

and failure to comply with such conditions shall constitute a violation of this chapter and be subject to the penalties described in this chapter.

§ 246-18. Liability.

- A. Any review of activity within the floodplain, site plan review, subdivision or land development approval, erosion control review, wetland delineation review, stormwater runoff review, review of activity on steep slopes, or any other review, approval or permit under this chapter by an officer, employee, board, commission, solicitor, consultant or agency of the Township shall not constitute a representation, guarantee or warranty of any kind by the Township, or its employees, officials, boards, solicitor(s), consultants or agencies of the practicality or safety of any structure, use or subdivision, and shall create no liability upon nor a cause of action against such entity or person for any damage that may result pursuant thereto.
- B. If the Zoning Officer mistakenly issues a permit under this chapter, the Township shall not be liable for any later lawful withdrawal of such permit.

ARTICLE II

Terminology

§ 246-19. Word usage. [Amended 2-2-2016 by Ord. No. 1-2016]

For the purposes of this chapter, words and terms used herein shall be interpreted as follows:

- A. It is not intended that these definitions include only words used or referred to in this chapter. The words are included in order to facilitate the interpretation of this chapter for administrative purposes and in carrying out the duties by the Zoning Officer and Zoning Hearing Board.
- B. Unless otherwise expressly stated, the general words or terms listed in § 246-19C through § 246-19L shall have the meanings indicated herein.
- C. Words used in the present tense shall include the past and future tense. Words of masculine gender shall include the feminine gender and the neuter; words of feminine gender shall include the masculine gender and the neuter.
- D. The word "person" shall include a profit or nonprofit firm, association, organization, corporation, company, partnership, trust, or individual or single proprietorship, or any other similar entity.
- E. The words "used" or "occupied" as applied to any land or building shall include the words "intended," "arranged" or "designed" to be used, occupied or maintained.
- F. The word "building" shall include "part thereof" and "structure."
- G. The word "lot" shall include "plot," "parcel" or "tract."
- H. The words "shall" and "must" are always mandatory; the words "may" and "should" are permissive.

- I. The singular number shall include the plural, and the plural number shall include the singular.
- J. The word "includes" or "including" shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- K. The word "sale" shall also include "rent" or "rental."
- L. If a word or term is not defined by this chapter, but is defined in Chapter 225, Subdivision and Land Development, then the Chapter 225 definition shall apply. If a word or term is not defined by this chapter or Chapter 225, but is defined in Chapter 211, Stormwater Management, then the Chapter 211 definition shall apply. If a word or term is not defined by this chapter, Chapter 225 or Chapter 211, but is defined in Chapter 141, Floodplain Management, then the Chapter 141 definition shall apply. If a word or term is not defined in this chapter but is defined in Chapters 141, 211, 225 or multiples thereof, then the most restrictive definition of the word or term shall apply. If a word or term is not defined by this chapter, Chapter 225, Chapter 211 or Chapter 141, then the word or term shall have its plain and ordinary meaning within the context of this section. A standard reference dictionary should be consulted.

§ 246-20. Definitions.

When used in this chapter, the following words, terms and phrases shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise:

ABUT or ABUTTING — Areas of contiguous lots that share a common lot line, except not including lots entirely separated by a street or a perennial waterway. See definition of "adjacent."

ACCESSORY STRUCTURE (includes ACCESSORY BUILDING) — A structure serving a purpose customarily incidental to and subordinate to the use of the principal use and located on the same lot as the principal use. Accessory structures include but are not limited to a household garage, household storage shed, detached carport, a household swimming pool, or an accessory storage building to a business use. An accessory building is any accessory structure that meets the definition of a "building." A portion of a principal building used for an accessory use shall not be considered an accessory building.

ACCESSORY USE — A use, which is subordinate to the principal building, structure or use, conducted upon the same lot that is used for purposes customarily incidental to the principal building, structure or use. **[Amended 2-2-2016 by Ord. No. 1-2016]**

ADJACENT — Two or more lots that share a common lot line or that are separated only by a street or waterway from each other.

ADULT BOOKSTORE — A use with a significant portion of the market value of its products offered for sale or rent, or over 10% of its total retail floor area occupied by books, films, magazines, videotapes, coin- or token-operated films or videotapes, paraphernalia, novelties or other periodicals which are distinguished or characterized by a clear emphasis on depicting, displaying or relating to uncovered male or female genitals or specified sexual activities. These materials shall include but not be limited to those that would be illegal to sell to persons under age 18 under state law.

ADULT LIVE ENTERTAINMENT FACILITY — A use, including live entertainment, involving persons (which may include, but not be limited to, waiters, waitresses, dancers, clerks, bartenders, contractors or others) displaying uncovered male or female genitals or nude or almost nude female breasts or engaging in simulated or actual specified sexual activities to three or more persons and which is related to some form of monetary compensation paid to the person or entity operating the use or to persons involved in such activity.

ADULT MOVIE THEATER — A use involving the on-site presentation to three or more persons at one time of motion pictures, videotapes or similarly reproduced images distinguished or characterized by an emphasis on depiction of specified sexual activities for observation by such persons and that is related to some form of monetary compensation paid by the persons viewing such matter.

ADULT USE — This term shall include any of the following uses: adult bookstore, adult movie theater, massage parlor or adult live entertainment facility/use.

AFTER HOURS CLUB — A use that permits the consumption of alcoholic beverages by five or more unrelated persons between the hours of 2:00 a.m. and 6:00 a.m. and that involves some form of monetary compensation paid by such persons for the alcohol or for the use of the premises.

AIRPORT — An area and related support facilities used for the landing and takeoff of motorized aircraft that carry people.

- A. **PUBLIC AIRPORT** — An airport that does not meet the definition of a "private airport."
- B. **PRIVATE AIRPORT** — Limited to a maximum of 15 total landings and takeoffs in any seven-day period, and shall not be available for use by the general public.

ANIMAL CEMETERY — A place used for the burial of the remains of five or more noncremated animals, other than customary burial of farm animals as accessory to a livestock use.

ANTENNA, STANDARD — A device, partially or wholly exterior to a building, that is used for receiving television or radio signals for use on-site, or for transmitting short-wave or citizens band radio signals. See also "commercial communications antenna."

APARTMENT — See "dwelling types."

APPLICANT — Any landowner, person, partnership, association, corporation or other profit or nonprofit entity, including his heirs, successors and assigns, or any responsible person therein or agent thereof, who has filed an application with the municipality for approval to engage in any of the regulated activities of this chapter within the municipality. [**Amended 2-2-2016 by Ord. No. 1-2016**]

ASSISTED LIVING FACILITY — Coordinated and centrally managed rental housing, including self-contained units, designed to provide a supportive environment and to accommodate a relatively independent lifestyle. Such a development may contain a limited number of supportive services, such as meals, transportation, housekeeping, linen and organized social activities for residents and their invited guests. Such a use shall primarily serve persons 55 and older, persons with physical handicaps and/or the developmentally

disabled. Assisted living facilities shall be licensed as personal care centers by the Commonwealth of Pennsylvania.

AUTO, BOAT AND/OR MOBILE/MANUFACTURED HOME SALES — Any area, other than a street, used for the outdoor or indoor display, sale or rental of two or more of the following in operable condition: motor vehicles, recreation vehicles, boat trailers, farm machinery, motorcycles, trucks, utility trailers, construction vehicles, boats, or transportable mobile/manufactured homes in a livable condition. This use may include an auto repair garage as an accessory use, provided that all requirements of such use are complied with. This use shall not include a mobile/manufactured home park (unless the requirements for that use are also met) or a junkyard. See requirements in § 246-34.

AUTO REPAIR GARAGE — An area where repairs, improvements and installation of parts and accessories for motor vehicles and/or boats are conducted that involves work that is more intense in character than work permitted under the definition of "auto service station." An auto repair garage shall include, but not be limited to, a use that involves any of the following work: major mechanical or body work, straightening of body parts, painting, welding or rebuilding of transmissions. Any use permitted as part of an auto service station is also permitted as part of an auto repair garage. See requirements in § 246-34.

AUTO SERVICE STATION — An area where gasoline is dispensed into motor vehicles, and where no repairs are conducted, except work that may be conducted that is closely similar in character to the following: sale and installation of oil, lubricants, batteries and belts and similar accessories and safety and emission inspections, and sale of prepackaged propane. This use may include a convenience store, provided that all of the requirements for such use are also met. A business that maintains an accessory use of providing motor fuel only for use by vehicles operated by that business shall not, by itself, be considered to be an auto service station. See storage limits and other requirements in § 246-34.

BASEMENT — An enclosed floor area partly or wholly underground. A basement shall be considered a story if:

- A. The majority of the basement has a clearance from floor to ceiling of 6.5 feet or greater; and
- B. The top of the ceiling of the basement is an average of five or more feet above the finished grade along the majority of the front side of the building that faces onto a street.

BED-AND-BREAKFAST INN — A dwelling and/or its accessory structure which includes the rental of overnight sleeping accommodations and bathroom access for temporary overnight guests, and that meets the maximum number of overnight guests specified in § 246-34 for this use, and which does not provide any cooking facilities for actual use by guests, and which only provides meals to overnight guests, employees and residents of the dwelling. Overnight stays shall be restricted to transient visitors to the area, employees and their family. See requirements in § 246-34.

BETTING USE — A place used for lawful gambling activities, including but not limited to off-track pari-mutuel betting. This term shall not regulate state lottery sales or lawful small games of chance.

BILLBOARD — See "sign, off-premises."

BOARDINGHOUSE (includes ROOMING HOUSE) — A residential use in which room(s) that do not meet the definition of a lawful dwelling unit are rented for habitation, or a dwelling unit that includes greater than the permitted maximum number of unrelated persons. A boardinghouse shall not include a use that meets the definition of a hotel, dormitory, motel, life care center, personal care center, bed-and-breakfast inn, group home or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boardinghouse. A boardinghouse may either involve or not involve the providing of meals to residents, but shall not include a restaurant open to the public unless the use also meets the requirements for a restaurant. A boardinghouse shall primarily serve persons residing on-site for five or more consecutive days.

BUFFER YARD — A strip of land that separates one use from another use or feature, and is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways. A buffer yard may be a part of the minimum setback distance, but land within an existing or future street right-of-way shall not be used to meet a buffer yard requirement. See § 246-65.

BUILDING — Any structure having a permanent roof and walls and that is intended for the shelter, work area, housing or enclosure of persons, animals, vehicles, equipment, materials or other similar property, having a total area under roof that equals or exceeds 500 square feet. "Building" is interpreted as including or being "a part thereof." See the separate definition of "structure" in this chapter. Any structure involving a permanent roof (such as a covered porch or a carport) that is attached to a principal building shall be considered to be a part of that principal building. **[Amended 2-2-2016 by Ord. No. 1-2016]**

BUILDING COVERAGE — The percentage obtained by dividing the maximum horizontal area in square feet of all principal and accessory buildings and attached structures covered by a permanent roof on a lot by the total lot area of the lot upon which the buildings are located.

BUILDING, PRINCIPAL — A building used for the conduct of the principal use of a lot, and which is not an accessory building.

BUILDING WIDTH — The horizontal measurement between two vertical structural walls that are generally parallel of one building, measured in one direction that is most closely parallel to the required lot width. For attached housing, this width shall be the width of each dwelling unit, measured from the center of each interior party wall and from the outside of any exterior wall. For detached buildings, this width shall be measured from the outside of exterior walls.

BULK RECYCLING CENTER — A use involving the bulk commercial collection, separation and/or processing of types of waste materials found in the typical household or office for some productive reuse, but which does not involve the actual processing or recycling of hazardous or toxic substances, and which does not primarily involve the processing of nonrecycled solid waste, unless the use also meets the applicable requirements for a solid waste transfer facility. This definition shall not include a junkyard.

CAMP — An area that includes facilities and structures for primarily outdoor recreational activities by organized groups, and/or that involves overnight stays within seasonal cabins or temporary tents by organized groups and/or transient visitors to the area. This term shall only include facilities that are primarily used during warmer months, and which have a maximum impervious coverage of 5%. This term shall not include a recreational vehicle campground.

CAMPGROUND, RECREATIONAL VEHICLE — An area where spaces are rented to transient visitors to the area to live within recreational vehicles, and which may include accessory recreational facilities.

CAREGIVER — The individual designated by a patient to deliver medical marijuana. [Added 9-5-2017 by Ord. No. 6-2017]

CEMETERY — A place used for the burial of two or more noncremated humans.

CERTIFIED MEDICAL USE — The acquisition, possession, use or transportation of medical marijuana by a patient, or the acquisition, possession, delivery, transportation or administration of medical marijuana by a caregiver, for use as part of the treatment of the patient's serious medical condition, as authorized in a certification under the Pennsylvania Medical Marijuana Act, PA Act 16 of 2016,²⁵ including enabling the patient to tolerate treatment for the serious medical condition. [Added 9-5-2017 by Ord. No. 6-2017]

CHRISTMAS TREE FARM or TREE FARM — A type of crop farming involving the raising and harvesting of evergreen trees for commercial purposes. This may include the retail sale during November and December of trees that were produced on the premises.

CHURCH — See "place of worship."

CLEAR-CUTTING — A logging method that removes all trees or the vast majority of trees from a mostly wooded area.

COMMERCIAL COMMUNICATIONS TOWER OR ANTENNA — A structure, partially or wholly exterior to a building, used for transmitting or retransmitting electronic signals through the air, and that does not meet the definition of a standard antenna. Commercial communications antennas shall include, but are not limited to, antennas used to transmit commercial radio or television signals, or to receive such signals for a cable system, or to retransmit wireless telecommunications. A commercial communications tower shall be a structure over 30 feet in height that is primarily intended to support one or more antennas. See standards in § 246-34.

A. **MONOPOLE TOWER** — A commercial communications tower that involves a single shaft as its structural support.

COMMERCIAL DISTRICT — The NC and HC Zoning Districts.

COMMERCIAL USE — Includes but is not limited to retail sales, offices, personal services, auto sales, auto repair garages and other uses of a similar profit-making, nonindustrial nature. The sale of goods or services from a vehicle on a lot shall also be considered to be a commercial use.

COMMUNITY CENTER — A use that exists solely to provide primarily indoor leisure and educational activities and programs and meeting space to members of the surrounding community and/or certain age groups, and which does not involve substantial use of machinery or noise-producing equipment. The use also may include the preparation and/or provision of meals to low-income elderly persons, as accessory to leisure activities. This shall not include residential uses or a treatment center.

²⁵ Editor's Note: See 35 P.S. § 10231.101 et seq.

COMPREHENSIVE PLAN — The latest adopted Comprehensive Plan of Fairview Township, as amended.

CONDITIONAL USE — A use listed as a conditional use under § 246-26, which is only allowed after review by the Township Planning Commission and approval by the Board of Supervisors, under § 246-17.

CONDOMINIUM — A set of individual dwelling units or other areas of buildings each owned by an individual person(s) in fee simple, with such owners assigned a proportionate interest in the remainder of the real estate which is designated for common ownership, and which is created under the Pennsylvania Uniform Condominium Act of 1980 or Uniform Planned Community Act of 1996, as amended.²⁶

CONSERVATION EASEMENT — A legal agreement granted by a property owner that strictly limits the types and amounts of development that may take place on such property. Such easement shall restrict the original and all subsequent property owners, lessees and all other users of the land.

CONTAINER — A structure designed or intended to allow for the drop-off, collection, storage, or pickup of items of personal property, including recyclables, toys, books, clothing, shoes, apparel, whether donated or otherwise. The term excludes waste receptacles, dumpsters and storage containers. **[Added 2-2-2016 by Ord. No. 1-2016]**

CONVENIENCE STORE — A use that primarily sells routine household goods, groceries, prepared ready-to-eat foods and similar miscellaneous items to the general public, but that is not primarily a restaurant, and that includes a building with a floor area of less than 6,000 square feet. A convenience store involving the sale of gasoline shall be regulated as an auto service station.

CRAFTS OR ARTISAN'S STUDIO — A use involving the creation, display and sale of arts and crafts, such as paintings, sculpture and fabric crafts. The creation of arts and crafts may also be permitted within a home occupation, provided the requirements for such use are met.

CROP FARMING — The raising of products of the soil and accessory storage of these products. This term shall include orchards, tree farms, plant nurseries, raising of fish, greenhouses and keeping of animals in numbers that are routinely accessory and incidental to a principal crop farming use. See also "livestock, raising of."

CURATIVE AMENDMENT, MUNICIPAL — A process provided in the state Municipalities Planning Code²⁷ that permits a municipality to address the potential invalidity of portions or all of its own zoning ordinance. **[Amended 7-7-2008 by Ord. No. 2-2008]**

DAY-CARE CENTER, ADULT — A use providing supervised care and assistance to persons who need such daily assistance because of their old age or disabilities. This use shall not include persons who need oversight because of behavior that is criminal, violent or related to substance abuse. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.

26. Editor's Note: See 68 Pa.C.S.A. § 3101 et seq. and 68 Pa.C.S.A. § 5101 et seq., respectively.

27. Editor's Note: See 53 P.S. § 10101 et seq.

DAY-CARE, CHILD — A use involving the supervised care of children under age 16 outside of the children's own home(s) primarily for periods of less than 18 hours per child during the average day. This use may also include educational programs that are supplementary to state-required education, including a nursery school or "Head Start" programs. See also the definition of "adult day-care center." The following three types of day care are permitted without regulation by this chapter: care of children by their own relatives; care of children within a place of worship during regularly scheduled religious services; and care of one to three children within any dwelling unit, in addition to children who are relatives of the caregiver.

- A. FAMILY DAY-CARE HOME (or CHILD DAY-CARE AS AN ACCESSORY USE) — A type of day-care use that is accessory to and occurs within a dwelling unit, and provides care for four to six children at one time who are not relatives of the primary care giver. See § 246-35.
- B. GROUP DAY-CARE HOME — A type of day-care use that provides care for between seven and 12 children at one time who are not relatives of the primary care giver; provides care within a dwelling unit; and is registered with the applicable state agency. (Note: As of the adoption date of this chapter, such agency was the Pennsylvania Department of Public Welfare.)
- C. CHILD DAY-CARE CENTER — A type of day-care use that provides care for seven or more children at any one time who are not relatives of the primary care giver; does not meet the definition of a "group day-care home"; and is registered with the applicable state agency. (Note: As of the adoption date of this chapter, such agency was the Pennsylvania Department of Public Welfare.) See § 246-34.

DENSITY — The total number of dwelling units proposed on a lot divided by the lot area, unless otherwise stated.

DEP — The Pennsylvania Department of Environmental Protection and its relevant bureaus and successor agencies. [Added 2-2-2016 by Ord. No. 1-2016]

DISTRICT (or ZONING DISTRICT) — A land area within the Township within which certain uniform regulations and requirements apply under the provisions of this chapter.

DORMITORY — A building used as living quarters for the exclusive use of bona fide full-time faculty or students of an accredited college or university or primary or secondary school, and which is owned by and on the same lot as such college, university or school.

DRIVE-THROUGH SERVICE — An establishment where at least a portion of patrons are served while the patrons remain in their motor vehicles.

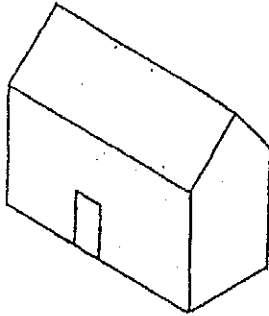
DWELLING — A building used as nontransient living quarters, but not including a boardinghouse, hotel, motel, hospital, nursing home or dormitory. A dwelling may include a use that meets the definition of a "sectional home."

DWELLING TYPES — This chapter categorizes dwellings into the following types:

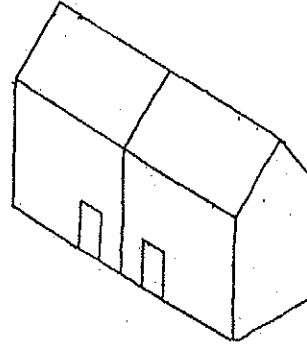
- A. CONVERSION APARTMENT — A new dwelling unit created within an existing building within the standards of Article IV and, where permitted, by Article III, and meeting the floor area requirements of § 246-63.

- B. APARTMENTS or MULTIFAMILY DWELLINGS — Two or more dwelling units within a building that do not meet the definition of a single-family detached dwelling, twin dwelling or townhouse/row house. The individual dwelling units may be leased or sold for condominium ownership.
- C. SECTIONAL OR "MODULAR" HOME — A type of dwelling that meets a definition of single-family detached dwelling, single-family semidetached dwelling, townhouse or low-rise apartment that is substantially but not wholly produced in two or more major sections off the site and then is assembled and completed on the site, and that does not meet the definition of a mobile/manufactured home and that is supported structurally by its exterior walls and that rests on a permanent foundation.
- D. SINGLE-FAMILY DETACHED DWELLING — One dwelling unit in one building accommodating only one family and having open yard areas on all sides. A single-family detached dwelling may be a mobile/manufactured home.
- (1) MOBILE/MANUFACTURED HOME — A type of single-family detached dwelling that meets all of the following requirements: is transportable in a single piece, or two substantial pieces designed to be joined into one integral unit capable of again being separated for towing; is designed for permanent occupancy; arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations; is constructed so that it may be used with or without a permanent foundation; and is not a recreation vehicle. The terms "mobile home" and "manufactured home" have the same meaning. This term is different from a sectional home, which is defined above. See standards in § 246-34.
- E. TWIN DWELLING UNIT — One dwelling unit accommodating one family that is attached to and completely separated by a vertical, unpierced, fire-resistant wall to only one additional dwelling unit. One side yard shall be adjacent to each dwelling unit. Each unit may or may not be on a separate lot from the attached dwelling unit.
- F. TOWNHOUSE or ROW HOUSE — One dwelling unit that is attached to two or more dwelling units, and with each dwelling unit being completely separated from and attached to each other by unpierced, vertical, fire-resistant walls. Each dwelling unit shall have its own outside access. Side yards shall be adjacent to each end unit. See standards in § 246-34.

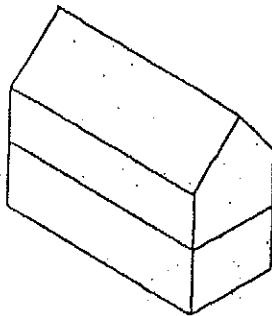
Dwelling Types



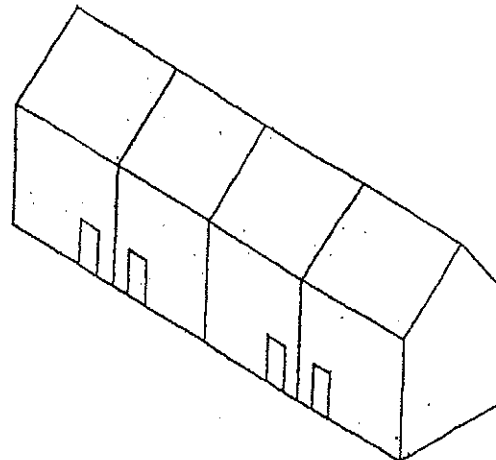
Single Family Detached Dwelling



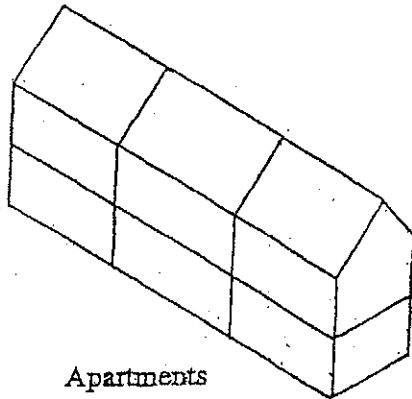
Two Twin Dwelling Units



Apartments



Townhouses or Rowhouses



Apartments

DWELLING UNIT — A single habitable living unit occupied by only one family. (See definition of "family.") Each dwelling unit shall have its own toilet, bath or shower, sink, sleeping and cooking facilities, and separate access to the outside or to a common hallway or balcony that connects to outside access at ground level. A dwelling unit shall not include either or both of the following: two or more separate living areas that are completely separated by interior walls so as to prevent interior access from one living area to another, or two separate and distinct sets of kitchen facilities.

EMERGENCY SERVICES STATION — A building for the housing of fire, emergency medical or police equipment and for related activities. A membership club may be included if it is a permitted use in that district. This use may include housing for emergency personnel while on call.

EMPLOYEES — The highest number of workers (including both part-time and full-time, both compensated and volunteer and both employees and contractors) present on a lot at any one time, other than clearly temporary and occasional persons working on physical improvements to the site.

ESSENTIAL SERVICES — Utility or municipal uses that are necessary for the preservation of the public health and safety and that are routine, customary and appropriate to the character of the area in which they are to be located. See standards in § 246-26. Essential services shall not include a central sewage treatment plant, a solid waste disposal area or facility, commercial communications towers, a power-generating station, septic or sludge disposal, offices, storage of trucks or equipment or bulk storage of materials.

FAMILY — One or more individuals related by blood, marriage or adoption (including persons receiving formal foster care) or up to four unrelated individuals who maintain a common household and live within one dwelling unit. A family shall also expressly include numbers of unrelated persons provided by the group home provision of § 246-34 residing within a licensed group home, as defined herein. Through those provisions and § 246-11D(5), the Township's intent is to comply with the federal Fair Housing Act,²⁸ as amended.

FENCE — A man-made barrier placed or arranged as a line of demarcation, an enclosure or a visual barrier that is constructed of wood, chain-link metal, vinyl or aluminum and/or plastic inserts. Man-made barriers constructed principally of masonry, concrete, cinder block or similar materials shall be considered a wall. See § 246-35.

FINANCIAL INSTITUTION — An establishment primarily involved with loans and monetary, not material, transactions and that has routine interactions with the public.

FLOODPLAIN — See definitions of "floodplain" and related terms in Chapter 141, Floodplain Management.

FLOOR AREA, TOTAL — The total floor space within a building(s) measured from the exterior faces of exterior walls or from the center lines of walls separating buildings. Floor area shall specifically include, but not be limited to, fully enclosed porches and basement, cellar or attic space that is potentially habitable and has a minimum head clearance of at least 6.5 feet. Floor area shall not include unenclosed structures.

FORESTRY — Managing and using, for human benefit, forest lands and natural resources that occur on and in association with forest lands, including trees, other plants, animals, soil and water. This term includes, but is not limited to, the planting, cultivating, harvesting, transporting and selling of trees for commercial purposes. See "timber harvesting" in this section and § 246-34.

GARAGE SALE — The accessory use of any lot for the occasional sale or auction of only common household goods and furniture and items of a closely similar character. See § 246-35.

28. Editor's Note: See 42 U.S.C. § 3601 et seq.

GLARE — A sensation of brightness within the visual field which causes annoyance, discomfort or loss in visual performance, visibility and/or ability to focus. See § 246-42.

GOVERNMENT FACILITY, OTHER THAN TOWNSHIP-OWNED — A use owned by a government, government agency or government authority for valid public health, public safety, recycling collection or similar governmental purpose, and which is not owned by Fairview Township. This term shall not include uses listed separately in the table of uses in Article III, such as "publicly owned recreation." This term shall not include a prison.

GROUP HOME — A dwelling unit operated by a responsible individual, family or organization with a program to provide a supportive living arrangement for individuals where special care is needed by the persons served due to age, emotional, mental, developmental or physical disability. This definition shall expressly include facilities for the supervised care of persons with disabilities subject to protection under the federal Fair Housing Act,²⁹ as amended. Group homes must be licensed where required by any appropriate government agencies, and a copy of any such license must be delivered to the Zoning Officer prior to the initiation of the use.

- A. Group homes shall be subject to the same limitations and regulations by the Township as the type of dwelling unit they occupy.
- B. It is the express intent of the Township to comply with all provisions of the federal Fair Housing Act, as amended, and regulations promulgated thereunder, in the construction of this term. [Note: The federal Fair Housing Act Amendments defined "handicap" as follows: "1) a physical or mental impairment which substantially limits one or more of such person's major life activities, 2) a record of having such an impairment, or 3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in Section 802 of Title 21." This definition was subsequently adjusted by Section 512 of the Americans with Disabilities Act³⁰ to address certain situations related to substance abuse treatment.]
- C. A group home shall not include a treatment center.
- D. See standards in § 246-34.

HAZARDOUS SUBSTANCES — A product or waste, or combination of substances, that, because of the quantity, concentration, physical or infectious characteristics, if not properly treated, stored, transported, used or disposed of, or otherwise managed, would create a potential threat to public health through direct or indirect introduction into groundwater resources and the subsurface environment, which includes the soil and all subsequent materials located below. Such hazardous material includes, but is not limited to, materials which are included on the latest edition of one or more of the following lists:

- A. "Hazardous substances" as defined pursuant to Section 311 of the federal Clean Water Act,³¹ or its successor provisions.

29. Editor's Note: See 42 U.S.C. § 3601 et seq.

30. Editor's Note: See 42 U.S.C. § 12211.

31. Editor's Note: See 33 U.S.C. § 1321.

- B. "Hazardous substances" as defined pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act,³² or its successor provisions.

HAZARDOUS SUBSTANCES, EXTREMELY — Hazardous substances included on the list of "extremely hazardous substances" in 29 Code of Federal Regulations Part 355,³³ or its successor provisions, and that are stored or used in quantities above the threshold reportable limits in such regulations.

HEIGHT — The vertical distance measured from the average elevation of the proposed ground level along the front of the building to the highest point of a structure. For a building with a defined and pitched roof, 20% of the ground area covered by the building may exceed the maximum height to provide for the roof peak, provided such area above the maximum height is not occupied by persons. See exemptions for certain types of structures in § 246-64. A maximum of one more story may be exposed in the rear of a building compared to what is visible in the front of a building. For height of signs, see Article VII, Signs. For height of windmills, windmill energy conversion systems and wind energy facilities, see Article IX, Regulation of Wind Energy Facilities and Small Wind Energy Conversion Systems. **[Amended 8-4-2014 by Ord. No. 1-2014]**

HELIPORT — An area used for the takeoff and landing of helicopters, and related support facilities.

- A. **PRIVATE HELIPORT** — Limited to 15 total takeoffs and landings in any seven-day period, and is not open to the general public.
- B. **PUBLIC HELIPORT** — One that does not meet the definition of a "private heliport."

HOME OCCUPATION — A routine, accessory and customary nonresidential use conducted within or administered from a portion of a dwelling or its permitted accessory building and that meets all of the home occupation requirements of § 246-35. A "light home occupation" shall be a home occupation that meets the additional requirements for a light home occupation stated in § 246-35. A "general home occupation" shall be a home occupation that does not meet the requirements for a light home occupation. (Note: In most cases, under § 246-26, a light home occupation is permitted by right, while a general home occupation typically needs special exception approval from the Zoning Hearing Board.)

HOSPITAL — A use involving the diagnosis, treatment or other medical care of humans, that includes, but is not limited to, care requiring stays overnight. A medical care use that does not involve any stays overnight shall be considered an office. A hospital may involve care and rehabilitation for medical, dental or mental health, but shall not primarily include housing or treatment of the criminally insane or persons actively serving an official sentence after being convicted of a felony. A hospital may also involve medical research and training for health care professionals.

HOTEL or MOTEL — A building or buildings including rooms rented out to persons as clearly transient and temporary living quarters. Any such use that customarily involves the housing of persons for periods of time longer than 30 days shall be considered a boardinghouse and shall meet the requirements of that use. See also "bed-and-breakfast" use.

32. Editor's Note: See 42 U.S.C. § 9601 et seq.

33. Editor's Note: See 40 CFR Part 355, Appendix A.

A hotel or motel may also include a restaurant, meeting rooms, nightclub, newsstand, gift shop, swim club or tavern, provided that such use(s) is not the principal use of the property.

HUNTING AND FISHING CLUB — Land owned by an organized group of persons formed as a club that is used for hunting, fishing and similar types of passive recreation, and which involves no buildings except those for the recreational, lodging, eating and sanitary facilities for members and invited guests and routinely accessory storage buildings.

IMPERVIOUS COVERAGE — The percentage of the lot area covered by man-made surfaces that have a coefficient of runoff of 0.85 or greater. For the purposes of determining compliance with this chapter, any compacted stone surfaces regularly used for vehicle parking and movement shall be considered to be impervious.

INDUSTRIAL DISTRICT — The LI and GI zoning districts.

JUNK — Any discarded, unusable, scrap or abandoned man-made or man-processed material or articles, such as the following types: metal, furniture, appliances, motor vehicle parts, aircraft, glass, plastics, machinery, equipment, containers and building materials. Junk shall not include solid waste temporarily stored in an appropriate container that is routinely awaiting imminent collection and proper disposal; toxic substances; yard waste; or items clearly awaiting imminent recycling at an appropriate location.

JUNK VEHICLE —

- A. Includes any vehicle or trailer that meets any of the following conditions:
- (1) Cannot be moved under its own power, in regards to a vehicle designed to move under its own power, other than a vehicle clearly needing only minor repairs;
 - (2) Cannot be towed, in regards to a trailer designed to be towed;
 - (3) Has been demolished beyond repair;
 - (4) Has been separated from its axles, engine, body or chassis; and/or
 - (5) Includes only the axle, engine, body parts and/or chassis, separated from the remainder of the vehicle.
- B. See also the definition of "unregistered vehicle."

JUNKYARD —

- A. Land or a structure used for the collection, storage, dismantling, processing and/or sale, other than within a completely enclosed building, of material of one or more of the following types:
- (1) Junk (see definition) covering more than 1% of the lot area.
 - (2) Two or more junk vehicles that are partly or fully visible from an exterior lot line, dwelling and/or public street. This shall not apply to such vehicles stored as part of an auto repair garage within the requirements of § 246-34.
 - (3) One or more mobile/manufactured homes that are not in a habitable condition.

- B. Junk stored within a completely enclosed building for business purposes shall be considered a warehouse.
- C. A junkyard specifically shall include, but not be limited to, a metal scrapyard or auto salvage yard.

KENNEL — The keeping of a greater number of dogs and/or cats than are permitted under the "keeping of pets" provisions of this chapter,³⁴ and which may also include temporary keeping of other household pets. In addition, in any case, if more than 10 dogs age six months or older are kept, it shall be considered a kennel.

LANDOWNER — The owner of a legal or equitable interest in land, including the holder of a written, signed and active option or contract to purchase or a person leasing the property (if authorized under the lease to exercise the right of the landowner) or authorized officers of a partnership or corporation that is a landowner.

LANDSCAPING — The improvement of a lot with grass, shrubs, trees, other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statues, retaining walls and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect. **[Added 2-2-2016 by Ord. No. 1-2016]**

LIGHTING, DIFFUSED — Illumination that passes from the source through a translucent cover or shade.

LIVESTOCK OR POULTRY, RAISING OF — The raising and keeping of livestock, horses, poultry or insects for any commercial purposes or the keeping of any animals for any reason beyond what is allowed under the "keeping of pets" subsection of § 246-35 and beyond what is customarily incidental to a principal crop-farming use. Raising of livestock shall not include a slaughterhouse nor a stockyard used for the housing of animals awaiting slaughter.

LOT — A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit. A lot may or may not coincide with a lot of record and includes one or more adjacent pieces, parcels or plots of land of record held in single and separate ownership, including adjacent pieces, parcels or plots bisected by public or private streets. The area and depth of a lot shall be measured to the legal right-of-way line of the street, and all lots shall front on public or private streets.

LOT AREA — The horizontal land area contained within the lot lines of a lot (measured in acres or square feet). For the purposes of determining compliance with the minimum lot area, the following shall be excluded:

- A. Areas within the existing legal rights-of-way of any proposed or existing public streets or alleys, or areas within the existing legal rights-of-way of any proposed or existing commonly maintained private streets that serve more than one lot. (Note: Other sections of this chapter, such as § 246-31, Open space development, may specifically permit proposed streets to be included in determining density for a specific use.)
- B. Areas that are currently or will be required to be dedicated as common open space on a separate lot. (Note: Other sections of this chapter, such as § 246-31, Open space

34. Editor's Note: See § 246-35D(10).

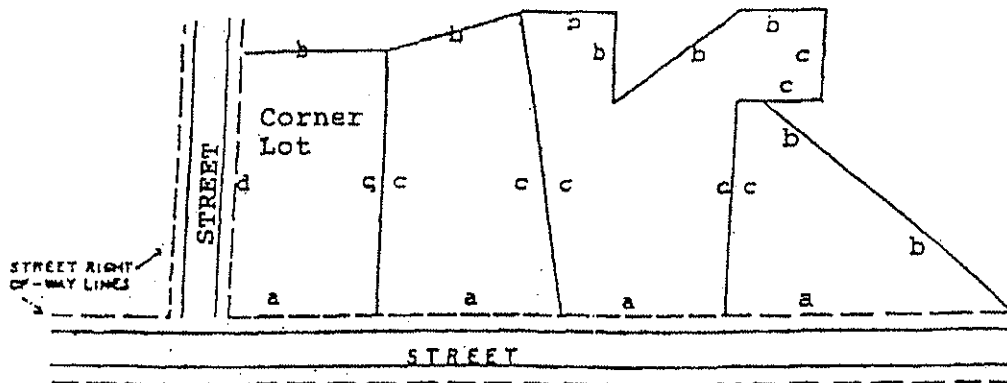
development, may specifically permit proposed common open spaces to be included in determining density for a specific use.)

C. Any features required to be excluded from lot area under Article III of this chapter.

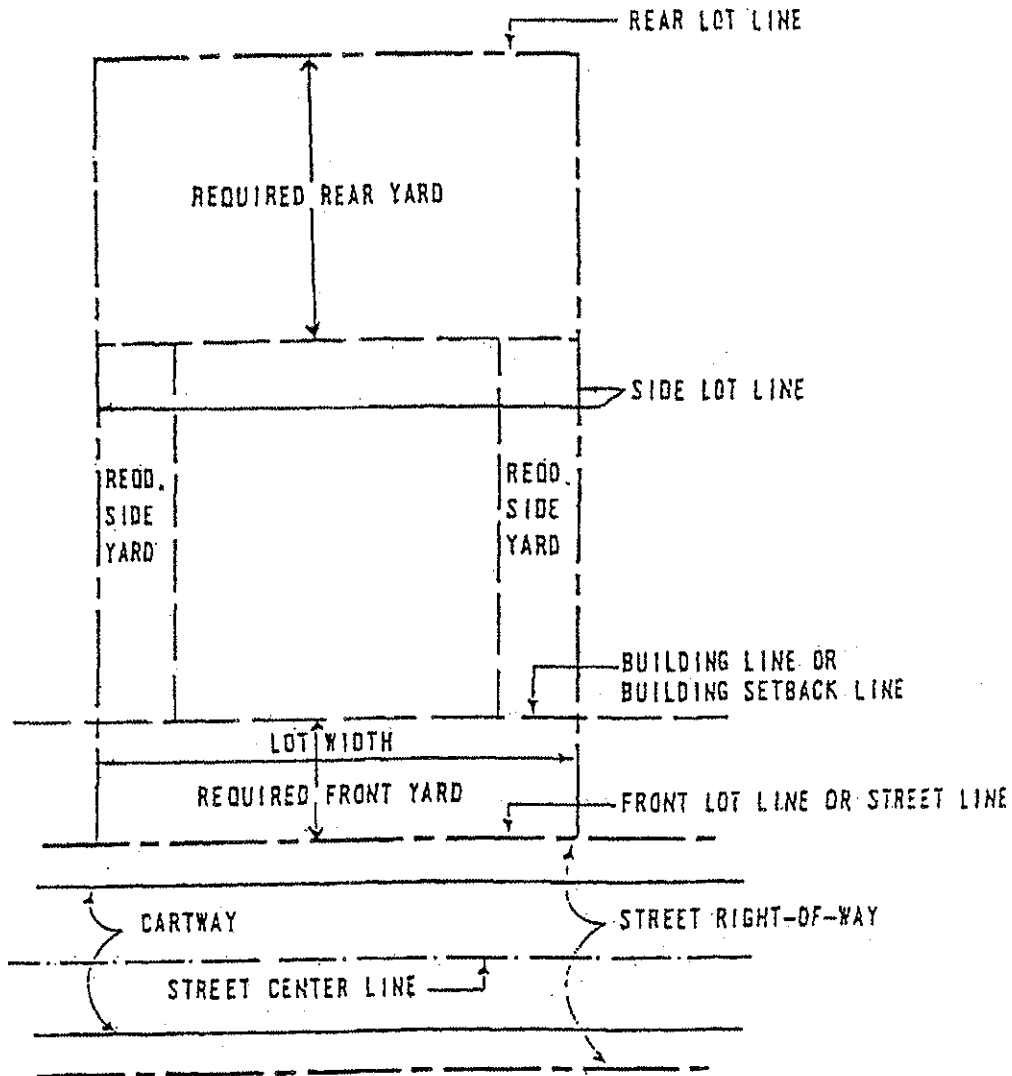
LOT, CORNER — A lot abutting on two or more intersecting streets which has an interior angle of less than 135° at the intersection of right-of-way lines of two streets.

LOT LINES — The property lines bounding the lot. Wherever a property line borders a public street, for the purposes of determining setbacks, the lot line shall be considered to be the street right-of-way line that will exist at the time of completion of a subdivision or development.

- A. FRONT LOT LINE (STREET LINE) — A lot line separating the lot from the existing or proposed street right-of-way. For a corner lot, see § 246-65B.
- B. REAR LOT LINE — Any lot line which is parallel to or within 45° of being parallel to a front street right-of-way line. In the case of a lot having no street frontage, or a lot of an odd shape, or a flag lot, only the one lot line furthest from any street shall be considered a rear lot line. Every lot shall have a rear yard.
- C. SIDE LOT LINE — Any lot line other than a front or rear lot line.



Terms for Lot Requirements
(for illustrative purposes only)



LOT WIDTH — The horizontal distance between the side lot lines measured at the minimum prescribed front yard setback line, unless otherwise stated. In the event of a curved lot line, such lot width at the minimum prescribed front yard setback line shall be measured along the curve. Where buildings are permitted to be attached, the lot width shall be measured from the center of the party wall. Where a pie-shaped lot fronts upon a cul-de-sac, the minimum lot width may be reduced to 75% of the width that would otherwise be required.

MESSAGE PARLOR — An establishment that meets all of the following criteria:

- A. Massages are conducted involving one person using their hands and/or a mechanical device on another person below the waist, in return for monetary compensation, and which does not involve persons who are related to each other.

- B. The use does not involve a person licensed or certified by the state as a health care professional or a massage therapist certified by a recognized professional organization that requires substantial professional training. Massage therapy by a certified professional shall be considered "personal service."
- C. The massages are not conducted within a licensed hospital or nursing home or an office of a medical doctor or chiropractor or as an incidental accessory use to a permitted exercise club or high school or college athletic program.
- D. The massages are conducted within private or semiprivate rooms.

MEDICAL MARIJUANA — Marijuana for certified medical use under the Pennsylvania Medical Marijuana Act, PA Act 16 of 2016.³⁵ [Added 9-5-2017 by Ord. No. 6-2017]

MEDICAL MARIJUANA DISPENSARY — A person which holds a permit issued by the Department of Health to dispense medical marijuana. [Added 9-5-2017 by Ord. No. 6-2017]

MEDICAL MARIJUANA FACILITY — A medical marijuana dispensary or a grower and processor of medical marijuana. [Added 9-5-2017 by Ord. No. 6-2017]

MEDICAL MARIJUANA TRUCKING FACILITY — A structure, building or land used to store trucks or delivery vehicles for transporting marijuana plants, seeds or other raw materials to a medical marijuana facility, or transporting waste generated from a medical marijuana facility for disposal to a facility authorized in the Commonwealth of Pennsylvania to accept such waste. [Added 9-5-2017 by Ord. No. 6-2017]

MEDICAL MARIJUANA WASTE FACILITY — The storage, management and disposal of solid and liquid waste by-products or remnants generated during the growing and processing of medical marijuana, but not part of the final product. [Added 9-5-2017 by Ord. No. 6-2017]

MEMBERSHIP CLUB — An area of land or building routinely used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that is limited to members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business.

- A. This use shall not include a target range for outdoor shooting of firearms, boardinghouse, tavern, restaurant or retail sales unless that particular use is permitted in that district and the requirements of that use are met.
- B. See § 246-34. See also "after hours club" and "hunting and fishing clubs."

MINERAL EXTRACTION — The removal from the surface or beneath the surface of the land of bulk mineral resources using significant machinery. This use also includes accessory stockpiling and processing of mineral resources. Mineral extraction includes but is not limited to the extraction of sand, gravel, topsoil, limestone, sandstone, oil, coal, clay, shale and iron ore. The routine movement of and replacement of topsoil during construction shall not by itself be considered to be mineral extraction.

MOBILE/MANUFACTURED HOME — See under "dwelling types."

35. Editor's Note: See 35 P.S. § 10231.101 et seq.

MOBILE/MANUFACTURED HOME PARK — A lot under single ownership which includes two or more mobile/manufactured homes for residential use. The individual manufactured homes may be individually owned. A development of mobile/manufactured homes that is subdivided into individual lots shall be regulated in the same manner as a subdivision of site-built homes, and shall not be considered to be a mobile home park. See § 246-34.

MOTOR VEHICLE — An automobile, recreational vehicle, truck, bus, motorcycle, all-terrain vehicle or similar means of transportation designed to operate and carry persons or cargo on roads, and that is powered by mechanized means.

MUNICIPALITIES PLANNING CODE or STATE PLANNING CODE — The Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended.³⁶

NONCONFORMING LOT — A lot which does not conform with the minimum lot width or area dimensions specified for the district where such lot is situated, but was lawfully in existence prior to the effective date of this chapter, or amendments hereinafter enacted.

NONCONFORMING STRUCTURE — A structure or part of a structure that does not comply with the applicable lot coverage, dimensional and other provisions in this chapter, as amended, where such structure lawfully existed prior to the enactment of such chapter or applicable amendment(s). Such nonconforming structures include but are not limited to signs. See § 246-67.

NONCONFORMING USE — A use, whether of land or of a structure, which does not comply with the applicable use provisions in this chapter or amendment(s), where such use was lawfully in existence prior to the enactment of this chapter or applicable amendment(s). A use granted by variance is not a nonconforming use. See § 246-67.

NURSING HOME — A facility licensed by the state for the housing and intermediate or fully skilled nursing care of three or more persons. See § 246-34.

OFFICE — A use that involves administrative, clerical, financial, governmental or professional operations and operations of a similar character. This use shall include neither retail nor industrial uses, but may include business offices, medical offices, laboratories, photographic studios and/or television or radio broadcasting studios.

OPEN SPACE, COMMON OR PRESERVED — A parcel or parcels of land within a tract which meets all of the following standards:

- A. Is designed, intended and suitable for active or passive recreation by residents of a development or the general public;
- B. Is covered by a system that ensures perpetual maintenance, if not intended to be publicly owned;
- C. Will be deeded to the Township and/or deed restricted to permanently prevent uses of land other than common/preserved open space and noncommercial recreation or a golf course; and
- D. Does not use any of the following areas to meet minimum open space requirements:

³⁶. Editor's Note: See 53 P.S. § 10101 et seq.

- (1) Existing street rights-of-way;
- (2) Vehicle streets or driveways providing access to other lots;
- (3) Land beneath building(s) or land within 20 feet of a building (other than accessory buildings and pools clearly intended for noncommercial recreation and other than agricultural buildings and a farmstead which are permitted within land approved by the Township for agricultural preservation);
- (4) Off-street parking (other than that clearly intended for noncommercial recreation);
- (5) Area(s) needed to meet a requirement for an individual lot;
- (6) For land intended to be open to the public, that does not have provisions for entry with a twenty-foot minimum width by pedestrians from a street open to the public or from an adjacent common open space area that has access to such a street;
- (7) Land that includes a stormwater detention basin, except for a basin or portions of a basin that the applicant proves to the satisfaction of the Board of Supervisors would be reasonably safe and useful for active or passive recreation during the vast majority of weather conditions;
- (8) Portions of land that have a width of less than 40 feet;
- (9) Areas that are underwater during normal weather conditions.

OPEN SPACE DEVELOPMENT — An optional type of residential development that involves the permanent preservation of common open space, and that places dwellings on the most suitable portions of a tract, on lots that are typically smaller than would otherwise be allowed with conventional development. See § 246-31.

ORDINANCE, THIS — The Fairview Township Zoning Ordinance, including the Official Zoning Map, as amended.

PA — The Commonwealth of Pennsylvania.

PARKING — Off-street parking and aisles for vehicle movement, unless otherwise stated.

PATIENT — An individual who: **[Added 9-5-2017 by Ord. No. 6-2017]**

- A. Has a serious medical condition;
- B. Has met the requirements for certification under this act; and
- C. Is a resident of this commonwealth.

PENNDOT — The Pennsylvania Department of Transportation, or its successor, and its subparts.

PERMITTED BY RIGHT USES — Allowed uses in which zoning matters may be approved by the Zoning Officer, provided the application complies with all requirements of this chapter. A nonconforming use shall not be considered to be a permitted-by-right use, a special exception use or a conditional use.

PERSONAL CARE HOME OR CENTER — See "assisted living facility."

PERSONAL SERVICE — An establishment that provides a service oriented to personal needs of the general public and which does not involve primarily retail or wholesale sales or services to businesses. Personal services include barbershop and beauty shops, photography studios, shoe repair shops, household appliance repair shops, and other similar establishments, but shall not include any adult uses, as herein defined.

PETS, KEEPING OF — The keeping of domesticated animals of types that are normally considered to be kept in conjunction with a dwelling for the pleasures of the resident family. This shall include dogs, cats, small birds, gerbils, rabbits and other animals commonly sold in retail pet shops. See § 246-35.

PICNIC GROVE, PRIVATE — An area of open space and pavilions that is not publicly owned and is used for group picnics and related outdoor recreation, and which is used on a commercial basis.

PLACES OF WORSHIP — Buildings, synagogues, churches, religious retreats, monasteries, seminaries and shrines used primarily for religious and/or spiritual worship and that are operated for nonprofit and noncommercial purposes. If a religious use is primarily residential in nature, it shall be regulated under the appropriate dwelling type. See standards in § 246-34.

PORTABLE STORAGE CONTAINER — A portable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, building materials or merchandise. This term shall not include roll-off containers or storage containers having storage capacity of less than 150 cubic feet, but shall include containers with a storage capacity not in excess of 16 feet by eight feet by eight feet. **[Added 2-2-2016 by Ord. No. 1-2016]**

PRINCIPAL BUILDING — A principal structure which is also a building.

PRINCIPAL STRUCTURE — The structure in which the principal use of a lot is conducted. Any structure that is physically attached to a principal structure shall be considered part of that principal structure.

PRINCIPAL USE — A dominant use(s) or main use on a lot, as opposed to an accessory use.

PRISON — A correctional institution within which persons are required to inhabit by criminal court actions or as the result of a criminal arrest.

PROCESSORS AND GROWERS OF MEDICAL MARIJUANA — A person which holds a permit from the Department of Health to grow and process medical marijuana. The term includes a research center administering a medical marijuana research program. **[Added 9-5-2017 by Ord. No. 6-2017]**

PUBLIC NOTICE — Notice required by the Pennsylvania Municipalities Planning Code.³⁷ (Note: As of the adoption date of this chapter, for a Zoning Hearing Board hearing or an amendment to this chapter, such act generally required a legal advertisement published once each week for two successive weeks in a newspaper of general circulation in the Township, which states that time and place of a meeting/hearing and the particular nature of the matter to be considered. The first publication shall not be more than 30 days and the second publication not less than seven days from the meeting/hearing date.)

37. Editor's Note: See 53 P.S. § 10101 et seq.

PUBLICLY OWNED RECREATION — Leisure facilities owned, operated or maintained by governmental entities for use by the general public. Publicly owned recreation is a distinct use from indoor recreation or outdoor recreation.

RECREATION — The offering of leisure-time activities to unrelated persons. This term shall not include any adult use. For the purposes of this chapter, recreation facilities shall be permitted by right as an accessory use when clearly limited to residents of a development and their occasional invited guests.

- A. **INDOOR RECREATION** — A type of recreation use that does not meet the definition of "outdoor recreation" and is used principally for active or passive recreation, such as a bowling alley, roller skating, ice skating, commercial batting practice use and similar uses. This term shall not include any use listed separately as a distinct use by § 246-26.
- B. **OUTDOOR RECREATION** — A type of recreation use that has a total building coverage of less than 15%, and is used principally for active or passive recreation, such as a golf driving range, miniature golf course, amusement park and similar uses. This term shall not include any use listed separately as a distinct use by § 246-26, such as a firearms target range.

RECYCLING COLLECTION CENTER — A use for collection and temporary storage of more than 500 pounds of common household materials for recycling, but that does not involve processing or recycling other than routine sorting, baling and weighing of materials. This term shall not include the indoor storage of less than 500 pounds of household recyclables and their customary collection, which is a permitted-by-right accessory use in all zoning districts, without additional regulations. A recycling collection center is also a permitted by right accessory use to a public or private primary or secondary school, a place of worship, a Township-owned use or an emergency services station.

RELATED or RELATIVE — Persons who are related by blood, marriage, adoption or formal foster relationship to result in one of the following relationships: spouse, brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, parent-in-law or first cousin. This term specifically shall not include relationships such as second, third or more distant cousins. See definition of "dwelling unit."

REPAIR SERVICE — Shops for the repair of appliances, watches, guns, bicycles and other household items.

RESIDENTIAL ACCESSORY STRUCTURE (INCLUDES "BUILDING") OR USE — A use or structure that is clearly accessory, customary and incidental to a principal residential use on a lot, including the following uses and uses that are very similar in nature: garage (household), carport, tennis court, garage sale, basketball backboard, household swimming pool, gazebo, storage shed, greenhouse, children's playhouse or children's play equipment. No business shall be conducted in a household garage or storage shed that is accessory to a dwelling, except as may be allowed as a home occupation.

RESIDENTIAL DISTRICT(S) — The CR, R, LDR, MDR and MHDR zoning districts.

RESIDENTIAL LOT LINES — The lot line of a lot that contains an existing primarily residential use, or is undeveloped and zoned as a residential district.

RESTAURANT —