

ARTICLE 9

SUPPLEMENTARY REGULATIONS

Section 901: Statement of Intent

- (A) The purpose and objective of the provisions established under Article 9 of this Zoning Ordinance is to establish specific supplementary regulations for residential and non-residential land uses.
- (B) The provisions contained in Article 9 of this Zoning Ordinance are intended to serve as minimum requirements to promote the public health, safety and the general welfare of the residents and property owners of Upper Bern Township. The regulations shall supplement and not replace the provisions established within this Zoning Ordinance. Unless otherwise specified within this Zoning Ordinance and/or where the supplementary regulations contained within this Article impose greater restrictions than those of any other statute, ordinance or regulation, the provisions established under this Article shall prevail.

Section 902: Access to Lots, Buildings, Structures and Uses

- (A) Every building and structure hereafter erected or moved shall be located on a lot adjacent to a public street or an approved private street. The buildings and structures shall be so located on the lots in such a manner to provide safe and convenient access for emergency vehicles and off-street parking.
- (B) Unless specifically stated otherwise within this Zoning Ordinance, no more than one (1) principal building, structure or use of land shall be permitted or erected on a single lot.

Section 903: Accessory Uses and Structures

- (A) Residential lots containing accessory buildings, structures and uses, including any garages, carports, decks, patios, terraces, gazebos, greenhouses, utility sheds, storage sheds, tennis courts, domestic animal shelter, or other similar accessory buildings, structures and uses shall comply with the provisions specified under Section 903.1 of this Zoning Ordinance.
- (B) Non-residential lots containing accessory buildings, structures and uses, including any garages, storage facilities, pole barns, farm building, greenhouses, supplemental uses, recreation facilities, or other similar accessory buildings, structures and uses shall comply with the provisions specified under Section 903.2 of this Zoning Ordinance.

Section 903.1: Residential Accessory Uses and Structures

- (A) Residential lots containing a permitted residential dwelling unit shall comply with the following general provisions:
 - (1) The accessory building, structure or use shall be subordinate and customarily incidental to the principal building and utilized as an accessory use on the lot occupied by the principal building.
 - (2) Unless otherwise permitted by this Zoning Ordinance, the accessory building, structure or use shall not be located in the front yard. Where front yard setback requirements are not specified for a use, the minimum front yard setback shall be forty (40) feet
 - (3) Unless otherwise specified by this Ordinance, the accessory building, structure or use shall not be located within the side yard setback or within ten (10) feet to the rear lot line. Where side yard setback requirements are not specified for a use, the minimum side yard setback shall be twenty (20) feet.
 - (4) The land area occupied by the accessory building or structure shall account towards the building coverage calculations for the lot and zoning district to which it is located.

- (5) The land area occupied by the residential accessory building or structure shall account towards the impervious surface ratio calculations for the lot and zoning district to which it is located.
- (6) The maximum height of any accessory building or structure shall be twenty-five (25) feet.
- (7) No permanent residential accessory building or structure shall be constructed on any lot prior to the commencement of construction of the principal building to which it is accessory component.

(B) The following provisions shall apply to attached residential garages, detached residential garages or carports:

- (a) Attached residential garages, detached residential garages or carports garages located within the MDR and SV Zoning Districts shall comply with the following provisions:
 - (a) Attached residential garages shall not have a floor area exceeding one thousand (1,000) square feet. The depth of an attached garage shall not exceed thirty-six (36) feet.
 - (b) Detached residential garages shall not have a floor area exceeding twelve hundred (1,200) square feet. The depth of a detached garage shall not exceed thirty-six (36) feet. No more than one (1) detached or freestanding residential garage shall be permitted per lot.
 - (c) For lots containing a combination of attached residential garages, detached residential garages, and/or carports, the total combined floor area shall not exceed fifteen hundred (1,500) square feet.
 - (d) Attached residential garages, detached residential garages, and/or carports located on a lot occupied by a single-family detached dwelling unit shall comply with the building setback requirements of the underlying zoning district to which they are located.
 - (e) Attached residential garages or detached residential garages on a lot occupied by a single-family attached dwelling, single-family semi-detached dwelling, townhouse, or other dwelling having a common lot line may be located along the common lot line, provided that they do not project onto the adjacent property and they are located at least five (5) feet from the rear lot line.
- (b) Attached residential garages, detached residential garages or carports garages located within the AP, BMP, RC, HC, GI and AI Zoning Districts shall comply with the following provisions:
 - (a) Attached residential garages shall not have a floor area exceeding fifteen (1,500) square feet. The depth of an attached garage shall not exceed thirty-six (36) feet.
 - (b) Detached residential garages shall not have a floor area exceeding two thousand (2,000) square feet. The depth of a detached garage shall not exceed forty (40) feet. No more than two (2) detached or freestanding residential garages shall be permitted per lot.
 - (c) For lots containing a combination of attached residential garages, detached residential garages, and/or carports, the total combined floor area shall not exceed three thousand (3,000) square feet.
 - (d) Attached residential garages, detached residential garages, and/or carports located on a lot occupied by a single-family detached dwelling unit shall comply with the building setback requirements of the underlying zoning district to which they are located.
 - (e) Attached residential garages or detached residential garages on a lot occupied by a single-family attached dwelling, single-family semi-detached dwelling, townhouse, or other dwelling having a common lot line may be located along the common lot line, provided that they do not project onto the adjacent property and they are located at least five (5) feet from the rear lot line.

- (C) The following provisions shall apply to utility sheds, storage sheds, pole buildings and gazebos:
- (1) Utility sheds, storage sheds, and gazebos located within the MDR and SV Zoning Districts shall comply with the following provisions:
 - (a) Utility sheds or storage sheds located on a lot occupied by a residential use may be erected in the rear yard and side yard, provided it is located at least five (5) feet from the property line. All such utility sheds or storage sheds shall not exceed three hundred (300) square feet in floor area and shall not exceed twenty-five (25) feet in height.
 - (b) No more than one (1) utility shed or storage shed shall be permitted per lot.
 - (c) No utility sheds or storage sheds shall be permitted within a multi-family development consisting of townhouses, condominiums or apartment, unless they have been designed as a uniform feature within the development.
 - (d) All utility sheds or storage sheds shall be located, designed, constructed and installed in accordance with the manufactures specifications and the building codes of Upper Bern Township.
 - (e) Pole building shall not be permitted within the MDR and SV Zoning Districts.
 - (f) Gazebos may be permitted on a lot occupied by a residential use provided it is located in a manner to comply with the building setback requirements of the underlying zoning district to which the gazebo is located.
 - (2) Utility sheds, storage sheds, pole buildings and gazebos located within the AP, BMP, RC, HC, GI and AI Zoning Districts shall comply with the following provisions:
 - (a) Utility sheds or storage sheds located on a lot occupied by a residential use may be erected in the rear yard and side yard, provided it is located at least ten (10) feet from the property line. All such utility sheds or storage sheds shall not exceed five hundred (500) square feet in floor area and shall not exceed twenty-five (25) feet in height.
 - (b) No more than three (3) utility sheds or storage sheds shall be permitted per lot.
 - (c) No utility sheds or storage sheds shall be permitted within a multi-family development consisting of townhouses, condominiums or apartment, unless they have been designed as a uniform feature within the development.
 - (d) All utility sheds or storage sheds shall be located, designed, constructed and installed in accordance with the manufactures specifications and the building codes of Upper Bern Township.
 - (e) Pole buildings may be located on a lot occupied by a residential use provided that it shall comply with the building setback and coverage requirements of the underlying zoning district and does not exceed a height of twenty five (25) feet. No more than one (1) pole building shall be permitted on a lot occupied by a residential use.
 - (f) Gazebos may be permitted on a lot occupied by a residential use provided it is located in a manner to comply with the building setback requirements of the underlying zoning district to which the gazebo is located.
 - (g) The provisions specified under Section 903.2 of this Zoning Ordinance shall apply to lots within the AP, BMP, RC, HC, GI and AI that are occupied by non-residential uses.

(D) The following provisions shall apply to decks, patios and terraces:

- (1) Decks, patios and terraces located on a lot occupied by a single-family detached dwelling unit shall comply with the building setback requirements of the underlying zoning district to which they are located.
- (2) Decks, patios and terraces located on a lot occupied by a single-family attached dwelling or semi-detached dwelling may be located along the common lot line, provided that they do not project onto another property and comply with the remaining setback requirements.
- (3) Decks, patios and terraces located on a lot occupied by a single-family detached dwelling unit, single-family attached dwelling, or single-family semi-detached dwelling may be covered provided that it is in accordance with all building code requirements.
- (4) Decks, patios and terraces located on a lot occupied by a townhouse unit may only be located in the rear yard and subject to the following provisions:
 - (a) It shall be located at least one (1) foot from a side lot line or, in the case where a townhouse dwelling unit is not located on a fee-simple lot, an imaginary line extending from the common wall of any contiguous townhouse dwelling units
 - (b) It shall be located no more than twelve (12) feet from any rear wall of a townhouse dwelling unit to which it is accessory. The patio, deck or similar structure may follow the contour of the existing structural wall or window of the townhouse unit.
 - (c) It shall be located at least thirty (30) feet from a rear lot line; provided, however, that in instances where the existing rear yard setback was less than 42 feet, as of September 13, 1989, a patio, deck or similar structure may be attached to the rear of a dwelling or dwelling unit and may extend into said required rear yard to a maximum depth of twelve (12) feet from the rear of said dwelling or dwelling unit but shall be no closer than seven feet from the rear property line.
 - (d) Unless otherwise designed as a uniform feature within the development, no patio, deck, terrace or similar structure shall be enclosed or under roof.
 - (e) If a patio, deck or similar structure extends into the side yard setback or rear yard setback otherwise required by this chapter, no other accessory structure shall be located closer to the patio, deck, similar structure or lot line than the permitted setback for an accessory structure.
 - (f) No patio, deck or similar structure shall extend into the minimum space required between any townhouse building faces otherwise required by this chapter.
 - (g) A patio, deck or similar structure which meets the requirements of this chapter shall be included in the determination of the impervious surface ratio and the building coverage for the lot. Where designed and planned as a unified development, the cumulative total impervious surface ratio and cumulative total building coverage shall also apply.

(E) The following provisions shall apply to non-commercial greenhouses:

- (1) Non-commercial greenhouses located on a lot occupied by a single-family detached dwelling unit shall comply with the building setback requirements of the underlying zoning district.
- (2) All non-commercial greenhouses shall not exceed not exceed five hundred (500) square feet per acre of land and shall not exceed ten thousand (10,000) cumulative square feet in total gross covered floor area occupied by all of the non-commercial green houses located on the property.

- (F) Domestic animal shelters or housing units may be permitted provided that the structure is located at least five (5) feet from the side or rear property line.
- (G) Permanent non-commercial recreation facilities, structures and uses, including but not limited to, tennis courts, hockey rinks, skateboard facilities, basketball courts, and other similar accessory facilities, structures or uses exceeding a cumulative playing surface area of one thousand (1,000) square feet shall be located at least fifteen (15) feet from the rear or side property lines. The exterior lighting facilities for all such non-commercial recreation facilities, structures or uses shall be located at least ten (10) feet from all property lines, which shall be directed downward to the playing surface area and shielded to prevent light spillage onto adjacent properties.
- (H) Alternative energy systems, including windmills, solar energy panels, geothermal systems, or other similar systems, shall be permitted as an accessory structure, provided they are located in a manner to comply with the building setback lines and building height for the underlying zoning district to which it is located.
- (I) Private non-commercial in-ground or above-ground swimming pools, which are located on a residential lot, shall comply with the provisions of Section 921 of this Zoning Ordinance.
- (J) Fences, walls and hedges shall comply with the provisions specified by Section 911 of this Zoning Ordinance.
- (K) Private non-commercial in-ground or above-ground hot tubs or therapeutically spas, which are located on a residential lot, shall comply with the provisions of Section 921 of this Zoning Ordinance.
- (L) Private free standing satellite receiving dishes or telecommunication devices shall be mounted at ground level and shall not be located closer than ten (10) feet from any property lines.

Section 903.2: Non-Residential Accessory Uses and Structures

- (A) Non-residential lots containing a permitted non-residential use shall comply with the following general provisions:
 - (1) The accessory building, structure or use shall be subordinate and customarily incidental to the principal building and utilized as an accessory use on the lot occupied by the principal building.
 - (2) All accessory buildings, structures or uses shall comply with all building setback and coverage requirements for the underlying zoning district to which it is located.
 - (3) The land area occupied by the accessory building or structure shall account towards the building coverage calculations for the lot and zoning district to which it is located.
 - (4) The land area occupied by the accessory building or structure shall account towards the impervious surface ratio calculations for the lot and zoning district to which it is located.
 - (5) Unless otherwise specified by this Zoning Ordinance, the maximum height of any non-residential accessory building or structure shall be thirty (30) feet.
 - (6) No permanent residential accessory building or structure shall be constructed on any lot prior to the commencement of construction of the principal building to which it is accessory component.
- (B) Storage facilities are permitted provided that such facilities are located in areas, which have direct access to a public street or driveway. The outdoor storage of materials shall be screened from the view of adjacent properties with a berm, trees, landscaping materials and/or fence.
- (C) Restaurants, cafeterias and/or recreational facilities are permitted provided they are intended for the use of employees only, unless they are permitted as principal uses in the district in which they are constructed.
- (D) Primary or alternative energy systems shall be permitted as external accessory structure, provided they are located in a manner to comply with the building setback lines for the underlying zoning district to which it is locate

Section 904: Residential Conversions

- (A) The Zoning Hearing Board may authorize as a special exception the conversion of any single-family detached dwelling into a dwelling for not more than two (2) families, provided that the tract or lot is located within the SV Zoning District.
- (B) As part of the special exception application, the applicant shall demonstrate that the residential conversion shall comply with the following provisions:
 - (1) The minimum lot area per family shall not be reduced to less than the minimum lot area that is required for a single family dwelling in the zoning district in which the residential conversion is located.
 - (2) The minimum and maximum dimensional requirements for the appropriate zoning district shall not be reduced.
 - (3) The maximum building coverage and lot coverage requirements for the appropriate zoning district shall not be exceeded.
 - (4) The residential uses are serviced by public sewage disposal facilities, whereas, separate utility connections shall be required, which comply with the requirements of the Upper Bern Township Sanitary Sewer Use Ordinance.
 - (5) The residential uses are serviced by public water supply facilities or on-lot water supply facilities with sufficient capacities, whereas, separate utility connections may be required by the Upper Bern Township Board of Supervisors.
 - (6) The residential conversion shall take place within a building capable of accommodating two (2) families. The applicant shall demonstrate that the building has relatively little economic value or usefulness as a single-family detached dwelling.
 - (7) The building can be altered and improved to comply with all building code requirements. The applicant shall provide documentation to the Zoning Hearing Board, Zoning Officer, Code Enforcement Officer and Sewage Enforcement Officer that all plumbing, heating, electrical, sanitary sewer, storm sewer and similar facilities comply with all applicable ordinances, regulations, codes and laws specified by Upper Bern Township and/or the Commonwealth of Pennsylvania.
 - (8) Each residential unit shall contain independent washing and bathing facilities as well as a complete kitchen with cooking facilities to accommodate the tenants.
 - (9) At least two (2) off-street parking spaces are provided, which are designed to comply with the provisions of Article 10 of this Zoning Ordinance.
 - (10) There shall be no external alterations of the building, unless it is required for safety, structural durability, accessibility, architectural enhancement, or as permitted by Upper Bern Township.
- (C) If the residential conversion is permitted, the Zoning Hearing Board may prescribe such further conditions with respect to the conversion and use of such building as it deems appropriate.
- (D) As part of the special exception application, the Upper Bern Township Zoning Hearing Board may consider optional design and site development alternatives if the standard requirements are determined to be unwarranted or inappropriate based upon the existing site conditions. If approved, the optional design and site requirements shall be considered as part of the subdivision plan, land development plan and/or zoning permit.
- (E) All residential conversions shall be subject to an annual inspection by the Upper Bern Township Zoning Officer, Code Enforcement Officer and Sewage Enforcement Officer.

Section 905: Home Occupation Regulations

- (A) For the purposes of this Zoning Ordinance, home occupations shall include the following two (2) categories:
- (1) **Category 1 Home Occupations:** A business or commercial activity administered or conducted as an accessory use, which is clearly secondary to the residential use and which involves no customer, client or patient traffic (whether vehicular or pedestrian), pickup, delivery or removal functions to or from the premises, in excess of those normally associated with a residential use. A “Category 1 Home Occupation” shall be synonymous with “No Impact Home-Based Business”, as defined by the Pennsylvania Municipalities Planning Code.
 - (2) **Category 2 Home Occupations:** A business or commercial activity administered or conducted as an accessory use, which is clearly secondary to the residential use, which may involve some employee(s), customer, client or patient traffic (whether vehicular or pedestrian), pickup, delivery or removal functions to or from the premises, in excess of those normally associated with a residential use.
- (B) Category 1 Home Occupations shall be permitted by right in the AP, BMP, MDR, SV, RC, HC, GI and AI Zoning Districts, subject to the following requirements:
- (1) The home occupation shall be conducted within an approved residential dwelling unit, which complies with the minimum and maximum dimensional requirements of the zoning district to which the use is located.
 - (2) The home occupation shall be conducted only within the dwelling and may not occupy more than 25 percent of the gross floor area of the residential dwelling unit.
 - (3) The home occupation shall include only lawful uses, which shall be clearly secondary to the residential use and shall be compatible with surrounding residential uses.
 - (4) The home occupation shall employ no employees other than family members residing in the dwelling.
 - (5) There shall be no visual display or sale of retail goods.
 - (6) There shall be no stockpiling, storage or inventory of products of a substantial nature.
 - (7) There should be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
 - (8) The home occupation may not use any equipment or process, which creates noise, vibration, glare, fumes, odors, electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
 - (9) The home occupation may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- (C) Category 2 Home Occupations shall be permitted by right within the AP, BMP, SV, HC, GI and AI Zoning Districts, and by conditional use within the MDR and RC Zoning Districts, subject to the following requirements:
- (1) The home occupation shall be conducted within an approved single family detached dwelling unit, which complies with the minimum and maximum dimensional requirements of the zoning district to which the use is located.
 - (2) The home occupation shall be conducted only within the dwelling or an approved accessory structure, which may not occupy more than 25 percent of the gross floor area of the single family detached residential unit or no more than 500 square feet of an accessory structure.

- (3) The home occupation shall include only lawful uses, which shall be clearly secondary to the residential use and shall be compatible with surrounding residential uses. The exterior appearance shall be maintained as a single family detached residential use.
 - (4) The home occupation shall be limited to the family members residing within the dwelling plus two (2) additional persons to provide support services and assistance.
 - (5) There shall be no visual display or sale of retail goods.
 - (6) There shall be no stockpiling, storage or inventory of products of a substantial nature.
 - (7) The home occupation may not use any equipment or process, which creates noise, vibration, glare, fumes, odors, electrical or electronic interference, including interference with radio or television reception, which is detectable at the property lines.
 - (8) No manufacturing, repairing or other mechanical work shall be performed in any open area. All such activities shall be conducted in such a manner that they are not detectable or noticeable at or beyond the property line.
 - (9) The capacities of the public sewage disposal system or on-lot sewage disposal system shall be evaluated in terms of their abilities to serve the residential use along with the home occupation. Where appropriate, the provisions for additional sewage disposal capacities should be reserved, designed, installed and connected to accommodate the projected demand.
 - (10) The capacities of the public water supply system or on-lot well shall be evaluated in terms of their abilities to serve the residential use along with the home occupation. Where appropriate, the provisions for additional water supply capacities should be considered in order to provide a dependable supply of water without adversely affecting other uses.
 - (11) The home occupation may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
 - (12) No more than one (1) Category 2 Home Occupation shall be permitted per residential unit.
 - (13) An off-street parking area shall be provided to meet the following requirements: two (2) parking spaces shall be provided for the residential use; one (1) parking space shall be provided for each employee not residing within the dwelling; and no more than two (2) parking spaces shall be provided for guests or patrons. The maximum number of off-street parking spaces shall be limited to six (6) parking spaces, which shall not include any garage spaces and shall be designed to comply with the appropriate provisions of Article 10 of this Zoning Ordinance.
 - (14) A sign displaying the name and address of the home occupation may be permitted, subject to the following requirements: no more than one (1) such sign shall be erected on the lot; the area of the sign shall not exceed two (2) square feet in size; and the sign shall be either fixed flat on the main wall of the building or may be erected in the front yard, but not within ten (10) feet of the cartway.
 - (15) Farm-Related Business Uses, as further defined under Article 2 of this Zoning ordinance shall be a permitted use by right within the AP, BMP, MDR, RC, HC, GI and AI Zoning Districts, subject to compliance with the provisions specified under Section 804.4 of this Zoning Ordinance.
 - (16) Farm-Support Business Uses, as further defined under Article 2 of this Zoning ordinance shall be a permitted use by special exception within the AP, BMP, HC, GI and AI Zoning Districts, subject to compliance with the provisions specified under Section 804.5 of this Zoning Ordinance
- (D) The Upper Bern Township Board of Supervisors may consider optional design and site development alternatives if the standard requirements are determined to be unwarranted or inappropriate based upon the existing site conditions. If approved, the optional design and site requirements shall be considered as part of the zoning permit.

Section 906: Height Exceptions

- (A) Unless otherwise specified within this Zoning Ordinance, the building height limitations contained within this Zoning Ordinance shall not apply to chimneys, spires, belfries, cupolas, farm buildings, silos, greenhouse ventilators, antennas (not in combination with support towers), water tanks, solar energy collectors, windmills, and other similar appurtenances, which are usually required to be placed above the roof level provided they are not intended for human occupancy.
- (B) The projection of the exempted structures specified within Section 906(A) may be increased to a maximum height of fifty (50) feet provided that the height of the exempted structure is not greater than the distance to any property line, as measured from the exempted structure to any property line.
- (C) The height exceptions specified within this Section of the Zoning Ordinance shall be consistent with the provisions specified by state and federal aviation laws. Where conflicts should arise, the provisions of the state or federal aviation law shall be upheld.

Section 907: Front Yard and Lot Width Exceptions

- (A) When an unimproved lot is situated between two (2) improved lots with front yard dimensions less than those required for the zoning district in which the unimproved lot is located, the front yard required for the unimproved lot may be reduced to a depth equal to the average of the two (2) adjoining lots; provided, however, that this provision shall only apply in such cases where the improved lots in question are improved as of the time of the adoption of the Ordinance and the improvements are located within one hundred (100) feet of the unimproved lot. For the purpose of this section, an unimproved lot shall be the same as a vacant lot and an improved lot shall be one on which a principal building is erected.
- (B) Unless otherwise specified by this Zoning Ordinance, all residential and non-residential lots shall comply with the appropriate minimum lot width requirement for that use in the zoning district to which it is located, as measured at the street line, legal right-of-way line, ultimate right-of-way line (where it exists) and the building setback line. The following lot width exceptions shall be permitted:
 - (1) Where single family residential lots are created along the bulb of a cul-de-sac street, the minimum lot width may be reduced by 25 percent of the required lot width at the street line, provided the that the minimum lot width requirement is established at the building setback line, as measure from the street right-of-way line to a point equivalent to the front yard setback requirement, which is specified by the appropriate zoning district in which the single family detached dwelling is located.
 - (2) Unless otherwise specified by this Zoning Ordinance, no more than four (4) single family lots located along the bulb of a cul-de-sac street.
 - (3) Where single family residential lots are created along a street curve with a horizontal radius exceeding 150 feet, as measured along the street centerline, the minimum lot width may be reduced by 25 percent of the required lot width, provided the that the minimum lot width requirement is established at the building setback line, as measure from the street right-of-way line to a point equivalent to the front yard setback requirement, which is specified by the appropriate zoning district in which the single family detached dwelling is located. The side lot lines should be established at 90 degree angles to the street line tangents or radial to the street line curves.
- (C) The Zoning Officer shall review and authorize all front yard and lot width exceptions in accordance with the provisions established under this section of the Zoning Ordinance. All such permitted exemptions shall be noted on the zoning permit, subdivision plan and/or land development plan.

Section 908: Flag Lots or Key Hole Lots

- (A) Flag lots or key hole lots are permitted as single family detached lots within the AP, BMP, MDR and SV Zoning Districts, subject to the following provisions:
- (1) Flag lots shall only be permitted within residential developments containing ten (10) or fewer lots, which are designed to accommodate single family detached dwelling units.
 - (2) No more than two (2) flag lots shall be permitted as a result of the overall subdivision and/or cumulative phases of the development. In all cases, the applicant must demonstrate that the following site conditions exist:
 - (a) The tract of land cannot be subdivided in a manner to comply with the minimum lot width and area requirements for the zoning district in which the flag lot is located.
 - (b) The tract of land represents the total contiguous land area owned by the applicant.
 - (c) The tract of land cannot be further subdivided in the future by normal or typical design.
 - (d) The tract of land cannot be properly subdivided due to the presence of certain physical or environmental development constraints associated with the site.
 - (e) The configuration of the proposed lots will not limit the potential for development on adjacent tracts of land in the future.
- (B) If the applicant demonstrates that the site conditions are amenable to the development of a flag lot, the subdivision shall be designed considering the following requirements:
- (1) The access strip or stem of the flag lot shall be designed in accordance with the following requirements:
 - (a) The access strip or stem of the flag lot shall be owned fee simple and extended from an existing public street to the rear property line of the flag lot.
 - (b) The width of the access strip or stem shall be a minimum of fifty (50) feet. Additional width may be required by Upper Bern Township in order to overcome problems associated with slope, drainage and/or sedimentation.
 - (c) A reduction in the width of the access strip or stem, if the applicant can demonstrate that it will not be utilized by more than one (1) principal use or party and that there will be no adverse problems associated with slope, drainage and/or sedimentation. In such cases, the Upper Bern Township Board of Supervisors may authorize a reduction in width to twenty (20) feet.
 - (d) A ten (10) foot wide buffer strip shall be provided along both sides of the access strip or stem. The buffer strip shall be sufficiently landscaped in accordance with the provisions specified under Section 915 of this Zoning Ordinance.
 - (e) The fifty (50) foot wide access strip or stem shall be utilized as a future right-of-way to permit the construction of a public or private street. If additional lots are created and/or if additional lots utilize the access strip or stem for ingress and egress purposes, the fifty (50) foot wide access strip shall be improved to comply with the design standards and specifications for a public street.
 - (2) The net lot area for each flag lot shall meet or exceed the minimum lot area for the zoning district to which the flag lot is located. The area of the access strip or stem shall not be included as part of the net lot area for the flag lot.

- (3) The building setback line for the flag lot shall meet the minimum required setback dimensions for the zoning district in which the flag lot is located. The setback lines shall be established at the flag portion of the lot. The front yard depth or setback shall be measured from the access strip or stem (extended through the lot) and from the rear property line. All other setback requirements shall comply with the rear yard setback provisions.
 - (4) The driveway serving the flag lot shall comply with all pertinent standards and specifications for driveways, as specified by Upper Bern Township and by the Pennsylvania Department of Transportation. Unless otherwise permitted by Upper Bern Township, common driveways shall be prohibited as part of a flag lot design.
- (C) If the tract of land contains any residue or undeveloped land area, the applicant shall submit a sketch plan or a preliminary plan depicting how the remaining area will be developed or perpetually preserved as open space.

Section 909: Visibility at Street Intersections

- (A) Clear sight triangles shall be provided at all street intersections. Within such triangles, nothing, except permitted street signs, traffic lights or signs, utility poles and mail boxes, which impedes vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the center line grades of the intersecting streets shall be erected, placed, planted or allowed to grow. Such triangles shall be established as follows:
- (1) For intersections involving a minor street, the dimension of the clear sight triangle shall be established for a distance of seventy-five (75) feet, as measured from the middle of the intersection or where the centerlines of the intersecting streets cross.
 - (2) For intersections involving a collector street, the dimension of the clear sight triangle shall be established for a distance of one hundred (100) feet, as measured from the middle of the intersection or where the centerlines of the intersecting streets cross.
 - (3) For intersections involving an arterial street, the dimension of the clear sight triangle shall be established for a distance of one hundred and fifty (150) feet, as measured from the middle of the intersection or where the centerlines of the intersecting streets cross.
- (B) The functional classifications of all existing streets within Upper Bern Township are identified within the Joint Comprehensive Plan for Northern Berks County.
- (C) No fence, wall and/or hedge shall be erected or planted within or encroaching upon the legal or ultimate street right-of-way.

Section 910: Corner Lot Restrictions and Requirements

- (A) For all corner lots, as defined under Article 2 of this Zoning Ordinance, the minimum lot width and front yard setback requirements of the zoning district to which the corner lot is located shall be applied to each street on which the corner lot has frontage.
- (B) In cases in which a pre-existing lot of record is changed or converted into a corner lot, as the result of an adjacent subdivision or land development, the front yard of the pre-existing lot shall be established along the public street to which it originally had frontage as well as along the proposed or new road to which it will have frontage. All other setback requirements shall conform with the appropriate side and rear yard setback requirements for the zoning district to which the pre-existing lot is located.
- (C) All corner lots shall comply with the provisions established for visibility at street intersections, as provided under Section 909 of this Zoning Ordinance.

Section 911: Fences, Walls and Hedges

- (A) Fences, walls and/or hedges may be permitted within and along the periphery of any required yard provided:
- (1) Unless otherwise permitted by this Zoning Ordinance, no fence, wall and/or hedge shall be erected or planted within or encroaching upon the legal or ultimate street right-of-way, floodway, utility easement or drainage easement.
 - (2) No fence, wall and/or hedge shall be erected in any manner that obstructs a clear line of sight or vision from a driveway or street intersection.
 - (3) Unless otherwise specified by this Zoning Ordinance, all fences and walls utilized for a residential use shall not exceed a maximum height of six (6) feet.
 - (4) Unless otherwise specified by this Zoning Ordinance, all fences and walls utilized for a non-residential use shall not exceed a maximum height of eight (8) feet.
 - (5) Fences and walls shall be constructed so as to place structural members toward the property being enclosed by the fence, thereby presenting the best appearance towards adjacent property.
 - (6) Security fencing for non-residential uses and agricultural uses may be utilized within the AP, BMP, RC, HC, GI and AI Zoning Districts.
 - (7) An existing fence or wall replaced in its entirety shall comply with the provisions established within this Zoning Ordinance.
 - (8) All permitted fences and walls shall be constructed out of durable building materials and shall be installed and erected in accordance with the specifications of the manufacturer.
 - (9) Ordinary and normal maintenance and/or repairs of a fence or wall in any zoning district shall not require the issuance of a permit. Otherwise, a permit shall be required for any fence installation or wall construction, as specified by this Zoning Ordinance.
 - (10) Any fence or wall, which in the judgment of the Zoning Officer is unsafe, dangerous, or a threat to the public health, safety and/or welfare shall be removed, repaired or replaced as determined necessary by the Zoning Officer at the expense of the property owner.
 - (11) Fences or walls erected on property that is dedicated to private or public open space shall comply with the provisions established under this Zoning Ordinance.
- (B) The following wall and/or fences shall be exempt from the provisions established under this Section of the Zoning Ordinance:
- (1) Fences and walls used for agricultural and recreational purposes to contain livestock, provided that they do not hinder visibility or pose a threat to the public health, safety or welfare.
 - (2) Fences and walls of an historic nature, which are accessory to an officially designated historic structure.
 - (3) Buried electronic fences used to control pets, provided that they do not emit radiation, which would pose a threat to the public health, safety or welfare.
- (C) Prior to the installation of any fence, wall or hedge row, the landowner should verify the limits of the property lines that may be in question. In situations where the property line is in doubt, the Zoning Officer may require the property owner to have a professional land surveyor determine and mark the precise limits of the property line in question.

Section 912: Projections Into Yards

- (A) The following projections shall be permitted into required yards and shall not be considered in the determination of the lot coverage requirements:
- (1) A lawful building erected prior to the effective date of this Zoning Ordinance, which encroaches into the required side yard established for that district may be further extended into the rear yard, provided that the building extension is contiguous to the existing building and provided that the building extension maintains at a minimum the rear yard setback established for that zoning district.
 - (2) A porch abutting the frontage of a building, not exceeding 20 feet in height nor 16 feet in width may be extended by not more than 5 feet into the front yard with unenclosed sides except for two (2) columns, which support a roof limited to the dimensions of the porch plus an 18 inch projection on any side for cornices, eaves or gutters.
 - (3) A porch abutting the side of a building, not exceeding 20 feet in height nor 16 feet in width may be extended by not more than 5 feet into the side yard with unenclosed sides except for two (2) columns, which support a roof limited to the dimensions of the porch plus an 18 inch projection on any side for cornices, eaves or gutters. In such cases, the porch shall be located at least 5 feet from the property line.
 - (4) Porches, decks, terraces or patios located within the rear yard of a single family semi-detached dwellings, multi-family townhouse units and multi-family apartment units may be located along the common lot line, provided that they do not project into the rear yard.
 - (5) A porch, deck, terrace or patio, which does not extend above the first floor elevation of the building, may be erected into a required yard for a distance of not more than ten (10) feet. In cases where a common wall or property line are not relevant, the porch, deck, terrace or patio shall be located at least 10 feet from the property line.
 - (6) A carport may be erected over an existing driveway provided that the carport is located in a manner to comply with all setback requirements for that zoning district.
 - (7) A buttress, chimney, cornice, pier or pilaster of a building may project not more than two (2) feet into a required yard setback.
 - (8) Open balconies, steps, fire escapes, bilco door units, basement door units, bay windows, eaves, window sills, and other similar architectural features or structures may project into the required yard provided that such features shall project no more than five (5) feet into any required yard. In all such cases, the projection shall not be located closer than five (5) feet to a property line.
- (B) In situations where the property line is in doubt, the Zoning Officer may require the property owner to have a professional land surveyor determine and mark the precise limits of the property line in question.

Section 913: Development Along Existing Public Roads

- (A) Where determined appropriate by Upper Bern Township and/or the Pennsylvania Department of Transportation, accessibility to a public street may be restricted, limited or required by one or more of the following methods:
- (1) Provisions of marginal access street or internal street system to provide proper frontage for the proposed lots, which shall be designed, located and constructed in accordance with the appropriate provisions established by Upper Bern Township.
 - (2) Provisions of marginal access street or internal street system to provide rear access for the proposed reverse frontage lots, which shall be designed, located and constructed in accordance with the appropriate provisions established by Upper Bern Township.

- (3) The restriction of ingress and egress involving specific turning movements onto or off of a collector street or arterial street.
- (B) Private streets shall be prohibited unless they are designed, located and constructed in accordance with the provisions of a minor street, as established by Upper Bern Township.
- (C) Where a subdivision or land development application abuts or contains an existing street of inadequate right-of-way width or cartway width, the applicant shall dedicate additional right-of-way and improve the cartway to conform with the provisions of Upper Bern Township or as directed by the Board of Supervisors.
- (D) Where a subdivision or land development application abuts or existing street of inadequate horizontal and/or vertical alignment, the applicant shall dedicate additional right-of-way and improve the street segment to conform with the provisions of Upper Bern Township or as directed by the Board of Supervisors.

Section 914: Common Open Space

- (A) The overall intent of these provisions is to supplement and not replace the provisions identified in those zoning districts where the designation of open space is explicitly applicable and further, to identify related use regulations and performance for land to be held for recreational use and/or for conservation, preservation or enhancement of natural and cultural resources. These provisions are designed to:
 - (1) Provide an effective means for identifying, organizing and maintaining open space.
 - (2) Provide for necessary active and passive recreation areas to complement existing open space and recreational uses.
 - (3) Preserve the natural and environmental resources while maintaining ecological stability by: encouraging the preservation of floodplains; limiting the development of steep slopes; protecting the quality of existing watercourses, ponds, lakes and other water bodies, including riparian buffers; encouraging the preservation of groundwater resources through the provision of open space areas for groundwater recharge; and avoiding the disruption of woodland and forest areas.
 - (4) Encourage the preservation of existing and potential agricultural land through the identification and use of open space lands, which are suited for agricultural production, particularly prime agricultural land.
 - (5) Preserve historic and cultural resources by: promoting the preservation of significant historical and cultural sites and structures as open space; protecting the character of historic and cultural sites and structures by encouraging the designation of surrounding land as open space; and by implementing the Joint Comprehensive Plan for Northern Berks County.
- (B) All land and water areas designated as common open space within Upper Bern Township shall comply with the following provisions:
 - (1) All residential developments requiring common open space, as specified under Article 7 of this Zoning Ordinance, shall comply with the appropriate provisions established under Article 7 of this Zoning Ordinance.
 - (2) All non-residential developments requiring common open space, as specified under Article 8 of this Zoning Ordinance, shall comply with the appropriate provisions established under Article 8 of this Zoning Ordinance.
 - (3) Where residential or non-residential developments do not specifically require common open space, as defined under Articles VII and VIII of this Zoning Ordinance, the residential or non-residential development shall be subject to the provisions established under this section of the Zoning Ordinance, as well as those other applicable provisions established by Upper Bern Township.

- (4) The requirements for common open space, as specified under this Zoning Ordinance, does not relieve any person, applicant or developer from the mandatory requirements for dedication of open space for recreation purposes or recreation impact fees in lieu of land dedication or any combination thereof, as permitted under the provisions of the Pennsylvania Municipalities Planning Code and as adopted by Upper Bern Township.
- (5) All areas designated as common open space shall be subject to the review and approval of Upper Bern Township.

(C) The following uses shall be permitted within areas designated as common open space:

- (1) Recreation uses, subject to the provisions of Section 805 of this Zoning Ordinance.
- (2) Conservation uses or areas to preserve woodland and forest areas, lakes, ponds, streams, floodplains, wetlands, and other related landscape features.
- (3) Agricultural uses, subject to the provisions of Section 804 of this Zoning Ordinance.
- (4) Municipal uses, subject to the provisions of Section 827 of this Zoning Ordinance.
- (5) Culturally and/or historically significant uses, as determined appropriate by the Board of Supervisors.
- (6) All other principal and accessory uses, which are considered appropriate for a permitted residential development, as further defined and specified under the appropriate sections of Article 7 of this Zoning Ordinance.
- (7) All other principal and accessory uses, which are considered appropriate for a permitted non-residential development, as further defined and specified under the appropriate sections of Article 8 of this Zoning Ordinance.
- (8) Utility services and stormwater management facilities, which are necessary to accommodate the residential or non-residential development.

(D) Unless otherwise required by the provisions of this Zoning Ordinance, the land and water areas designated as common open space shall comply with the following standards and specifications:

- (1) The minimum area required or the percentage of the gross area to be set aside as common open space shall meet or exceed the requirement established by this Zoning Ordinance.
- (2) No more than fifty (50) percent of the common open space shall be located on lands within areas that are located within the 100-year floodplain, areas delineated as wetlands and/or areas exceeding twenty (20) percent in slope.
- (3) No more than fifty (50) percent of the common open space shall include land areas that are burdened by or are proposed to contain utilities easements and/or stormwater management facilities, as further described by Upper Bern Township.
- (4) The common open space shall be planned and located as a contiguous accessible area within the development. Existing and/or proposed roads may bisect the areas designated as common open space, provided a cross walk at grade is safely designed to link the common open space areas. Planned linkages to other areas designated as common open space shall be considered as part of the application.
- (5) Significant natural features shall be incorporated into the overall schematic of the design as common open space areas whenever possible.
- (6) A system for pedestrian circulation throughout the development shall be provided by utilizing sidewalks and trails.

- (7) The total land area designated to comply with the minimum open space requirements shall be comprised of areas not less than 50 feet in width and shall not contain less than one (1) contiguous acre of land. In addition, there shall be at least one (1) designated common area that is contiguous within the development containing no less than twenty-five (25) percent of the required common open space.
- (E) The following provisions shall apply to the ownership and maintenance of the areas designated as common open space:
- (1) For all common open spaces, satisfactory written agreements approved by the Board of Supervisors shall be executed as a declaration of easements, covenants and restrictions in perpetuity for the preservation of the common open spaces, and shall be recorded with the Berks County Recorder of Deeds.
 - (2) The applicant or developer shall make arrangements, provisions and/or agreements to insure that the common open space shall continue to be adequately managed and maintained. The applicant or developer shall have the following options for ownership, management and maintenance of the common open space:
 - (a) Dedicate the land encompassing the common open space to a homeowners association which is comprised of all the residents of the development;
 - (b) Dedicate the land encompassing the common open space to Upper Bern Township, who shall have the option to accept or refuse the land offered for dedication; or
 - (c) Dedicate the land encompassing the common open space to a conservation organization, as determined appropriate by the Board of Supervisors.
 - (3) The selected options for the ownership, management and maintenance of the land and water areas, which are designated as common open space, shall be subject to the review by the Upper Bern Township Solicitor and subject to the approval of the Board of Supervisors.
- (F) The provisions specified herein for common open space do not relieve the applicant of other requirements for open space and recreation, as specified by Upper Bern Township, with which the applicant shall comply.

Section 915: Landscaping

- (A) Where zoning district or development regulations require buffer yards, screening and/or planting strips, the applicant shall prepare and submit a landscaping plan to comply with the following provisions:
- (1) The landscaping plan shall show the following information: the location and arrangement of each buffer yard; the species, placement and size of all plant material selected; the type, placement and size of all fences to be placed in such buffer yards; and the type and density of planting, which shall adequately provide the screening effect required.
 - (2) The plant materials utilized shall be selected from the approved list, as contained under Section 915(D) of this Zoning Ordinance.
 - (3) All plant materials shall be permanently maintained and any plant material, which does not live, shall be replaced.
 - (4) Any portion of a site which is not utilized for buildings, accessory structures, loading or parking spaces, aisles, sidewalks and designated storage areas shall be planted with an all-season ground cover and shall be landscaped according to an overall plan.
 - (5) All buffer yards shall be maintained and kept clean of debris, rubbish, weeds and tall grass.

- (6) If permitted by Upper Bern Township, natural berms may be provided as a buffer yard. The applicant shall demonstrate that the soil type, hydrology, topography and selected landscaping material are appropriate for the area in which the buffer yard is to be located. All such natural berms shall be properly graded to a maximum side slope ratio of 4:1. The natural berms shall be properly stabilized by the developer in accordance with the standards specified by Upper Bern Township and the Berks County Conservation District.
 - (7) As part of the application phase for a subdivision plan, land development plan or conditional use, Upper Bern Township shall have the right to modify or consider alternatives to any of the above specifications if the applicant can demonstrate that the existing conditions of the site exceeds all applicable requirements listed under this section of the Zoning Ordinance.
- (B) Unless otherwise specified by the provisions of this Zoning Ordinance, a landscaping plan shall be prepared and submitted for the following subdivision and land development plan applications:
- (1) All residential developments containing ten (10) or more dwelling units.
 - (2) All non-residential developments containing more than one (1) gross acre of land.
 - (3) Where zoning district or development regulations require buffer yards, screening and/or planting strips.
 - (4) All residential developments requiring landscaping plans, as specified under Article 7 of this Zoning Ordinance.
 - (5) All non-residential developments requiring landscaping plans, as specified under Article 8 of this Zoning Ordinance.
- (C) Where landscaping plans are required, the following provisions shall be incorporated as part of the design:
- (1) The plant materials utilized shall be selected from the approved list specified under Section 915(D) of this Zoning Ordinance.
 - (2) The landscaping plan shall show the type, size and arrangement of all species selected.
 - (3) Conventional residential developments containing single family detached dwelling units and/or single family semi-detached dwelling units shall provide a minimum of two (2) selected canopy, flowering or evergreen tree per lot. The overall development shall contain at least three (3) selected canopy, flowering and/or evergreen trees per gross acre, which may be planted as either street trees, as part of the interior portion of the residential lot, as part of the buffer yard, or within areas designated as open space.
 - (4) Multi-family developments containing townhouse units and/or apartment units shall provide a minimum of three (3) selected canopy, flowering or evergreen tree per residential lot or unit, which may be planted as either street trees, as part of the buffer yard, or within areas designated as open space.
 - (5) Age-qualified retirement communities shall provide a minimum of three (3) selected canopy, flowering or evergreen tree per residential lot or unit, which may be planted as either street trees, as part of the buffer yard, or within areas designated as open space.
 - (6) Non-residential developments shall provide a minimum of three (3) selected canopy, flowering and/or evergreen trees per gross acre.
 - (7) All selected trees shall be planted a minimum of ten (10) feet outside of the legal right-of-way of all existing and proposed streets.
 - (8) All selected plant or tree materials shall be located so as not to interfere with the installation and maintenance of sidewalks, drainage facilities and/or utilities.

- (9) The strategic placement of trees throughout the development to serve as a buffer against the wind and sun is encouraged for energy conservation purposes.
- (10) All plant materials shall be located so as not to create a potential traffic hazard.
- (11) All selected trees and/or all other plant materials exceeding two (2) feet in height above average ground elevation at maturity shall not be located within the limits of the clear sight triangle, as further defined under Section 909 of this Zoning Ordinance.
- (12) All plant and tree materials shall be permanently maintained and any plant material, which does not survive shall be replaced.
- (13) As part of the application phase for a subdivision plan, land development plan or conditional use, the Board of Supervisors shall have the right to modify or consider alternatives to any of the above specifications if the applicant can demonstrate that the existing conditions of the site exceeds all applicable requirements listed under this section of the Zoning Ordinance.
- (14) For residential applications involving fifty (50) or more residential lots, the landscaping plan shall be prepared and certified by a professional landscape architect.
- (15) For non-residential applications involving more than 40,000 cumulative gross floor area, the landscaping plan shall be prepared and certified by a professional landscape architect.

(D) The following is an approved list of selected trees, hedges and/or shrubs, which may be utilized to meet the standards and specifications for buffer yards and landscaping. Species selection shall be based upon the existing physical and natural conditions of the site:

- (1) Street trees are permitted provided they are a minimum of three (3) inches in caliper as measured at breast height. The following is an approved list of street trees:

- Acer rubrum - Red Maple
- Acer saccharum - Sugar Maple
- Crataegus crusgalli - Cockspur Hawthorne
- Fraxinus Americana - White Ash
- Fraxinus pennsylvanica - Green Ash
- Juniperous virginiana - Eastern Red Cedar
- Liquidambar styraciflua - American Sweetgum
- Nyssa silvatica - Blackgum
- Ostrya virginiana - American Hophornbeam
- Oxydendrum arboreaum - Sourwood, Sorrel Tree
- Quercus alba - White Oak
- Quercus coccinea - Scarlet Oak
- Quercus palustris - Pin Oak
- Sassafras albidum - Common Sassafras

- (2) Canopy trees are permitted provided they are a minimum of three (3) inches in caliper as measured at breast height. The following is an approved list of canopy trees:

- Acer ginnala - Amur maple
- Acer rubrum - red maple
- Acer saccharum - sugar maple
- Betula alba - European white birch
- Betula lenta – Black Birch
- Betula nigra – River Birch
- Carya ovata – Shagbark Hickory
- Fagus grandifolia - American beech

Fagus sylvatica - European beech
 Fraxinus americana - white ash
 Fraxinus pennsylvanica lanceolata - gen ash
 Ginkgo Biloba - Ginkgo (male only)
 Gleditsia triacanthos inermis - thornless honey locust
 Liquidambar styraciflua - sweet gum
 Liriodendron tulipifera - tulip tree
 Nyssa sylvatica – Black Gum, Sourgum
 Ostrya virginiana – American Hophornbeam
 Phellodendron amurense - Amur cork tree
 Platanus acerifolia - London plane tree
 Quercus alba - White Oak
 Quercus borealis - Red Oak
 Quercus coccinea - Scarlet Oak
 Quercus palustris - Pin Oak
 Quercus phellos - Willow Oak
 Robinia pseudoacacia inermis - thornless black locust
 Sassafras albidum - Sassafras
 Sophora japonica - Japanese zelkova

- (3) Flowering trees are permitted provided they are a minimum of ten (10) feet in height. The following is an approved list of flowering trees:

Amelanchier canadensis - shadblow serviceberry
 Cercis canadensis – Eastern Redbud
 Chionodoxa virginica - Fringetree
 Cornus florida - flowering dogwood
 Cornus kousa - Kousa dogwood
 Cornus mas - Cornelian cherry
 Crataegus Phaenopyrum - Washington hawthorn
 Koeleria paniculata - golden rain tree
 Laburnum vossii - goldenchain
 Magnolia soulangeana - saucer magnolia
 Malus baccata - Siberian crab
 Malus floribunda - Japanese flowering crab
 Malus hopy - Hopy red-flowering shrub
 Prunus calleryana - Kwanzan cherry
 Prunus yedoensis - Yoshino cherry
 Pyrus cultivars - Hybrid Ornamental Pear
 Viburnum prunifolium - Blackhaw Viburnum

- (4) Evergreen trees are permitted provided they are a minimum of six (6) feet in height. The following is an approved list of evergreen trees:

Ilex opaca - American holly
 Juniperus virginiana – Eastern Red Cedar
 Picea abies - Norway spruce
 Picea omorika - Serbian spruce
 Picea pungens - Colorado spruce
 Pinus nigra - Austrian pine
 Pinus strobus - Eastern white pine
 Pinus sylvestris - Scotch pine
 Pinus thunbergii - Japanese black pine
 Pseudotsuga menziesii - Douglas fir
 Thuja occidentalis - arborvitae
 Tsuga caroliniana - Carolina hemlock
 Tsuga canadensis - Canada hemlock

- (5) Hedges or hedgerows are permitted for buffer and screening purposes provided they are a minimum of four (4) feet in height. The following is an approved list:

Crataegus crus-galli - cockspur thorn
Crataegus intricata - thicket hawthorn
Crataegus phaenopyrum - Washington hawthorn
Forsythia intermedia - border forsythia
Rhamnus fraxula columnaris - tailhedge buckthorn
Syringa chinensis - Chinese lilac
Syringa vulgaris - common lilac
Thuja occidentalis - arborvitae
Viburnum alatum - viburnum
Viburnum sieboldii - Siebold viburnum
Viburnum tomentosum - doublefile viburnum

- (6) Shrubs are permitted for buffer and screening purposes provided they are a minimum of three (3) feet in height. The following is an approved list of shrubs:

Euonymus alatum - winged euonymus
Hamamelis vernalis - vernal witch hazel
Hamamelis virginiana - common witch hazel
Ilex glabra - Inkberry
Ilex verticillata - winterberry
Juniper virginiana - upright juniper
Kalmia latifolia - Mountain Laurel
Myrica pennsylvanica - Bayberry
Juniper virginiana - upright juniper
Rhamnus frangula - glossy buckthorn
Taxus capitata - upright yew
Taxus hicksii - Hicks yew
Viburnum dentatum - arrowwood viburnum
Viburnum lantana - Wayfaring tree viburnum
Viburnum trilobum - Highbrush Cranberry

- (E) As part of the application phase for a subdivision plan, land development plan or conditional use, Upper Bern Township may permit alternative trees, hedges and/or shrubs from those specified under Section 915(D) provided the applicant or developer provides sufficient evidence from a landscape architect to demonstrate that the alternative tree, hedge and/or shrub will be more effective to meet the standards and specifications for buffer yards and landscaping. Species selection shall be based upon the existing physical and natural conditions of the site.
- (F) Any tree, plant, shrub, flower, vine or grass species, which has been classified as invasive, noxious or destructive by any local, county, state or federal agency, including the Pennsylvania Department of Agriculture, shall be specifically prohibited for use in landscaping and ground cover.
- (G) The following provisions shall be considered as a guarantee concerning the survival of all buffer yards and landscaping, which are required as part of the subdivision and/or land development plan application:
- (1) Any tree or shrub, which dies within eighteen (18) months of planting shall be replaced within a six (6) month time period.
 - (2) Substitutions for certain species may be permitted only when approved by Upper Bern Township.
 - (3) Where appropriate, a landscape architect or other competent landscaping professional may provide a recommendation for the substitutions of species that may not survive or thrive.

Section 916: Temporary Structures and Uses

- (A) A temporary permit shall be issued for the authorization of temporary structures or uses necessary during construction, renovations, remediation, moving or other special circumstances of a discontinuing nature.
- (B) The time period of the initial permit shall be one (1) year, which may be renewed for one (1) year time periods up to and not exceeding one (1) year from the time the original temporary permit was issued.
- (C) The temporary structure(s) shall be removed completely within thirty (30) days of the expiration of the permit without cost to Upper Bern Township.

Section 917: Outdoor Storage

- (A) Outdoor storage of any type shall not be permitted unless such storage conforms to the normal functions and procedures conducted on the premises. Outdoor storage of any type that is not a normal function of the property or permitted use shall be prohibited, if such storage is considered as unsightly, malodorous, hazardous to the environment and potentially detrimental to the health and safety of the adjacent property owners.
- (B) The materials to be stored outdoors shall be enclosed by a fence and planting screen to conceal the storage facilities from the view of adjacent properties. The fence and planting screen shall be subject to the review and approval by the Upper Bern Township Zoning Officer.
- (C) The location of the permitted materials to be stored outside as well as any required fence enclosure shall comply with the minimum setback provisions of the zoning district in which it is located.
- (D) Any lot, land or structure, or parts thereof, used for the collection, storage, dismantling, salvage, sale, exchange and/or recycling of used and discarded materials, including, but not limited to, waste, paper, rags, glass, containers, fabric, debris, and similar material from vehicles, equipment or machinery shall be considered as a "junk yard" or "salvage yard", which as a result of being classified of such use shall conform with the provisions of Section 820 of this Zoning Ordinance.
- (E) The deposit or storage of two (2) or more unlicensed, non-inspected, abandoned, wrecked or disabled vehicles shall be deemed to be a "junk yard" or "salvage yard", which as a result of being classified of such use shall conform with the provisions of Section 820 of this Zoning Ordinance.
- (F) The storage of licensed, functional or operational equipment and vehicles utilized as part of a non-residential use within the AP, BMP, RC, HC, GI and AI Zoning Districts shall be permitted, provided that the equipment or vehicles are not exclusively part of a junk yard or salvage yard operation in Upper Bern Township.
- (G) The storing or parking of automobiles for sale shall not be located within any street right-of-way and shall be located at least ten (10) feet from all other property lines.
- (H) No materials or waste shall be deposited on site in such form or manner by which it can be transported off the site by natural causes or forces.
- (I) No exterior storage of a substance, which has the potential to contaminate groundwater or surface water, shall be permitted unless the owner provides and installs safeguards, which are satisfactory to Upper Bern Township and the Pennsylvania Department of Environmental Protection. All such protective safeguards shall be subject to the review and approval by the Upper Bern Township Zoning Officer.
- (J) Unless otherwise specifically approved or permitted for the non-residential use, commercial outdoor sales of merchandise shall be prohibited. Commercial outdoor sales may be permitted for those non-residential uses whose merchandise are customarily displayed outdoors, provided the use has been designated on an approved land development plan or occupancy permit.

Section 918: Prohibited Uses

- (A) No building or structure may be erected, altered or used, and no lot or premises may be used, for any activity which is continuously noxious, injurious or offensive by reason of dust, smoke, odor, fumes, noise, vibration, gas, effluent discharge, illumination or similar substances or conditions.
- (B) No building, structure, land, watercourses, or parts thereof within Upper Bern Township shall be used or occupied, erected, constructed, assembled, moved, enlarged, reconstructed or structurally altered unless in conformity with the provisions of this Zoning Ordinance.

Section 919: Hazardous Conditions and Areas

- (A) Within Upper Bern Township, certain land and/or water areas may be considered hazardous in terms of their condition or potential use. These hazardous areas may include: mine holes; quarries; sinkholes; waterways; caves; areas of naturally occurring physical features; areas of naturally occurring minerals or chemicals; areas containing hazardous, contaminated or toxic waste; solid waste disposal facilities; wastewater treatment facilities; and/or other areas considered hazardous by the Upper Bern Township Zoning Officer or other professional consultants appointed by Upper Bern Township. Based upon their presence, these hazardous areas could endanger the public health, safety or welfare by presenting potential hazards to life, health or property.
- (B) Where hazardous areas have been identified by the appropriate local, county, state or federal agency, the following provisions shall apply:
 - (1) No occupied building, well or sewage disposal system shall be located within five hundred (500) feet of an identified hazardous area, except as noted within this section of the Zoning Ordinance.
 - (2) An occupied building, well or sewage disposal system may be located within five hundred (500) feet of an identified hazardous area, provided that a sufficient number of excavations, borings, soil probes and/or groundwater tests have been conducted within the area to determine that the soil, geology and/or groundwater conditions are not considered hazardous to the occupant(s). The accuracy of all test results and/or conclusions shall be certified by a qualified professional, as determined to have the appropriate qualification and credentials by Upper Bern Township. All wells located within five hundred (500) feet of the hazardous area shall be re-tested every two (2) years by a certified laboratory to determine if the water is potable. All costs incurred for the sampling and laboratory analysis shall be incurred by the property owner.
- (C) The hazardous areas shall continue to be considered as a hazardous area until the Board of Supervisors determine that the hazards have been sufficiently mitigated or adequate safeguards against such hazards have been provided, as recommended, approved or permitted by the appropriate local, county, state or federal agencies.

Section 920: Exterior Lighting

- (A) This section sets forth minimum criteria for the installation, use and maintenance of exterior lighting, the purposes of which are to require lighting in outdoor public places where safety and security are concerns; protect drivers and pedestrians on nearby streets from glare from non-vehicular light sources that shine directly into their eyes and thereby impair safe travel; shield neighboring properties from glare resulting from excessive light sources and from nonexistent or improperly directed or shielded light sources; limit the height of light standards to preclude or lessen light pollution; and promote efficient design and operation with regard to energy conservation.
- (B) Lighting facilities shall be required for all off-street parking areas and off-street loading areas and for all driveways providing ingress and egress thereto and for all subdivisions and/or land developments for business, commercial, retail, personal service, industrial, multi-family, recreational, institutional and public uses, and for all construction or reconstruction or improvement of any such use for which land development approval is not required. In the approval of any subdivision or land development plan, Upper Bern Township shall have the authority to require lighting to be

incorporated for other uses or locations where in their reasonable discretion such lighting is warranted. In addition, the provisions of this section shall apply to signs, architectural lighting, and landscape lighting.

- (C) Where required by Upper Bern Township to demonstrate compliance with the provisions of this Zoning Ordinance, a lighting plan shall be prepared and submitted in accordance with the following criteria:
- (1) A lighting plan shall be submitted for review and approval for all applications and uses, which require exterior lighting.
 - (2) The lighting plan shall include a schematic layout of all proposed exterior fixture locations, footcandle data, and a plat demonstrating intensities and uniformities within the limitations established within this Zoning Ordinance, as well as the manufacturer's description of the equipment (catalog cuts), glare control devices, lamps, mounting heights and means, proposed hours of operation of the lighting, and maintenance schedule. Illumination intensities shall be plotted on a ten-foot-by-ten-foot grid.
 - (3) The applicant shall submit a visual impact photometric plan that demonstrates both light coverage and light spillage resulting from the proposed lighting plan and the provision for adequate measures to mitigate nuisance from light pollution and disabling glare, both on the use or development site and on adjacent properties.
- (D) The lighting plan shall be prepared to comply with the following design standards and illumination specifications:
- (1) Lighting facilities located within off-street parking areas and loading areas for all uses and developments requiring exterior lighting, or in connection with signs and recreational and institutional activities, shall provide an illumination level utilizing the current recommended standards of the Illuminating Engineering Society of North America (IESNA) except as otherwise required by the provisions of this Zoning Ordinance.
 - (2) For all applications, Upper Bern Township may impose a more stringent lighting standard requiring less illumination as a condition of any such approval when it determines the same to be necessary to protect adjoining properties or streets from light pollution and/or glare.
 - (3) Where exterior illumination is required to comply with this Zoning Ordinance, the most current intensities and uniformity ratios, as established in the Lighting Handbook of the Illuminating Engineering Society of North America (IESNA) shall apply. As part of any application, Upper Bern Township may consider alternative design methods and specifications, provided that such alternative meet the purpose statement and community development objectives of this Zoning Ordinance.
 - (4) In no case shall illumination exceed 0.5 footcandle measured at the property lines, except at driveway entrances, provided the illumination at the cartway center line of the contiguous street shall not exceed 1.0 footcandle, unless a more stringent standard is ordered by the Board under the circumstances of each application.
 - (5) The lighting standards within off-street parking areas shall be located no more than 100 feet apart. The applicant shall consider the spacing and height of the lighting standards as well as the intensity of the illumination to disperse the desired lighting in a uniform manner within the off-street parking area.
- (E) The following general design standards, illumination specifications, installation provisions and maintenance requirements shall apply for exterior lighting for residential and/or nonresidential uses:
- (1) Lamp types and colors shall be in harmony within the adjacent community, any special circumstances existing on the site, and with surrounding lighting facilities. Lamp types and colors shall be consistent and shall not create a mix of colors.
 - (2) Canopy lighting shall be located on the undersurface (ceiling) of the canopy and shall be limited to flush-lens fixtures mounted on the canopy ceiling. Drop-lens fixtures shall be prohibited. In no event shall any other lighting fixtures be located on or otherwise attached to or used to light a canopy or any area of the

property adjacent to the canopy. Outdoor canopies include, but are not limited to, the following applications: fuel island canopies associated with service stations and convenience stores; exterior canopies above storefronts in shopping centers and malls; exterior canopies above driveways and building entrances; soffits; pavilions; and gazebos.

- (3) With the exception of security lighting, all exterior lighting for any commercial, industrial, institutional and recreational use shall be reduced by 50 percent between the hours of 10:00 p.m. and 6:00 a.m. Security lighting shall only be considered to illuminate specified areas between building and off-street parking area, as considered necessary and appropriate by Upper Bern Township.
- (4) All lighting fixtures shall meet IESNA full cutoff criteria. No lighting shall be permitted which shines directly into residential units, or results in glare beyond an angle of 30 degrees from a vertical plane, measured from the light source.
- (5) Light fixtures, including mounting base, shall not exceed 25 feet in height above finished grade. The applicant shall consider the spacing and height of the lighting standards as well as the intensity of the illumination to disperse the desired lighting in a uniform manner within the off-street parking area.
- (6) All lighting sources shall be effectively shielded and shall be installed and/or aimed so as to shield nearby public or private streets and neighboring properties from direct-glare light radiation, or light pollution which may create a safety hazard or a nuisance.
- (7) Illuminated signs shall have an indirect lighting source or shielded source.
- (8) The use of vegetation, fences and similar screening methods shall be utilized to supplement glare or cutoff control devices.
- (9) Fixtures used for architectural lighting, such as facade, feature and landscape lighting, shall be directed so as to preclude light projection beyond the immediate objects, which are intended to be illuminated as an architectural feature.
- (10) Within the MDR Zoning District, the use of floodlighting, spotlighting, or other high-intensity lighting over 100 watts shall be located, directed and aimed in a manner so that it does not produce light trespass in excess of 0.2 footcandle at the lot line of any adjacent property line. All such lighting fixtures shall be installed, directed and aimed so that they do not project their output into windows of neighboring residences, adjacent uses, skyward or public street. All such lighting shall be reduced by 50 percent between the hours of 10:00 p.m. and 6:00 a.m., except in case of emergency use.
- (11) With the exception of all-night operations, lighting for commercial, industrial, municipal, recreational and institutional uses shall be controlled by automatic switching devices, such as time clocks or combination motion detectors and photocells, to permit the reduction of exterior lighting by 50 percent between the hours of 10:00 p.m. and 6:00 a.m. in order to mitigate nuisance glare and sky lighting consequences.
- (12) Electrical feeds to all lighting standards shall be installed underground, not overhead.
- (13) The lighting support structures and poles utilized to illuminate an off-street parking area or loading area shall be placed a minimum of five (5) feet from the curb stops or curb line, or placed on a concrete pedestal at least thirty (30) inches above the surface of the pavement.
- (14) The applicant or landowner shall be responsible for the replacement of any damaged or non-functional lighting standards, bulbs, light shields or cutoff fixtures, lens, timing devices, electrical components and/or other lighting feature.
- (15) The applicant or property owner shall install all required lighting fixtures and facilities at his expense. Light fixtures and poles shall be in accordance with a lighting plan approved by the Upper Bern Township, as part of the application for subdivision, land development conditional use, special exception and/or building permit.

- (16) The applicant or property owner shall be responsible for all costs involved in the maintenance, upkeep and operation of all required lighting facilities.
- (F) Upper Bern Township reserves the right to conduct a post installation nighttime inspection to verify compliance with the requirements of this Zoning Ordinance. If it is determined that any lighting source or installation creates a safety or personal security hazard due to insufficient illumination levels or produces unacceptable levels of nuisance glare, light pollution, or skyward light, the property owner shall be so notified and required to take timely remedial action at his expense to resolve the problem. If the appropriate remedial or corrective action has not been completed within 30 days of notification, the property owner shall be issued an enforcement notice and shall be subject to the penalty provisions specified by Upper Bern Township.
- (G) The Upper Bern Township Board of Supervisors may consider optional design and site development alternatives if the standard requirements are determined to be unwarranted or inappropriate based upon the existing site conditions. If approved, the optional design and site requirements shall be considered as part of the zoning permit, subdivision plan or land development plan.

Section 921: Swimming Pools and Therapeutic Spas

- (A) Private non-commercial swimming pools, which are designed to contain a water depth of twenty-four (24) inches or more, that are utilized for the purpose of swimming and bathing shall comply with the following standards and specifications:
 - (1) The pool shall not occupy more than fifty (50) percent of the side yard area or rear yard area in which it is located.
 - (2) The swimming pool, filters, pumps and other mechanical or structural equipment shall only be permitted within the side yard or rear yard of a lot, and shall comply with the following setback requirements:
 - (a) Swimming pools shall be located a minimum of five (5) from the side lot line and rear lot line for properties located within the SV Zoning Districts.
 - (b) Swimming pools shall be located a minimum of ten (10) feet from the side lot line and rear lot line for properties located within the MDR, RC and HC Zoning Districts.
 - (c) Swimming pools shall be located a minimum of twenty (20) feet from the side lot line and rear lot line for properties located within the AP, GI and AI Zoning Districts
 - (3) Any flood lighting or other illumination used in conjunction with the swimming pool shall be shielded and directed away from adjacent property owners.
 - (4) The swimming pool shall be enclosed by a secured fence and shall be equipped with a self-latching gate, which shall comply with the specifications of the appropriate building codes of Upper Bern Township.
 - (5) All swimming pools shall comply with the appropriate provisions for permits, construction, plumbing, sanitation, inspection, operation and maintenance, which are further defined and outlined by Upper Bern Township
 - (6) The pool shall be used or intended to be used in connection with a residential use and available only to the family of the householder and their private guests.
- (B) Public, community or commercial swimming pools, which are designed to contain a water depth of twenty-four (24) inches or more, shall be considered an active or commercial recreation use, which shall comply with the provisions of Section 805 (Recreational Uses) of this Zoning Ordinance.

- (C) Therapeutic spas or hot tubs, which are designed to contain a water depth of twenty-four (24) inches or more shall comply with the following shall comply with the following standards and specifications:
- (1) The therapeutic spa or hot tub, including the filters, pumps and other mechanical or structural equipment shall comply with the following setback requirements:
 - (a) therapeutic spa or hot tub Swimming pools shall be located a minimum of five (5) from the side lot line and rear lot line for properties located within the SV Zoning Districts.
 - (b) therapeutic spa or hot tub Swimming pools shall be located a minimum of ten (10) feet from the side lot line and rear lot line for properties located within the MDR, RC and HC Zoning Districts.
 - (c) therapeutic spa or hot tub Swimming pools shall be located a minimum of twenty (20) feet from the side lot line and rear lot line for properties located within the AP, GI and AI Zoning Districts
 - (2) Any flood lighting or other illumination used in conjunction with the pool shall be shielded and directed away from adjacent property owners.
 - (3) The therapeutic spa or hot tub shall be completely enclosed by a cover in accordance with the manufacturer's specifications of the manufacturer and the codes established by Upper Bern Township.
 - (4) The therapeutic spa or hot tub shall be used in connection with a permitted residential use and shall be available only to the family of the householder and their private guests.
- (D) In addition to these provisions, the requirements for permits, construction, plumbing, sanitation, inspection, operation and maintenance, which are further regulated under the codes adopted by Upper Bern Township.

Section 922: Renewable Energy Systems

- (A) Renewable energy systems, as further defined under Article 2 of this Zoning Ordinance shall be permitted within all zoning districts by right as accessory structures, subject to the following provisions:
- (1) All developments and/or structures shall be oriented to the fullest extent possible to maximize the use of passive and/or active solar applications, as would be appropriate for the site.
 - (2) Renewable energy resource collectors and equipment used for the mounting or operation of such collectors shall comply with the maximum height requirements and minimum setback requirements for the zoning district to which it is located.
 - (3) Accessory apparatus or structures necessary for the operation of renewable energy resource systems, such as overhangs, moveable insulating walls and roofs, and reflectors may project up to two (2) feet into the required yard setbacks provided that they are not located within ten (10) feet of any property line.
 - (4) After the effective date of this Zoning Ordinance, no one shall block, interfere or disrupt the functional operation of an existing renewable energy resource, including: erecting a building or other structure; planting a tree, shrub or other flora; disrupting the quantity or quality of surface water or groundwater; and blocking solar or wind resources.
- (B) To obtain renewable energy resource protection, the renewable energy system shall file a statement with the Zoning Officer that the renewable energy resource system has been installed. At such time the owner shall also obtain a permit that he has located his renewable energy resource system on his property to obtain maximum protection from future lawful buildings or structures located on adjoining properties. In addition, the owner shall document the land and airspace, which must remain open to assure adequate solar access to his collector

Section 923: Filling, Excavating and Grading

- (A) All construction and site improvement activities, which require the moving of earth or the filling or excavating of an area exceeding 10,000 square feet shall submit a plan to Upper Bern Township showing site grading and erosion control measures in accordance with the Upper Bern Township Subdivision and Land Development Ordinance.
- (B) The existing grade of an area shall not be increased so that unstable slopes are created.
- (C) The surface area of any yard adjacent to a building or structure shall be graded so that the surface water will be drained away from such structure.
- (D) Topsoil shall not be stripped from any site within Upper Bern Township unless it is directly affiliated with the subdivision and/or development of land. Unless permitted by the Board of Supervisors, topsoil shall not be removed from any site within Upper Bern Township.
- (E) The on-site burial of trees, stumps or construction materials is prohibited in the SV and MDR Zoning Districts. Trees and stumps may be chipped or reduced in size to be removed from the site.

Section 924: Blasting and Detonation Requirements

- (A) All general blasting and/or detonation operations shall conform with the regulations enforced by the applicable agencies of the Commonwealth of Pennsylvania and the federal government.
- (B) Blasting and/or detonation operations for any purposes shall comply with all local, state and federal laws.
- (C) The storage of explosives shall be in accordance with all pertinent local, state and federal laws.
- (D) Written notice of all blasting and/or detonation operations shall be given at least twenty-four (24) hours prior to the commencement of blasting and/or detonation to the Upper Bern Township Zoning Officer and to the occupants of all properties within a radius of one thousand (1,000) feet of the location of the blasting and/or detonation. In addition, notice shall be given to the local fire department and police department.
- (E) All blasting and/or detonation operations shall be conducted by a qualified licensed contractor. A copy of the license and certificate of insurance shall be provided to Upper Bern Township at least twenty-four (24) hours prior to the commencement of blasting.