infesting.
- e. Land fowl feces must be properly collected, stored, and disposed of in a manner that prevents malodorous smells, nuisances, or other hazards. (Fowl manure may be composted and added to gardens or yards if done within out creating no malodorous smells, nuisances, or other hazards.) The minimum setback for chicken waste collection and storage shall be ten (10) feet from the property line.
- f. No fowl shall be kept in townhouse communities, apartment communities, or mobile home parks.

## BEEKEEPING

Beekeeping should be added as an accessory use by permit in Article IV. AG-A Rural Residential District, §175-14; Article V. AG-B Agriculture District, §175-21; Article VI. R-1 Suburban Residential District, §175-28; Article XIX. R-2 Residential District, §175-200; and Article XXIII. R-AG Residential Agriculture District, §175-244.

The following supplemental regulations should be added to Article XII. Supplementary Regulations:

- A. The keeping of bees shall be allowed by right as an accessory use, on lots with principal residential uses in the Rural Residential (AG-A), Agricultural (AG-B), Suburban Residential (R-1) Residential (R-2), and Residential Agriculture (R-AG) Districts, subject to the standards in this Section. Beekeeping on lots with principal agricultural uses and/or on any existing farms or hobby farms are exempt, regardless of the Zoning District in which it is located.
  - a. Any person wishing to engage in this accessory use by permit shall submit an Application for Zoning Permit to the Zoning Officer for review and approval, with the fee for same to be established by resolution of the Board of Supervisors. Approval shall be subject to the following standards. Bees shall only be kept on properties that are one half acre (22,000 square feet) or larger.
  - b. For 4,000 square feet of any parcel, up to two (2) hives are allowed; Each additional 2,000 square feet of any parcel is permitted two (2) additional hives. A maximum number of six (6) hives may be kept per property.
  - c. Apiaries shall be maintained in the backyard of the property and prohibited from being located in the front or side yard of any property. Any hives shall be set back a minimum of fifteen (15) feet from any lot line. Beekeeping facilities shall not be within 50 feet of a swimming pool or permanently kenneled animal.

- d. No bees shall be kept in townhouse communities, apartment communities, or mobile home parks.

## NON-TOWER WCFs

This section has been updated to address all non-tower wireless facilities, in addition to the regulation of small wireless facilities in the right of way (ROW) previously included. This was done to address the placement of small wireless facilities on buildings or structures. Regulations placed on small wireless facilities within the public right of way remain the same as previous drafts. All relevant definitions have been added to the definitions section.

The following standards should be included for small WCFs in the ROW in Article XII. Supplementary Regulations:

- A. General Standards for All Non-Tower WCF General Standards. The following regulations shall apply to all non-tower WCF:
  - a. Permitted in All Zoning Districts Subject to Regulations. Non-tower WCFs are permitted in all Zoning Districts subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Zoning Officer.
  - b. Locations Restrictions. Non-tower WCFs shall meet the following location restriction:
    - i. Prohibited on Certain Structures. Non-tower WCFs shall not be located on single-family detached residences, single-family attached residences, two-family residences, or any accessory residential structure.
    - ii. Related Equipment. Ground-mounted related equipment greater than three (3) cubic feet shall not be located within 50 feet of a lot in residential use or Residential Zoning District.
    - iii. Historic Buildings. No non-tower WCF may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on the official historic structures and/or historic districts list maintained by the Township or has been designated by the Township to be of historical significance. The Board of Supervisors may, in its discretion, waive this prohibition if the applicant can demonstrate that the proposed location is less visually intrusive than other potential sites.
  - c. Proof of Ownership or Agreement. The applicant shall include a copy of a written agreement for the use of the structure if the applicant is not the owner the parcel on which the non-tower WCF will be constructed.
  - d. Building Permit Required. Applicants proposing the modification of an existing non-tower WCF shall obtain a building permit from the Zoning Officer. In order to be considered for such permit, the applicant must submit a permit application to the Township Zoning Officer.
  - e. Standard of Care. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the

most recent editions of the ANSI Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.

- f. Wind. Any non-tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the ANSI as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-E Code, as amended).
- g. Height. Any non-tower WCF shall be designed at the minimum functional height. All non-tower WCF applicants must submit documentation to the Township justifying the total height of the structure.
- h. Public Safety Communications. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
- i. Maintenance. The following maintenance requirements shall apply:
  - i. The non-tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - ii. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township residents.
  - iii. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- j. Radio Frequency Emissions. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- k. Aviation Safety. Non-tower WCFs shall comply with all Federal and State laws and regulations concerning aviation safety.
- l. Timing of Approval. Within 30 calendar days of the date that an application for a non-tower WCF is filed with the Township, the Township shall notify the WCF applicant in writing of any information that may be required to complete such application. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the WCF applicant in writing of such decision. The Township shall notify the WCF applicant as to completeness of the WCF application within 30 days of receipt. The timing requirements in this Section shall only apply to proposed facilities that fall under the Pennsylvania Wireless Broadband Collocation Act.
- m. Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

- i. All abandoned or unused WCFs and accessory facilities shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the Township.
  - ii. If the WCF or accessory facility is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.
- n. Insurance. Each Person that owns or operates a non-tower WCF shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the non-tower WCF.
- o. Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a non-tower WCF.
- p. Retention of Experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- q. Indemnification. Each person that owns or operates a non-tower WCF shall, at its sole cost and expense, indemnify, defend, and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage or depreciation of property value or for violation of property or zoning rights, arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the non-tower WCF and each owner of property upon which a tower-based WCF is located. Each person that owns or operates a non-tower WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance, or removal of a non-tower WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- r. Engineer Signature. All plans and drawings for all non-tower WCFs shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.

Specification Requirements for Non-Tower WCF Outside the ROW:

- A. Non-tower WCF outside the ROW. The following regulations shall apply to non-tower WCFs outside the ROW:

- a. Development Regulations. Non-tower WCFs shall be co-located on existing structures, such as existing buildings or tower-based WCFs subject to the following conditions:
  - i. Such WCF does not exceed the maximum height permitted in the underlying Zoning District.
  - ii. If the WCF applicant proposes to locate the related equipment in a separate building, the building shall comply with the minimum requirements for the applicable Zoning District.
  - iii. An eight (8) ft. high security fence shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.
- b. Design Regulations.
  - i. Non-tower WCFs shall employ stealth technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Board of Supervisors.
  - ii. Non-tower WCFs, which are mounted to a building or similar structure, may not exceed a height of ten (10) feet above the roof or parapet.
  - iii. The total height of any support structure and mounted WCF shall not exceed the maximum height permitted in the underlying Zoning District.
  - iv. All non-tower WCF applicants must submit documentation to the Township justifying the total height of the non-tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
- c. Antennae, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.
- d. Non-Commercial Usage Exemption. Township citizens utilizing satellite dishes and antennae for the purpose of maintaining television, phone, and/or internet connections at their respective residences shall be exempt from the regulations enumerated in this Ordinance.
- e. Removal, Replacement, and Modification.
  - i. The removal and replacement of non-tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the numbers of antennae.
  - ii. Any material modification, such as an increase in height or width, to a WCF shall require a prior amendment to the original permit or authorization.

- f. Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of this Ordinance and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

#### Specific Requirements for Small WCF in the Public ROW

- A. Application Requirements. An application for a small WCF shall include the following:
  - a. Construction and Engineering Drawings.
  - b. A signed agreement from the owner of the pole on which the small WCF will be placed.
  - c. Documentation showing compliance with all applicable requirements and design guidelines herein.
  - d. A statement from the applicant indicating that the following and approval of the small wireless facility is required by the wireless provider to provide additional capacity or coverage for wireless service.
  - e. A report from a qualified engineer that shows that the small WCF will comply with applicable FCC regulations, as amended.
- B. Consolidated Applications. Applicants may submit a consolidated application for multiple small WCFs if the following conditions are met:
  - a. The consolidated application shall not exceed twenty (20) small wireless facilities.
  - b. The denial of one or more small wireless facilities shall not delay the processing of any other small wireless facilities on the same application.
  - c. A single applicant shall not submit more than one (1) consolidated application or twenty (20) single applications in a 30-day period.
- C. Height and Size Regulations.
  - a. Height on an Existing Utility Pole. The height of a small wireless facility on an existing utility pole shall not extend more than five (5) feet above the existing utility pole.
  - b. Height on a New or Replacement Utility Pole. The height of a small wireless facility installed on a new or replacement utility pole shall not exceed 50 feet above ground level, including the utility pole and small wireless facility.
  - c. Each antenna associated with the deployment shall be no more than three (3) cubic feet in volume.
  - d. Any other equipment associated with the facility (excluding antennas) shall be no more than 28 cubic feet in volume.
- D. Time Frames for Review and Action.

- a. The Township shall provide notice to the applicant if it is incomplete within ten (10) business days of submittal of the application.
- b. The Township shall approve or deny a small wireless facility application for collocation on existing poles within 60 calendar days.
- c. The Township shall approve or deny a small wireless facility application for new or replacement poles within 90 calendar days.

E. Resubmittals.

- a. Applicants may resubmit without additional fees within 30 days of denial. The Township shall have an additional 30 days to render a decision on the resubmitted application.
- b. Batched Applications.
  - i. Only one batched application shall be permitted in a 45-day period.
  - ii. A maximum of twenty (20) collocated facilities are permitted per application.
  - iii. If more than one (1) application for batched facilities is submitted within a 45-day period, the Township shall have an additional 15 days to render a decision.

## COMMERCIAL AND NON-COMMERCIAL RECREATION

The existing ordinance includes commercial recreation, municipal recreation, noncommercial recreation, and public recreation. All references to noncommercial recreation will be removed. Public recreation and municipal recreation currently share the same definition, so it will be simplified to municipal recreation. The remaining recreational uses will include municipal recreation and nonmunicipal recreation. In addition to the revised definitions included above, all references to the recreational uses will be updated to replace public recreation with municipal recreation and commercial and noncommercial recreation with nonmunicipal recreation. This will include revising the noncommercial recreation conditional use requirements in §175-126 to reference nonmunicipal recreation. The nonmunicipal recreation conditional use requirements will also be revised to limit operating hours to before 10:00, instead of midnight.

## STORMWATER

HRG staff recommends that Butler County's 167 Stormwater Management Ordinance be adopted by the Township when their MS4 waiver expires in 2025. At that time, the Zoning Ordinance could be amended to reference that ordinance, if so desired.

## LOGGING AND TIMBERING

Timber harvesting shall be permitted by permit in all districts in the Township. Relevant definitions have been added above. Timbering shall be added as a permitted use in all districts. The following supplemental requirements shall be added to Article XII. Supplementary Regulations:



- A. When a property owner wishes to conduct or permit to be conducted a timber harvesting operation on his property, they must obtain a logging and timbering permit from the Township. No timber harvesting shall occur until the permit has been obtained.
- a. A timber harvesting permit shall not be required if:
    - i. Work is being performed on clearing subdivision roads and rights-of-way approved by the Township.
    - ii. Work is being performed in accordance with a land development plan approved by the Township Board of Supervisors.
    - iii. Work is being performed on individual lots affected by the timber harvesting operation of less than two acres, provided the entire timber harvesting operation does not exceed a total of two acres.
  - b. A timber harvesting application shall be filed with the Township and shall contain the following:
    - i. A narrative containing the following information:
      1. Purpose of the proposed operation.
      2. Total land area involved in the proposed timber harvesting operation.
      3. Total number of trees selected for harvesting.
      4. Reforestation narrative outlining the re-vegetation of the landing area, skid trails and harvest area.
      5. A chart indicating the quantity of trees, the ranges (DBH) and species of the trees selected for harvesting.
      6. Stormwater control measures to be used.
      7. Stream crossings and wetland protection measures to be used.
      8. A statement confirming that each tree to be removed has been designated by the consulting or state forester with paint or other distinctive means at two points so as to be readily visible by the logger. One point shall be low enough on the tree so as to be visible on the stump after the tree is removed.
    - ii. A legibly drawn site plan containing the following information and drawn to the following specifications:
      1. Be drawn to a scale not to exceed one-inch equals 100 feet.

2. Be drawn on a sheet size not to exceed 24 x 36 inches. A copy of the site plan shall also be provided in digital format (.DWG or .DXF format on CD-ROM)
  3. Be prepared in accordance with standard architectural and engineering practices.
  4. Be sealed by engineer(s) and/or surveyor(s) of record.
  5. The name(s) and address(es) of the landowner and adjacent property owners.
  6. Contain a vicinity map, which shows the property(s) proposed for timber harvesting as shown on a current Township map. The vicinity map shall identify all adjacent properties and the name of property owners surrounding the proposed timber harvesting operation.
  7. The boundary of the site to be timber harvested as indicated by a heavy line with length of course in feet.
  8. The location and names of streets and roads adjacent to the proposed timber harvesting operation.
  9. Utility rights-of-way and/or easements.
  10. Existing watercourses, floodplains, woodlands and wetlands.
  11. The required fifty-foot buffer along any harvesting area, landing area, public road, and adjacent property.
  12. Topography of the property, including all slopes of 25% or greater and slide-prone soil areas.
  13. Earth disturbance locations, including skid trails and landing areas.
- iii. A narrative, including a copy of all applicable State or County permits, indicating that the logging operator shall address and comply with the requirements of all applicable State and local laws and regulations including, but not limited to the following:
1. Erosion and Sedimentation Control Regulations, 25 Pennsylvania Code, Chapter 102, promulgated pursuant to the Clean Streams Law; Subsection .4 timber harvesting operation regulations. Any timber harvesting operation shall meet the following requirements:
    - a. Stream crossings and wetland protection regulations issued pursuant to the Stormwater Management Act.

- b. Stormwater management plans and regulations issued pursuant to the Stormwater Management Act and applicable Township stormwater regulations.
    2. The erosion and sedimentation plans must be available at the project site during all stages of the earth disturbance activity.
    3. If wetlands are present within the area to be disturbed, proof that all necessary Pennsylvania Department of Environmental Protection permits have been obtained shall be provided.
  - B. The Township shall be notified in writing before any timber harvesting operation begins so that the Township may determine if other Township permits or approvals are required for the particular operation, the Township shall be notified at the following times:
    - a. Five business days prior to starting the operation.
    - b. Three business days prior to terminating the operation.
  - C. Any timber harvesting operation shall meet the following requirements:
    - a. Timber harvesting is prohibited on areas with slopes greater than 25%.
    - b. Timber harvesting is prohibited within a floodway or floodplain.
    - c. No timber harvesting operation or removal of products shall take place between the hours of 7:00 p.m. and 8:00 a.m. or any time on Sundays or legal holidays.
    - d. The maximum term of any permit issued pursuant to this part shall be for four months. However, because the timber harvesting operation may be adversely affected or delayed by unusual circumstances of weather or other occurrences, one additional four-month extension, after payment of a renewal fee equal to the initial permit fee, maybe granted by the Township.
    - e. Upon completion of the timber harvesting operation, all disturbed areas including, but not limited to, the landing area(s) and skid trails shall be revegetated pursuant to the Erosion and Sedimentation Control plans and the Stormwater Management Plans as approved by the Commonwealth of Pennsylvania's Department of Environmental Protection.
    - f. A timber harvesting operation shall not include any on-site processing of harvested trees or manufacturing except as permitted by the code.
    - g. Any disturbance along a Township maintained street or road to create a new or improve upon an existing access shall be reconstructed back to its original condition as it was prior to the commencement of the timber harvesting operation.

- D. The Township shall have the right to waive any requirements of this part. The Township shall also have the right to add any additional conditions, including additional bonding or other financial security for the actual restoration of damaged roads, deemed necessary to protect the health, welfare, and safety of the residents of the Township.
- E. The Township Manager or his/her designee may enter the site of any timber harvesting operation before, during, or after active logging to (1) review the timber harvesting plan or any other required documents for compliance with this part and (2) inspect the operation for compliance with the timber harvesting plan and other on-site requirements of this part.
- F. Upon finding that a timber harvesting operation is in violation of any provision of this part, the Township shall issue the logging operator and the landowner a written notice of violation in accordance with the provisions of this chapter regarding enforcement notices, describing each violation and specifying a date by which corrective action must be taken.
- G. The Township may order the immediate suspension of any timber harvesting operation and may institute any appropriate action to prevent, restrain, correct, or abate the violation of this part upon finding that (1) corrective action has not been taken by the date specified in a notice of violation; (2) the operation is proceeding without a timber harvesting plan; or (3) the operation is causing an immediate environmental risk.
  - a. Suspension orders shall be in writing, shall be issued to the logging operator and the landowner and shall remain in effect until the timber harvesting operation is brought into compliance with this Part or other applicable statutes or regulations.