

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWNSHIP OF TOBYHANNA, MONROE COUNTY, PA TO RENAME THE PLANNED COMMERCIAL RETAIL ENTERTAINMENT DINING DISTRICT AS THE MIXED USE TOWN CENTER DEVELOPMENT DISTRICT.

WHEREAS, on February 20, 2018, the Board of Supervisors adopted Ordinance No. 542 creating the Planned Commercial Retail Entertainment Dining Zoning District and regulations therefor; and

WHEREAS, the Board of Supervisors desire to change the name of the zoning district to the Mixed Use Town Center Development District; and

WHEREAS, it is the intention of the Board of Supervisors to keep intact all other provisions of Ordinance No. 542.

NOW, THEREFORE, under the authority and procedures of the Pennsylvania Municipalities Planning Code, as amended, the Board of Supervisors of Tobyhanna Township hereby ordains and annexes the following amendment to Chapter 155 of the Code of Ordinances of Tobyhanna Township, Zoning, as follows:

Article I. Section 155-3 of the Tobyhanna Township Zoning Ordinance, Statement of Objectives; Reference to Comprehensive Plan, is hereby amended to read as follows:

§155-3 Statement of Objectives; Reference to Comprehensive Plan.

For a statement of community development objectives, reference is made to the Comprehensive Plan for Tobyhanna Township.

In addition to the foregoing, the Community Development Objective for the Mixed Use Town Center Development District is to provide a set of standards for development of a Mixed Use Town Center Development. The Mixed Use Town Center Development District encourages Cluster Commercial Development in a Mixed Use Town Center Development District.

Article II. Section 155-5.B. of the Tobyhanna Township Zoning Ordinance is hereby amended to include the following definitions:

CLUSTER COMMERCIAL DEVELOPMENT—A form of Mixed Use Town Center Development located in the Mixed Use Town Center Development District where the buildings, structures, improvements and facilities are located closely together to increase open space and common recreation and entertainment space within a Mixed Use Town Center Development.

MIXED USE TOWN CENTER DEVELOPMENT (“MUTC Development”)—A use consisting of Cluster Commercial Development regulated as a permitted use on a parcel or parcels of land, individually or separately owned but nevertheless subject to a common scheme of development, located in the Mixed Use Town Center Development District comprised of uses that are permitted by right in the Mixed Use Town Center Development District under Section 155-16.1 of the Zoning Ordinance, and where such uses rely upon, among other things, common infrastructure and common access. An applicant for a MUTC Development shall submit a master plan to the Board of Supervisors with a land development plan that shall correspond in lot size, bulk, type of buildings, use, density, intensity, lot coverage or open space to regulations established in the Mixed Use Town Center Development District, except as otherwise waived by the Board of Supervisors.

MIXED USE TOWN CENTER DEVELOPMENT MASTER PARKING PLAN (“Master Parking Plan”)—A comprehensive off-street parking, loading and unloading plan submitted as a permitted accessory use providing for off-street parking, loading and unloading consistent with the criteria set forth at Section 166-16.1(D) hereof.

MIXED USE TOWN CENTER DEVELOPMENT MASTER SIGNAGE PLAN (“Master Signage Plan”)—A comprehensive advertising sign plan submitted as a permitted accessory use intended to enhance the common scheme and architecture of the development comprising identification of users/tenants, uses, and directional signs consistent with the criteria set forth at Section 155-16.1(C.1.) hereof.

Article III. Chapter 155. Zoning, Article VIII. Commercial District of the Zoning Ordinance is hereby amended to include a new Section 155-16.1, Mixed Use Town Center Development (“MUTCD”) Zoning District to read as follows:

§155-16.1 Mixed Use Town Center Development (“MUTCD”) Zoning District

- A. Intended Purpose. The Mixed Use Town Center Development (“MUTCD”) Zoning District is intended to provide areas for MUTC development and a set of provisions within the area designated as being within the MUTCD Zoning District, as shown on Exhibit “A” and the Zoning Map, as amended, which area was previously zoned Planned Commercial Retail Entertainment Dining.
- B. Conflicts. Where there is any conflict or inconsistency between Sections of the Zoning Ordinance and this Section 155-16.1, the provisions of this Section 155-16.1 shall control.
- C. Sections of the Zoning Ordinance not applicable. The following Sections of the Zoning Ordinance shall not apply to MUTCD Zoning District:

- §155.11.L
- §155.11.Q
- Article XI §155-19 through §155-53
- Article XII §155-54 through §155-60, except § 155-55E (which shall apply)
- §155-83
- §155-84
- §155-88
- §155-91
- §155-92
- §155-94
- §155-95
- §155-96
- §155-102
- §155-105
- Article XVI, §155-107 through §155-128 except as expressly referred to herein.

- D. Permitted Uses. Permitted uses shall be as follows:
 - 1. Amusement Parks and Amusement Games including but not limited to: Carnival Rides and Games, Ferris Wheel, Arcade Games, Helium Hot Air Balloon, Indoor/Outdoor Go Carts, and Laser Tag, Virtual reality attractions and venues
 - 2. Aquariums & Zoos
 - 3. Business & Professional Offices including but not limited to: Financial institutions, including without limitation, banks, medical, Real estate and Management offices,

4. Campground/ RV Camping/Parking, Overnight treehouses
5. Child care services including but not limited to: day care and kids camp
6. Convention, conference, and meeting center
7. Education Venues
8. Fitness Facilities including but not limited to: gyms, health clubs, specialty fitness facilities, martial arts, athletic and yoga studios, Exercise facilities
9. Gaming Hotels, subject to provisions of Section 155-16J
10. Gaming Resorts, subject to provisions of Section 155-16J
11. Hotels, motels, efficiency hotels, and B&B inns
12. Indoor/outdoor entertainment facilities including but not limited to: Comedy Clubs, Concerts, Dance Halls, Dueling Piano Bar, Indoor Theater, Moment Factory Night/Walk/Light Show/ Interactive Art & Entertainment Show, Music Venue & Sales, Off Track Wagering Facilities, Outdoor Patio & Rooftop Venue, Skywalk/Lookout/Observatory, Studios-Arts and crafts, art, dance or music.
13. Indoor/outdoor recreation including but not limited to: Archery, Batting Cages, Bowling Alleys, Boating Marine, Golf Courses & accessory structures, Miniature Golf, Golf Driving Ranges, Golf related business and venues, Horseback riding, equestrian facilities and stables, Indoor Skydiving, Fishing, Passive Recreation, Pool hall/billiard parlors, Rock Climbing Walls, Ropes Course/Zip Line, Shooting Range, Ice/Roller skating rinks, Ski, snowboarding, tubing (water and snow), sports attractions and facilities, and Trampoline Park.
14. Motor Vehicle Service Stations
15. Municipal and government uses
16. Museums and Galleries
17. Personal Service shops, offices and establishments including but not limited to: Barber & beauty shops and salons, car washes, Dry-cleaning and laundry pickup uses, Photography studios, self-service laundry
18. Public Utilities, safety facilities including but not limited to: satellite dishes and television internet antennas, water towers, water & sewage treatment plants, Communication towers and equipment, waste transfer facility
19. Residential uses secondary to the commercial use: sale, rent, timeshares
20. Restaurant/Bar including but not limited to: Brewpubs, Distilleries, Microbreweries, Taverns, Lounges, tasting Room, Beer Gardens, Nightclubs, Food Hall, Fast Food Restaurants
21. Retail uses including but not limited to: Culinary Store, Florist and flower shops, Food Market, Gift and antiques shop, Jewelry sales and repair, Liquor store, News and Magazine Stand, Outdoor retail Stores, Pharmacies/Drugstore, Photography developing establishments, Pop-up Retail Store, Grocery Store, Bakeries, Hardware store, Sporting Goods Store, Soft Goods Store, Discount and Outlet Stores, Fashion goods stores,

- Electronic goods store, Department Store, Specialty Stores,
Outdoor/Camping goods stores,
 - 22. Transportation including but not limited to: Bus Terminal, Drop off/Pickup/
Valet areas, Garage & Parking Structures, Heliport, Park and Ride
Commuter Lots, Surface, Structures and Underground Parking,
Train/Shuttle transportation, Tram, Trolley, Uber/Ride sharing lounge
 - 23. Truck and delivery distribution terminal
 - 24. Visitor information reception center
- E. Accessory uses. Accessory uses and buildings customarily incidental to any principal use are permitted within the MUTCD Zoning District and include, without limitation:
1. Accessory uses and structures including but not limited to:
 - (a) Agricultural, greenhouses and nurseries
 - (b) Amusement concessions.
 - (c) Animal attractions and exhibitions (including the display and temporary housing of animals).
 - (d) Arts and crafts shows.
 - (e) ATMS, free standing
 - (f) Concession services (indoor / outdoor).
 - (g) Event associated exhibits.
 - (h) Financial and administrative services.
 - (i) Fireworks Display
 - (j) Indoor/ outdoor concessionaires both static and mobile.
 - (k) Interconnecting means of conveyance (boats, carts, trains) between theme park/ amusement parks, adjacent venues and parking.
 - (l) Kiosks, pushcarts and RMUs
 - (m) Onsite containment of circus / performing troupes.
 - (n) Open Air Fire Pits
 - (o) Outdoor display of exhibitions and sponsors equipment.
 - (p) Outdoor Vending & Display
 - (q) Water Features and Fountains
 2. Advertising, pylon, monument, electronic graphic (digital), directional and informational signs within the MUTCD Zoning District approved as part of a Master Signage Plan submitted by the developer of a MUTC Development as a part of the land development application. The MUTCD Master Signage Plan shall permit signage in accordance with the following criteria:
 - (a) Off premise signs shall be permitted by the Board of Supervisors within the MUTCD Zoning District, provided such off-premise signs shall relate to uses occurring on property located within the MUTCD District or uses occurring on property immediately adjacent to and abutting the MUTCD Zoning District, and further

provided the Board of Supervisors approves the same as part of a Master Signage Plan. Off-premise signs within the MUTCD Zoning District shall be limited to a maximum number of signs as determined by the Board of Supervisors at the time of land development approval of a MUTC Development.

(b) MUTC Development shall be permitted the following signage within the MUTCD Zoning District, provided that all of the following signage and any exterior signage shall be set forth on a Master Signage Plan subject to the review and approval of the Board of Supervisors at the time of land development application, which shall depict all exterior signs within a MUTC Development, including any off-premise sign pursuant to subsection (a) above. The Master Signage Plan shall specify the area, dimensions, height, illumination and other features of the signage in the MUTC Development. The Master Signage Plan shall be submitted by the developer of a MUTC Development as part of the land development application and land development plan. The Master Signage Plan shall permit free-standing pylon and monument signs, wall signs, roof signs, directional signs, informational signs, and Changeable Electronic Variable Message (CEVM) signs. It is the intention of this Section to afford discretion and flexibility to the Board of Supervisors in the approval of the Master Signage Plan submitted by the developer of a MUTC Development as a part of the land development application and land development plan. The Board of Supervisors acknowledge at adoption of this Ordinance having received and reviewed sign design criteria employed by Alberta Development Partners, LLC in a development known as "Southlands" ("Southlands Design Criteria"). The Southlands Design Criteria is incorporated by reference to this Ordinance as a tool to be used by the Board of Supervisors in the exercise of its discretion in approving the Master Signage Plan.

(3) Other customary accessory uses, buildings and improvements, provided that such uses are clearly incidental to the principal use.

F. Off-street parking, loading and unloading spaces. Off-street parking, loading and unloading spaces shall be provided and permitted pursuant to a Master Parking Plan subject to review and approval of the Board of Supervisors at the time of land development application, which shall depict off-street parking, loading and unloading spaces within the MUTC Development. The Master Parking Plan shall be submitted by the developer of a MUTC Development as part of the land development application and land development plan. It is the intention of this Section to afford discretion and flexibility to the Board of Supervisors in the approval of the Master Parking Plan submitted by the developer of a MUTC as a

part of the land development application and land development plan. The Master Parking Plan shall be subject to the following standards:

(1) Minimum parking ratios:

Permitted Uses	Minimum Required Parking Spaces (DU=dwelling unit; SF=square feet; fractional calculations shall be rounded up)
Commercial Retail Entertainment and Dining Uses	4 spaces per 1,000 SF of gross floor area
Hotels	1 space per room
Office Space	3 spaces for each 1,000 SF of gross floor area
Residential	1 space for each dwelling unit

(2) Shared Parking. The developer may prepare a Shared Parking Analysis based on the methodology and standards outlined by the Urban Land Institute or analysis/counts from similar projects in order to determine the parking demand, which shall permit the developer to deviate from the minimum parking requirements.

(3) Parking Dimensions.

(a) Access aisles and driveways to parking areas shall be not less than 10 feet in width for single-family residential uses and not less than 15 feet in width for all other uses when a one-way traffic pattern is established, or less than 20 feet in width when a two-way traffic pattern is established. Aisles and driveways within parking areas shall have a minimum width of:

- (1) For ninety-degree to sixty-degree angle parking: 22 feet
- (2) For sixty-degree to forty-five degree parking: 20 feet
- (3) For less than forty-five degree parking: 18 feet
- (4) For parallel parking: 15 feet

(b) All parking spaces shall have a minimum width of nine (9') feet and a minimum length of twenty four (24') feet provided that:

- (i) Non-valet parking spaces shall have a minimum width of nine feet (9') and minimum length of eighteen (18') feet; and
- (ii) Valet parking spaces shall have a minimum width of eight feet nine inches (8'9") and a minimum length of sixteen feet six inches (16'6").

(iii) All required parking spaces in off-street surface parking areas and multi-level parking garages, except those listed below, shall be permitted to be nine (9') feet in width, eighteen (18') feet in length and have an aisle width of twenty-four (24') feet.

(a) Parallel parking spaces shall be permitted to be nine (9') feet in width and twenty-two (22') feet in length.

(b) Compact parking spaces shall be permitted to be eight feet six inches (8'6") in width and sixteen (16') feet in length and shall account for no more than five (5) percent of the total required parking spaces.

G. Height, Lot and Yard Regulations. The height, lot and yard setback limitations set forth in Article X, Section 155 Attachment 1.1 shall not apply to buildings, structures or other habitable accessory structures which are part of the MUTCD Zoning District all of which shall be regulated as set forth below:

	I-380	PA 940	PA 314	Kalahari Blvd.	Adjacent Property	Internal Property Line	Max Bldg Height	Min Lot Size MUTC Development	Min Lot Size within MUTC Development
SETBACK	25'	50'	50'	50'	25'	0'	100'	25 acres	.75 acre

Front yard setback, side yard setback and rear yard setback as expressed above shall only apply to exterior property lines of the MUTCD Zoning District and shall not apply to lots within the MUTC Development. For purposes of determining the yard setback, an "Adjacent Property" means a lot located outside of the MUTCD Zoning District. The minimum lot size within the MUTC Development shall be .75 acres; provided that the minimum lot size for a MUTC Development shall be 25 acres. The maximum building height limit above shall not apply to rooftop equipment, protective netting, towers, balloon displays and other exterior displays, ferris wheels, advertisements, and other similar uses.

H. Special Regulations Applicable to MUTC Development.

(1) MUTC Development shall:

(a) Be served by a publicly or privately owned central sanitary sewage collection system;

(b) Be served by a publicly or privately owned central water distribution system; and

- (c) Be located not more than one (1) mile from an Interstate highway exit and entrance ramp interchange.
- (2) For purposes of this Ordinance, the calculation of the linear distance specified in Subsection G(1)(c) shall be measured in a straight linear fashion without regard to intervening structures or land uses from the closest point of the building housing the protected use delineated above or, in the event of a protected use(s) which does not involve a building, to the property line of the parcel on which the protected use is maintained.
- (3) Structures and improvements that are part of the MUTC Development may encroach upon and/or crossover property lines of lots or parcels that form a PCRED whether or not such structures or improvements are physically attached and in such instance(s) the applicable setback distance(s) shall be zero (“0”) feet where such improvement(s) is part of a development plan for the MUTC Development.
- (4) The calculation of maximum lot coverage for all property which is part of a MUTC Development shall be based upon the aggregate land area comprising the MUTC Development and not based upon the coverage of any particular lot, piece or parcel of land comprising part of the MUTC Development such that the coverage of one or more parcels may exceed 75% provided that the impervious coverage of all parcels comprising the MUTC Development shall not exceed 75% which shall be calculated by dividing the total impervious area including ground floor area of all principal and accessory buildings, sidewalks, impervious parking areas and other impervious areas on the entire MUTCD property by the total area comprising the MUTC Development.
- (5) Following zoning approval and prior to submission of a preliminary land development plan, the Developer of a proposed MUTC Development shall participate in a pre-submission conference with the Board of Supervisors to determine which of the following impact statements and/or studies are deemed necessary as a condition of preliminary land development submission:
 - (a) Traffic Impact;
 - (b) Hydrogeologic;
 - (c) Wetlands;
 - (d) Environmental;
 - (e) Stormwater Management (See 155:16.1.J);

- (f) Fire Protection;
- (g) Police and security;
- (h) Emergency Services (to include but not be limited to fire fighting response, emergency medical services and emergency management);
- (i) Geotechnical Subsurface Exploration;
- (j) Sewage and waste treatment and disposal;
- (k) Solid waste disposal;
- (l) Architectural and general aesthetics;
- (m) Landscaping and Buffering;
- (n) Social/Economic;
- (o) Noise control;
- (p) Historical;
- (q) Archaeological;
- (r) Flood;
- (s) Air quality;
- (t) Control of radioactivity, electrical emissions and electrical disturbances;
- (u) Airport/Airspace; and
- (v) Public transportation.

Article IV. Chapter 155, Zoning, Article XI, Signs, Section 155-20, Definitions, of the Tobyhanna Township Code of Ordinances is hereby revised and amended by amending the definition of Electronic Graphic Sign to read as follows:

§155-20. Definitions.

CHANGEABLE ELECTRONIC VARIABLE MESSAGE (CEVM) SIGN - A sign in which light is turned on or off intermittently by any means, including any illuminated

sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use; including alternative sign displays of a digital or controlled light emitting variety, including digital signs that may be scrolling message boards, liquid crystal display (LCD), or plasma display panels, electronic billboards, projection screens, or other emerging display types like living surfaces such as organic light-emitting diode (OLEDs), light emitting diode (LED), light emitting polymer (LEP) and organic electroluminescence (OEL), that can be controlled electronically using a computer or other devices, allowing direct or remote access and control of graphic, text or content, and which may vary in intensity or color. A CEVM sign does not include a sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual of Uniform Traffic Control Devices (MUTCD) approved by the Federal Highway Administration as the National Standard (often referred to as Digital, Electronic, Electronic Graphic or similar).

Article V. REPEALER.

All ordinances or parts of ordinances that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Article VI. SEVERABILITY.

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of Tobyhanna Township, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

Article VII. EFFECTIVE DATE.

This Ordinance shall be effective five days after enactment.

ENACTED AND ORDAINED this _____ day of _____, 2019.

**TOWNSHIP OF TOBYHANNA
BOARD OF SUPERVISORS**

Anne Lamberton, Chairperson

John J. Holahan, III, Vice Chairperson

Heidi A. Pickard, Board Member

Brendon J.E. Carroll, Board Member

David Carbone, Board Member

ATTEST:

Julia Heilakka, Township Secretary