

Article 23

CONDITIONAL USES

Section 2301. GENERAL.

In addition to the procedures and requirements of this ordinance, the Township Board of Commissioners may grant and deny conditional uses in accordance with Section 913.2 of the PA Municipalities Planning Code, Act 247. The following procedures and standards must be satisfied prior to approval of any application for a conditional use. The applicant shall be required to demonstrate compliance with these standards and furnish any evidence necessary to demonstrate such compliance. All uses must comply with the standards expressed within each underlying zone unless those standards expressed for each conditional use specify different standards; in such cases, the conditional use standards shall apply.

Section 2302. FILING OF A CONDITIONAL USE.

For any use permitted by conditional use, a conditional use permit must be obtained from the Board of Commissioners. Applications for any conditional use specified in this Ordinance shall be made to the Zoning Officer, who, at least thirty (30) days before the next regularly scheduled meeting of the Planning Commission, shall refer such application to the Planning Commission, and give written notice of the hearing date to all property owners within 500 feet of the property for which application has been made. The Planning Commission shall review the application pursuant to the conditions, standards and criteria set forth in Section 2303 and Section 2304, and shall submit its recommendations to the Board of Commissioners for approval or denial.

In addition to the information required on the zoning permit application, the conditional use application must show:

- A. Names and addresses of adjoining property owners including properties directly across a public right-of-way.
- B. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance.
- C. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance.
- D. Home Occupations - applications for a conditional use permit for a home occupation shall be submitted on a Home Occupation permit application, a separate form provided by the Township.

Section 2303. GENERAL CRITERIA.

The following general criteria shall be used as guidelines by the Planning Commission and Board of Commissioners in acting upon conditional use applications. Each applicant must demonstrate with appropriate evidence of compliance with the following:

- A. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance and be listed as a conditional use in the zone in which it is proposed.
- B. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

- C. The conditional use will not be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
- D. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- E. The proposed use will not effect a change in the character of the subject property's neighborhood.
- F. Adequate utility services and facilities such as sanitary and storm sewers, water, trash and garbage collection and disposal, access roads and other necessary facilities have been or are being provided.
- G. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and to facilitate the circulation and movement of pedestrian and vehicular traffic.
- H. For development within the Flood plain areas, that the application complies with those requirements listed in Article 4 - Overlay Districts.
- I. The intended purpose of the proposed use is not inconsistent with the planning policies of the Township, as reflected in the Community Development Objectives or Comprehensive Plan and in this ordinance.
- J. The proposed use shall comply if applicable with those criteria specifically listed in Section 2304 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations of this Ordinance.

Section 2304. SPECIFIC CRITERIA.

In addition to the general criteria listed in Section 2303 and any additional requirements of the Board of Commissioners under Section 2305, the following sets forth specific standards that shall be applied to each individual conditional use. These standards must be satisfied prior to approval of a conditional use by the East Pennsboro Township Board of Commissioners.

A. Adult Domiciliary Care Homes, Congregate Care Residences and Continuing Care Retirement Community

Adult Domiciliary Care Homes, Congregate Care Facilities and Continuing Care Retirement Communities may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Adult Domiciliary Care Homes, Congregate Care Residence or Continuing Care Retirement Community shall meet the requirements of 6 PA. Code, Chapter 21, as amended or any other State or Federal requirements.

B. Bed and Breakfasts

Bed and Breakfasts may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the applicant will meet the conditional use requirements. Bed and Breakfast establishments may be established in an existing dwelling subject to the following requirements:

- 1. The owner, or owner's agent, of the dwelling structure in which such uses are conducted must reside in the dwelling structure

2. The dwelling structure is served by an approved sewage system and water supply
3. Bedrooms shall not be used for cooking of any kind, and all meals shall be taken in substantially family-type dining facilities
4. No public restaurant service shall be conducted
5. Bedrooms shall contain a minimum of ninety (90) square feet of habitable floor area for one (1) person, and a minimum of one hundred twenty (120) square feet of habitable floor area for two (2) or three (3) persons. The number of bedrooms for such purposes shall not exceed the number existing in the dwelling at the time the conditional use application is submitted to the Township.
6. No more than three (3) persons per bedroom shall be permitted.
7. The minimum lot area per establishment shall be one acre if adequate sewage and space for required parking is available. The minimum lot area shall be increased, as necessary to accommodate off-street parking.
8. To ensure proper access and adequate water and sewer facilities, the application to establish a bed-and-breakfast establishment shall be processed as a land development plan in accordance with the Township Land Development Ordinance.
9. The establishment must be served by an adequate sewage system and water supply. The Township Sewage Enforcement Officer shall determine whether or not the system has adequate treatment capacity.

C. Boarding House, Group Homes

Boarding Houses and Group Homes may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Boarding House or Group Home will be conducted in a manner that will not be detrimental to neighboring property owners. A Boarding House or Group Home may be established in a new building or existing residential dwelling subject to the following requirements:

1. No modifications to the external appearance of existing residential buildings (except fire escapes) which would alter its residential character shall be permitted.
2. All floors above and/or below grade shall have a permanently affixed direct means of escape to ground level.
3. Fire and safety provisions shall be approved by the PA Department of Labor and Industry.
4. Rooms for lodging shall have a minimum gross floor area of one hundred and fifty (150) square feet.
5. The Boarding House shall be occupied by the owner(s) at all times.
6. The Group Home shall be occupied by the supervisory personnel or the owner(s) at all times.
7. The minimum lot area per establishment shall be one acre if adequate sewage and space for available parking is available. The minimum lot area shall be

increased as necessary to accommodate off-street parking.

8. To ensure proper access and adequate water and sewer facilities, the application to establish a boarding house shall be processed as a land development plan.
9. The establishment must be served by an adequate sewage system and water supply. The Township Sewage Enforcement Officer shall determine whether or not the system has adequate treatment capacity.

D. Cemeteries.

Cemeteries may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Cemetery will comply with the following requirements:

1. A cemetery shall not be located within five hundred (500) feet of a residential use; provided, however, that this restriction shall not be applicable to a caretaker's residence.
2. A complete site development plan shall be submitted and the following information shall be shown thereon:
 - a. Site location;
 - b. Metes and bounds of tracts;
 - c. Locations of all existing structures, and identification of use;
 - d. Lay-out of plots, vaults, etc;
 - e. Location of any proposed building or improvements;
 - f. Location of all utilities;
 - g. Location of all access drives and parking areas;
 - h. Existing and proposed contours;
 - i. Proposed landscaping;
 - j. Storm drainage calculations
3. All permits, licenses and approvals required by any State or local agencies shall be obtained before issuance of a conditional use permit.

E. Civic and Fraternal Organizations.

Civic and Fraternal Organizations may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Civic and Fraternal Organization will comply with the following requirements:

1. No permanent sign advertising the sale of food or beverages will be permitted.
2. Buildings or structures hereafter converted or erected for such use are subject to all applicable regulations for the district in which the facility is to be located.

F. Conversion Apartments

In districts where listed as a permitted or conditional use, conversion apartments will comply with the following requirements:

1. Plans for alterations shall be in accordance with PA UCC Act 45, and shall be approved in writing by the Building Official before presentation to the Planning Commission.
2. No outside alterations to the building shall be permitted except those required by fire protection regulations.
3. A common principal entrance shall be maintained unless there is more than one principal entrance in existence at the time alterations are made.
4. The lot area shall be not less than the following:

One (1) dwelling unit	6,000 sq. ft.
Two (2) dwelling units	7,500 sq. ft.
Three (3) dwelling units	9,000 sq. ft.
Four (4) dwelling units	10,500 sq. ft.
For each additional dwelling unit	1,000 sq. ft.
5. If more than sixty (60) percent of the property owners within five hundred (500) feet of the proposed use protest the zoning permit application in writing, the application shall be denied. However, if more than sixty (60) percent of the said property owners support the zoning permit application, granting of the permit is not mandatory if other conditions are not satisfied.
6. One and one half (1.5) off-street parking space shall be provided for each dwelling unit.
7. The Zoning Officer may establish performance requirements, including time limitations on completion of the alterations, and may provide for the voiding of the zoning permit if the property is sold prior to the completion of the alterations.

G. Family Child Day Care Home

In districts where listed as a permitted or conditional use, family child day care homes may be established in an existing single-family detached dwelling subject to the following requirements:

1. A minimum of one hundred (100) square feet of usable outdoor play space and 40 square feet of usable indoor space must be provided for each child present at the facility, including resident children.
2. Operators must comply with all Pennsylvania Department of Public Welfare licensing/registration requirements and any other local, state or federal regulations.
3. Outdoor play areas shall be enclosed by a fence that is four (4) feet in height and screened in accordance with Section 1901.A.2.
4. All play equipment installed in a play area shall meet current U.S. Consumer Product Safety Standards.

H. Group Child Day Care Homes and Child Day Care Centers

Group Child Day Care Homes and Child Day Care Centers may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Group Child Day Care Homes and Child Day Care Centers will comply with the following requirements:

1. Passenger "drop-off" and "pick-up" areas shall be provided on site and arranged so that the passengers do not have to cross traffic lanes on or adjacent to the site.
2. All commercial day-care facilities shall obtain and maintain proper license and credentials from the Commonwealth of Pennsylvania.
3. Outdoor common areas for day care and play areas for children shall be provided. The minimum area for outdoor recreation space shall equal one hundred (100) square feet for each individual at maximum enrollment.
4. Off street parking areas will not constitute nor be used for outdoor activity area.
5. Outdoor play areas shall not be located in any front yard.
6. Outdoor play areas shall be enclosed by a fence that is four (4) feet in height constructed in accordance with this Ordinance and screened in accordance with Section 1901.A.2.
7. All outdoor common areas or play areas shall be accommodated with shade trees or pavilions to provide shade.
8. All play equipment installed in a play area shall meet U.S. Consumer Product Safety Standards.

I. Helistop and Heliports

Helistops and Heliports may be established upon approval by the Board of Commissioners.

1. The following standards shall apply to Helistops and Heliports:
 - a. The proposed helistop shall not be detrimental to the health, welfare and safety of the Township residents and their property.
 - b. The applicant shall submit evidence confirming that the helistop will be constructed, operated, and maintained in accordance with applicable rules and regulations of the Federal Aviation Administration and the Pennsylvania Department of Transportation, Bureau of Aviation related to the use of helistops or heliports.
 - c. The landing pad shall be at least eighty (80) feet square or a circle with an eighty foot (80) diameter. This pad shall be paved, level and maintained dirt free. Rooftop pads shall be free of all loose stone and aggregate.
 - d. At least two (2) approach lanes to each landing pad shall be provided and maintained free of obstructions and shall be located not less than ninety (90) degrees apart. Each approach lane shall be located within forty-five (45) degrees left or right of the prevailing winds and shall fan out at an angle of ten (10) degrees from the width of the landing pad to a width of one thousand (1000) feet; and shall have a glide angle slope of eight (8) to one

- (1) measured from the outer edge of the pad.
 - e. An application for a helistop or heliport on a roof or similar above ground structure, shall be accompanied by a certification by a registered engineer that the loads imposed by a helicopter will be supported by the structure.
 - f. The helistop and heliports shall be used only for personal or executive use by a firm or individual.
 - g. No helicopter over six thousand (6,000) pounds gross weight shall use any helistop.
 - h. The application shall include, at a minimum, the following:
 - (1) A copy of the Federal Aviation Administration Form 7480-1, "Notice of Land Area Proposal" (latest revision).
 - (2) A copy of a letter of "No Objections" from the Federal Aviation Administration.
 - (3) A copy of Commonwealth of Pennsylvania Application for Approval of a Land Site, AV-4 (latest revision) and necessary supplemental information or equivalent and the letter of site approval from the Pennsylvania Department of Transportation, Bureau of Aviation.
 - (4) An aerial photograph or drawing, either of which shall be at a scale no less than one (1) inch equals two hundred (200) feet, indicating the approach and departure routes, the location of all residents, schools, churches, hospitals, and areas used for the open assembly of people, as well as other noise sensitive areas within a radius of one-half (1/2) mile of the proposed helistop or heliport sites.
2. In addition to the requirements in Section 2304.L.1, heliports shall meet the following requirements:
- a. Heliports shall be located a minimum of one thousand (1000) feet from any dwelling unit.
 - b. The applicant shall submit a land development plan for review and approval by the Township.
 - c. Heliports shall meet all requirements of the Zoning Ordinance for the district of its proposed location.
 - d. The proposed site shall have a perimeter fence with a minimum height of four (4) feet with at least two openings, except those located on rooftops. The fence shall be located so as not to obstruct the glide angle of the helicopter using the heliport.
 - e. The proposed heliport shall not adversely affect the health and safety of the citizens both in and surrounding East Pennsboro Township.
 - f. The applicant shall also make full compliance with those guidelines and

regulations for helistops and heliports or similar facilities as outlined in the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Aviation, Title 67, regulations relating to Pennsylvania Aviation, as amended.

3. It shall be unlawful for any person to land, discharge, load or take off in a helicopter any place within the East Pennsboro Township other than at an approved helistop or heliport, except:
 - a. In conjunction with a special event such as an athletic contest, a holiday celebration, parade or similar activity, after seven (7) days advanced notice has been given to the Code and Zoning Officer and a special permit has been issued by the Code and Zoning Officer or his/her designee
 - b. When necessary for law enforcement purposes and for emergencies.
 - c. For the purpose of delivery or transfer of patients from any hospital and its emergency trauma centers.

J. Home Occupations.

Home Occupations that exceed the standards of a no impact home based business may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Home Occupation will comply with the following requirements:

1. All applicants shall provide evidence that the home occupation will be conducted in a manner that will not be detrimental to neighboring property owners and overall community goals. The following criteria have been adopted to: (1) maintain residential family living characteristics in residential areas; (2) protect the quality of life promoted in residential districts; (3) preserve the residential neighborhoods from the infiltration of commercial uses; and (4) provide opportunities for residents to supplement family income through small home-based businesses. All home occupations shall comply with the following provisions:
 2. Home Occupation Standards
 - a. Home occupations shall be conducted within a dwelling by the residents thereof and shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes.
 - b. If approved by the Board of Commissioners, a Home Occupation Permit shall be issued by the Zoning Officer for a one (1) year period and renewed annually on January 31st of each year thereafter from when the Conditional Use Application was approved by the Board of Commissioners.
 - c. No more than one (1) person, other than the occupants of the dwelling unit, shall be employed and work at the Home Occupation.
 - d. A maximum of three hundred (300) square feet or twenty (20) percent of the floor area of the dwelling unit, whichever is lesser may be devoted to the home occupation.
 - e. The Home Occupation shall be carried on completely within the dwelling unit.

- f. There shall be no exterior storage of materials and no other exterior indication of the home occupation or variation of the residential character of the main building. Signage shall be in accordance with Article 20 of this Ordinance.
 - g. The appearance of the dwelling unit structure shall not be altered or the occupation within the residence be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds or vibrations that carry beyond the premises.
 - h. Articles sold or offered for sale shall be limited to those produced on the premises or to articles which are clearly incidental to the home occupation and directly related thereto, such as hair care products by a barber or beautician.
 - i. All Home Occupations shall comply with the performance standards of this ordinance with regards to noise, vibration, smoke or other particulate matter, heat, humidity, glare or other objectionable effects which may be produced.
 - j. Off-street parking shall be provided in accordance with the provisions of Article 21-Parking Requirements.
 - k. A Home Occupation shall not involve dangerous uses and shall not pose a threat to the health, welfare and safety of surrounding property owners.
3. Upon approval of the Conditional Use application for a Home Occupation by the Board of Commissioners, the Home Occupation Permit shall be issued.

K. Hotels and Motels.

Hotels and Motels may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Hotel or Motel will comply with the following requirements.

- 1. A minimum lot or site area of twenty-five (25) acres shall be provided.
- 2. Public water and public sewer shall be provided to serve the site.
- 3. A site development plan shall be submitted.
- 4. The applicant shall remove only a minimal amount of natural vegetation from the site.
- 5. Lot coverage of all buildings and paved areas may not exceed twenty (20) percent of the lot area.

L. Kennels/Veterinary Hospitals

In districts where listed as a permitted or conditional use, kennels/veterinary hospitals may be established subject to the following requirements:

- 1. Structures used for kennels and veterinary hospitals, including exercise yards, shall not be erected within any yard setback area or within two hundred (200) feet from any residential property or use.
- 2. All Kennels shall be maintained in a sanitary and humane condition and in

accordance with standards and sanitary codes promulgated under Pennsylvania Code, Title 7. Agriculture, Part II Dog Enforcement Bureau, Chapter 21. General Provisions: Kennels, Licensure; Dog-Caused Damages.

3. All properties shall comply with the provisions of the Pennsylvania "Dog Law," Act of 1982, P.L 784, No. 225 as amended and the Township Animal Control Ordinance #542-94 as amended.

M. Manufactured/Mobile Home Parks

Manufactured/Mobile Home Parks may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Manufactured/Mobile Home Park will comply with the following requirements:

1. It shall be unlawful for any person to operate or maintain any premises, area, tract or piece of land for the use as a manufactured/mobile home park, without first obtaining a permit from the Board of Commissioners and paying therefore the fee prescribed in accordance with Article 9 of the East Pennsboro Township Land Development Ordinance.
2. No permit shall be issued or renewed by the Board of Commissioners until and unless the applicant therefore has complied with the applicable terms and conditions of this ordinance, and has presented a current Certificate or Registration issued by the Pennsylvania Department of Environmental Protection.
3. The manufactured/mobile home lot area, width, yard requirements and setback lines shall conform to the standards outlined in Article 9 of the East Pennsboro Township Land Development Ordinance.
4. Uses within the Manufactured/Mobile Home Park shall conform to the zoning district in which it is located.
5. Two off-street parking spaces shall be provided for each manufactured/mobile home lot in the park.
6. The Board of Commissioners shall cause all premises for which permits of any kind under this Section 2304.P have been issued to be inspected at reasonable times and at such intervals as may be required for the proper enforcement of this ordinance and the safeguarding of the health and safety of the public. Interference with the duties of the duly authorized persons making such inspections shall constitute a violation of this ordinance.

N. Mobile Homes.

Mobile Homes may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Mobile Home will comply with the following requirements:

1. Only one (1) mobile home shall be permitted on a lot unless home is a part of an approved mobile home park.
2. Lot area, width, yard requirements and setback lines shall conform to the zoning district in which it is located.

3. At least two off-street parking spaces shall be provided.
4. The trailer hitch must be removed.
5. The trailer must have its wheels and axle assembly removed.
6. All exterior gas bottle racks must be removed, and the fuel tank must be located underground.
7. A permanent masonry foundation must be installed to the undercarriage of the unit, and must extend around the perimeter of the mobile home. If a pier type foundation is provided, permanent masonry skirting shall also be provided around the entire perimeter of the mobile home.
8. Permanent steps must be provided.
9. Mobile homes must be securely anchored to the foundation in accordance with accepted engineering practice and Section 1936 of the Zoning Ordinance.
10. The mobile home must be connected to an approved sewer system.
11. The mobile home must be independently connected to an approved potable water supply.

O. Public Utility Facility

A Public Utility Facility may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the facility will comply with the following requirements:

1. The side, front, and rear yard requirements for the zone in which the transformer substation is to be located shall be observed. The minimum lot area for a residential use need not be observed.
2. The equipment shall be surrounded by an anchor-type wire fence eight (8) feet in height and topped by barbed wire, or a masonry wall eight (8) feet in height.
3. The required fence or wall shall be surrounded by permanent evergreen shrubbery or tree planting of a type that will grow to not less than the height of the fence or wall.
4. The required side, front, and rear yards shall be landscaped with any combination of lawn, trees or shrubs and maintained in a neat and orderly manner.
5. Necessary access walks for personnel and vehicular service driveways may be installed.
6. Where a vehicular service driveway serves the facility from the front and thus precludes the planting of evergreen shrubbery in front of the entrance gate, the gate shall be constructed of solid materials, either wood or metal, and shall not contain less than fifty (50) percent solid material in ratio to open space.
7. In a residential district, the facility shall not contain or include rotating power equipment, storage of materials, trucks, repair facilities or housing for repair crews.
8. The plans accompanying an application for a building permit shall clearly indicate

the manner in which the requirements set forth herein will be satisfied.

P. Recreation Areas.

Recreation Areas may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Recreation Area will comply with the following requirements:

1. A plan showing the location of all structures and improvements, tract location, metes and bounds, parking areas and sanitary facilities shall be submitted.
2. Recreation areas and structures shall be operated by membership clubs for the benefit of their members and not for gain or profit.
3. The residential character of the neighborhood shall be preserved to give no impression of a commercial use.
4. The applicant shall remove only a minimal amount of natural vegetation.
5. Off-street parking shall be provided in accordance with the requirements of Article 21 of this ordinance.

Q. Retail Stores and Personal Services

Retail Stores and Personal Services may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Retail Stores and Personal Services will comply with the following requirements:

1. Retail stores and personal services may be established only as a use incidental to a permitted office use.
2. A maximum of twenty (20) percent of the total net rentable floor area of the building may be used as retail stores and personal service shops.
3. Off street parking shall be provided in accordance with the requirements of Article 21 of this ordinance.

R. Roadside Stands.

Roadside Stands may be established upon approval by the Board of Commissioners. All applicants shall provide evidence that the Roadside Stand will comply with the following requirements:

1. A Highway Occupancy Permit shall be obtained for any access or pull-off areas from all the appropriate Municipal or State authorities.
2. The roadside stand shall conform to the safety requirements of the adopted International Building Code and to all applicable requirements of this ordinance.
3. The roadside stands shall be removed at the end of the growing and harvesting season of the products sold.
4. If the roadside stand is intended to be erected as a permanent structure, it shall comply with all applicable Building code and Zoning Ordinance requirements.

S. Schools, Public or Private.

Public and private schools may be permitted as a conditional use when authorized by the Board of Commissioners. All applicants shall provide evidence that school uses will comply with the following requirements:

1. The lot area shall be not less than five (5) acres.
2. No building or structure shall be located within one hundred (100) feet of a property line or street.
3. When the development abuts an existing residential use or zoning district, Level 2 screening shall be provided in accordance with the requirements of Section 1901.A.2. of this Ordinance.
4. The development shall be connected to the municipal sewage system or shall provide a disposal facility approved by the Pennsylvania Department of Environmental Protection.
5. A safe potable water supply shall be provided. When public water service is not available, the source and system shall be approved by the Pennsylvania Department of Environmental Protection.
6. Play areas shall not be located in the front yard.
7. "Drop off" and "pick up" areas shall be provided and arranged so that passengers do not have to cross traffic lanes on or adjacent to the school site.
8. A land development plan for the entire development shall be submitted for review by the Board of Commissioners. This plan shall show the location of all buildings and use areas, lawn areas, and parking and any screen planting. General plans for storm water collection, water distribution and sewage treatment shall also be provided. All plans are to be submitted through the Department of Housing and Community Development and the Planning Commission.

T. Sexually Oriented Businesses

Within the Industrial Park (I-P) District, Sexually Oriented Businesses may be established upon approval by the Board of Commissioners in strict accord with the current amendment to this chapter entitled Sexually Oriented Businesses, and published under separate cover.

U. Telecommunication Towers/Antennas

In districts where listed as a permitted or conditional use, telecommunication towers/antennas will comply with the following requirements:

1. Communications sites with a tower or an antenna greater than twenty (20) feet in height above the ground or the structure or building upon which it is mounted may be permitted as a conditional use. The following regulations are provided to accommodate the need for cellular communication, radio, telephone, television, and other similar types of communication structures in East Pennsboro Township. These standards and criteria are determined to be the minimum necessary to protect the general health, safety and welfare of residents and property owners of the Township by: (1) minimizing the adverse visual effects of communication structures through proper design, siting,

vegetative screening, co-usage, and use of existing structures; (2) avoiding the potential danger and adverse effects to adjacent properties from structural failure and falling ice and debris; (3) conserving property values.

2. General Standards and Criteria

- a. The lot area for Telecommunications Signal Facilities shall be established during the actual tower placement on the lot and shall be sufficient to conform to the minimum required yards for the district in which the facilities are located and the setbacks requirements of 2304.V.9 below.
- b. All other uses ancillary to the tower or antenna(s) and associated equipment, including a business office, maintenance depot, vehicle storage, etc., are prohibited from the telecommunications site unless otherwise permitted in the zoning district in which the telecommunications site is proposed.
- c. The applicant and/or owner shall accept full responsibility for any legal action, defined as, but not limited to that arising from damage to private and/or public property during construction, use and maintenance of the telecommunications site.

3. Standards of Approval

- a. The Conditional Use Permit Application shall include a notarized statement containing language approved by the Township Solicitor, which shall indemnify and save harmless the Township of East Pennsboro from any and all litigation which may arise from the construction, operation, maintenance and demolition of the telecommunications site, signed by the owner of the telecommunications company and the owner of the property upon which the telecommunications facility is sited, if the property is owned by an entity other than the telecommunications company.
- b. A telecommunications company must be licensed by the Federal Communications Commission.
- c. The telecommunications applicant is required to demonstrate, by providing technological evidence, that the antenna and/or tower must be placed at the proposed location in order to satisfy its function in the company's grid system and to provide the quality of service required by law.
- d. If the telecommunications applicant proposes to build a tower (rather than mounting an antenna on an existing structure), the applicant must provide an affidavit listing the name, address, telephone number and date when the applicant contacted the owners of tall structures and buildings within one half (1/2) mile radius of the proposed tower site asking permission to attach antennae to their structures or buildings. The affidavit shall include copies of the requests and the responses. "Tall structures" includes but is not limited to smokestacks, water towers, buildings over thirty-five (35) feet, support structures of other telecommunications companies, and other communications towers (fire, police, etc.).

4. New Tower at a New Location.

The Township shall consider approving a new telecommunications tower only when the applicant demonstrates that shared use of an existing tower or placement of an antenna on a pre-existing structure is impractical. The applicant shall be required to submit a report demonstrating efforts to secure shared use as well as documentation of reasons why shared use is not practical. Written requests and responses for shared use shall be provided. Information regarding the required need for the new telecommunications tower shall be in the form of empirical data illustrating said need. The Township may request a review of the application by a qualified engineer for evaluation of need for and design of any new tower. The cost for such review shall be borne by the applicant.

5. Shared Use of Existing Towers.

Shared use of existing towers shall be preferred to the construction of new towers. An applicant shall present a report inventorying existing towers within East Pennsboro Township outlining opportunities for shared use of existing facilities as an alternative to a proposed new tower.

6. Future Shared Use of New Towers.

The applicant must examine the feasibility of designing a proposed telecommunications tower to accommodate future demand for reception and transmitting facilities. The scope of this analysis shall be determined by the Township. This requirement may be waived, provided that the applicant demonstrates that the provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:

- a. The number of Federal Communications Commission (FCC) licenses foreseeable for the area;
- b. The type of tower site and structure proposed;
- c. The number of existing and potential licenses without tower spaces;
- d. Available spaces on existing and approved towers;
- e. Potential adverse visual impact by a tower designed for shared use.

7. Visual Impact Assessment.

The applicant shall undertake a visual impact assessment of any proposed new towers, any proposed modifications to existing towers, or any antenna placements. The assessment shall include:

- a. A demonstration that the antenna or tower is the minimum height required to function satisfactorily;
- b. A "zone of visibility map" provided to determine locations where the tower or antenna may be seen;
- c. Pictorial representations of "before and after" views from key viewpoints within the Township limits;
- d. Assessment of the visual impact of the tower base, accessory buildings,

and overhead utility lines from abutting properties and streets; and

- e. Assessment of alternative tower or antenna designs and color schemes.

8. New Tower Design.

Alternate designs shall be considered for new towers, including lattice and monopole structures. The design of a proposed new tower shall comply with the following:

- a. Any applicable state or federal regulations;
- b. Unless specifically required by state or federal regulations, all towers shall have a finish that shall minimize, to the greatest extent possible, the degree of visual impact;
- c. Unless specifically required by state or federal regulations there shall be no artificial lighting on the tower;
- d. Accessory buildings shall maximize the use of building materials, colors and textures in order to blend with the natural surroundings;
- e. No portion of any tower or related structure shall be used for a sign or other advertising purpose, including, but not limited to company name, phone numbers, banners, streamers, etc;
- f. All plans, specifications and reports for the design of new towers must be signed and sealed by a Professional Engineer, registered in the Commonwealth of Pennsylvania, having expertise in the design of telecommunications sites and facilities;
- g. Maintenance and/or Performance Bond

The Township at its sole discretion may require the applicant and/or owner to establish, prior to approval of any application, a maintenance and/or performance bond in an amount sufficient to cover the maintenance and inspection of said tower during its lifetime. The amount required shall be determined at the sole discretion of the Township, based upon the unique characteristics of the tower and site. The applicant and/or owner shall cooperate with the Township in supplying all necessary construction and maintenance data to the Township prior to approval of any application. Cost estimates shall be reviewed by the Township Engineer.

9. Setbacks for Base of Tower and Anchors

If a new tower is constructed (rather than mounting the antenna on an existing structure or building), the minimum distances between the base of the support structure and any property line, right-of-way line of any public or private street or any residential zone district boundary shall be the largest of the following:

- a. One hundred ten (110) percent of tower height;
- b. The minimum front yard setback in the underlying zoning district;
- c. Fifty (50) feet;

- d. Setbacks for any guy-wire anchors shall be the same as the required front, side and rear yards of the underlying zoning district for the telecommunications site.

10. Tower Safety

All towers and support structures shall be fitted with anti-climbing devices, as approved by the Township Engineer and the manufacturer. The applicant shall demonstrate through actual or prototype engineering studies that the proposed tower is safe and that:

- a. The surrounding areas will not be negatively affected by tower failure, falling ice or other debris, or lightning strikes
- b. The towers and antennas shall be designed to withstand the effects of the wind according to the standards designated by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/EIA/TIA-222-E Code, as amended);
- c. The design specifications of the tower foundation and guy wire anchors, if any, comply with the applicable soil standards designated by the American National Standards Institute; and
- d. The electromagnetic fields and radio frequency emissions comply with the Federal Communications Commission regulations concerning such emissions.

11. Lighting

Any telecommunications site shall have adequate security lighting of the site and shall conform with the general regulations of lighting in the zoning area where the site is located.

12. Fencing

A fence shall be required around the tower, accessory buildings, and other equipment. The fence shall be a minimum of six (6) feet in height and a maximum of eight (8) feet in height; shall completely enclose the tower, support structure, and related facilities; shall not contain openings greater than nine (9) square inches; and shall contain entrance gates which shall be locked except during such times as the site is manned by authorized operations or maintenance personnel. No fencing shall be required for an antenna mounted on a pre-existing structure.

13. Landscaping

Landscaping shall be required to screen as much of the tower as possible, the fence surrounding the tower, and any other ground-level features (such as a building and parking area), and reduce the visual impact of the appearance of the telecommunications site. The Township may permit any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. The landscaping design shall be subject to approval by the Township, which approval shall not be unreasonably withheld. Recommended screening:

- a. An evergreen screen surrounding the site is recommended. The screen can be either a hedge (planted three (3) feet on center maximum) or a row of evergreen trees (planted ten (10) feet on center maximum). The evergreen screen shall be a minimum height of six (6) feet at planting and shall grow to a minimum of fifteen (15) feet at maturity;
 - b. Existing vegetation on and around the site shall be preserved to the greatest extent possible. There shall be no cutting of trees exceeding four (4") inches in diameter (measured at a height of four (4¹) feet above the ground) without prior approval by the Township
- 14. Provide a minimum of two (2) off-street parking spaces for maintenance workers.
 - 15. A land development plan shall be required for all telecommunications sites showing the tower and/or antenna(s), building, fencing, buffering, screening, access, parking area and all other requirements of the East Pennsboro Township Land Development Ordinance. The land development plan shall be submitted to the Board of Commissioners of East Pennsboro Township through the Department of Housing and Community Development and the Planning Commission.
 - 16. Abandonment

Any tower antenna support structure that is no longer in use for its original communications purpose shall be removed at the owner's expense. The owner shall provide the Township with a copy of the notice to the FCC of intent to cease operations and shall be given ninety (90) days from the date of ceasing operations to remove the obsolete tower antenna support structure and accessory structures. In the case of multiple operators sharing use of a single tower, this provision shall not become effective until all users cease operations. The equipment on the ground is not to be removed; however, until the tower antenna support structure has first been dismantled and removed.

Section 2305. ADDITIONAL CONDITIONS AND SAFEGUARDS.

The Board of Commissioners, in granting a conditional use application, may attach additional conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zone. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this Ordinance and shall be subject to the penalties described in this Article.

Section 2306. SITE PLAN APPROVAL.

Any site plan presented in support of the conditional use pursuant to Section 2302 shall become an official part of the record for said conditional use. Approval of any conditional use will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan, shall require the obtainment of another conditional use approval.

Section 2307. HEARING PROCEDURES.

Before voting on the approval of a conditional use, the Township Board of Commissioners shall hold a public hearing thereon, pursuant to public notice. The Township Board of Commissioners shall submit each such application to the Planning Commission at least thirty (30) days prior to the hearing on such application to provide the Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed application is revised, the Township Board of Commissioners shall hold another public hearing, pursuant to public notice, before proceeding to vote on the application.

All public hearings shall be conducted in accordance with the requirements outlined in Section 2413.C of this Ordinance, except that any reference to the "Zoning Hearing Board" shall be replaced with the "Township Board of Commissioners."

Section 2308. TIME LIMITATION.

- A. If a conditional use is granted, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the conditional use is finally granted, and the building or alteration, as the case may be, shall be completed within three (3) years of said date. For good cause, the Board of Commissioners may at any time, upon application in writing, extend either of these deadlines.
- B. Should the applicant fail to obtain the necessary permits within said two (2) year period, or having obtained the permit should he fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the applicant has waived, withdrawn, or abandoned his application, and all approvals and permits granted to him shall be deemed automatically rescinded by the Board of Commissioners.
- C. Should the applicant commence construction or alteration within said two (2) year period, but should he fail to complete such construction or alteration within said three (3) year period, the Board of Commissioners may, upon ten (10) days notice in writing, rescind or revoke the granted conditional use, if the Board of Commissioners finds that no good cause appears for the failure to complete within such three (3) year period, and if the Board of Commissioners further finds that conditions have altered or changed in the interval since the granting of the conditional use that revocation or rescission of the action is justified.
- D. As an alternative to the proceeding, an applicant can request, as part of the original application before the Board, the granting of a timetable associated with the request which would supersede the deadlines imposed in Section A, B, and C. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Board of Commissioners must establish and bind a definite time frame for: 1) issuance of a zoning permit; and 2) completion of construction of the project.