

# **BOROUGH OF NEW MILFORD**

SUSQUEHANNA COUNTY, PENNSYLVANIA

## **ZONING ORDINANCE**

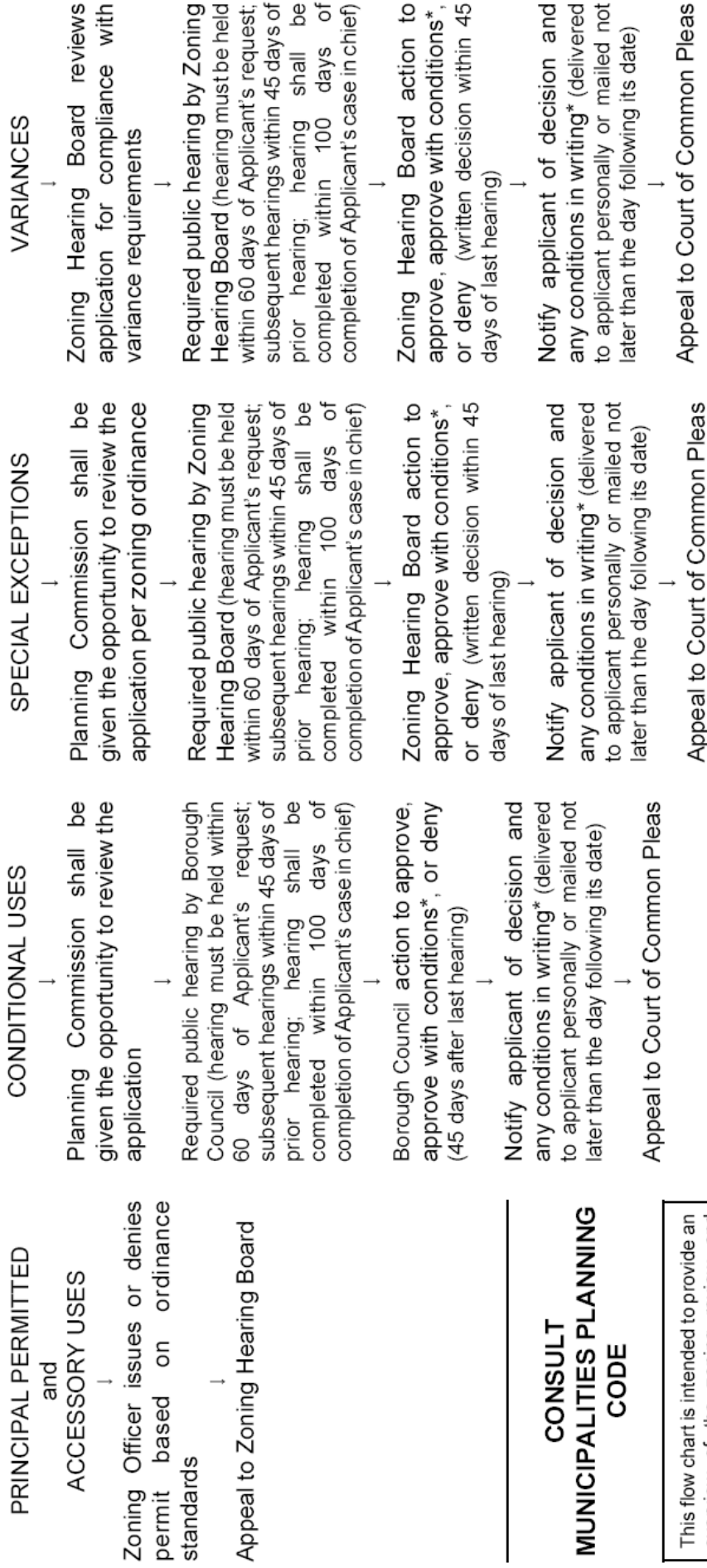
**ADOPTED  
APRIL 18, 2019**

## GUIDE TO USING THIS ZONING ORDINANCE

- ☛ **Contact the Zoning Officer** to ensure you have the latest version of the Zoning Ordinance and Zoning Map and to help you find what you need.
- ☛ The **Table of Contents** should help you find the sections applicable to your situation.
- ☛ The **Zoning Map** shows all of the **Zoning Districts** in the Borough.
- ☛ The **Uses** allowed in each **Zoning Districts** are detailed in Article IV.
- ☛ All of the uses allowed in each Zoning District are classified.
  - **Principal Permitted Uses** and **Accessory Uses** - action by the Zoning Officer. (§902)
  - **Conditional Uses** - review by Planning Commission, action by Borough Council. (§908.2)
  - **Special Exceptions** - review by Planning Commission, action by Zoning Hearing Board. (§908.3)
- ☛ Requirements for **Permit Applications** are found in §902.
- ☛ The **Dimensional Regulations** in each Zoning District (Article IV) set the minimum lot size and property line and street setback requirements.
- ☛ The **Definitions** in Article III provide the meaning for specific terms and are supplemented by §503.11 - Temporary Uses, §506.6 - Noise, §601.2 - Cottage Housing development, §702 -Signs and §801 - Nonconformities.
- ☛ Many uses are subject to specific requirements of this Ordinance.
  - §503 includes requirements for decks, garages, sheds and other **Accessory Uses** and **Home Occupations**.
  - **Off-Street Parking** standards are found in §504.
  - Article VI governs **Residential Uses** -- two-family dwellings, multi-family dwellings, group homes, etc.
  - §506 includes performance standards for **Commercial and Manufacturing**.
  - §507 includes standards for **Specific Uses** ranging from adult businesses to wind energy.
- ☛ **Signs** are governed by Article VII and a business sign will require a permit.
- ☛ Applications for **Variances** are heard by the Zoning Hearing Board. The application must document *unnecessary hardship* and meet all of the applicable criteria in §907.
- ☛ A legally existing use which predates the Zoning Ordinance and which does not comply with the Ordinance is a **Nonconforming Use**. Commonly referred to as **grand-fathered**, the nonconformity runs with the land and the use can continue and be sold. Such uses can also be expanded within the limits set in Article VIII. The section also governs the reuse of abandoned and damaged nonconforming structures and uses. Nonconforming lots, lots which do not meet the minimum size and dimension requirements, can also be used if they meet setback, water supply, sewage disposal and other applicable requirements in §811.
- ☛ Should a project involves the creation of a new lot or lots, the change of lot lines, the erection of one or more new principal nonresidential buildings, or two or more dwellings on one lot, the **Subdivision and Land Development Ordinance** will also apply.
- ☛ **Fees** are set by Resolution of the Borough Council per §903 and are shown on the **Fee Schedule** available from the Zoning Officer.

# ZONING PERMIT APPLICATION REVIEW PROCESS

APPLICANT → → → → → ZONING OFFICER makes determination from Schedule of Uses of classification as PRINCIPAL PERMITTED, ACCESSORY, CONDITIONAL, or SPECIAL EXCEPTION; or if a VARIANCE is required, and refers the application for appropriate action.



## CONSULT MUNICIPALITIES PLANNING CODE

This flow chart is intended to provide an overview of the zoning review and action process. The zoning ordinance and the Pennsylvania Municipalities Planning Code must be consulted for details regarding notices for public hearings, time frames, decision notice requirements, performance standards and criteria, and other administrative details.

\*NOTE: Reasonable conditions may be attached to the approval of conditional uses, special exceptions and variances in accord with the zoning ordinance and the Pennsylvania Municipalities Planning Code (MPC). Obtain written acceptance of all conditions from Applicant. Denials must include specific reasons for denial.

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**BOROUGH OF NEW MILFORD**  
**SUSQUEHANNA COUNTY, PENNSYLVANIA**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE COMPREHENSIVELY AMENDING, AND RESTATING IN ITS ENTIRETY, THE BOROUGH OF NEW MILFORD ZONING ORDINANCE OF NOVEMBER 3, 1988, ORDINANCE NO. 157, AS AMENDED, AND THE BOROUGH OF NEW MILFORD ZONING MAP, AS AMENDED; PERMITTING, PROHIBITING, REGULATING, RESTRICTING, AND DETERMINING THE USES OF LAND, WATERCOURSES, AND OTHER BODIES OF WATER; THE SIZE, HEIGHT, BULK, LOCATION, ERECTION, CONSTRUCTION, REPAIR, MAINTENANCE, ALTERATION, RAZING, REMOVAL AND USE OF STRUCTURES; THE AREAS AND DIMENSIONS OF LAND AND BODIES OF WATER TO BE OCCUPIED BY USES AND STRUCTURES AS WELL AS COURTS, YARDS, AND OTHER OPEN SPACES AND DISTANCES TO BE LEFT UNOCCUPIED BY USES AND STRUCTURES; THE DENSITY OF POPULATION AND INTENSITY OF USE; CREATING ZONING DISTRICTS AND ESTABLISHING THE BOUNDARIES THEREOF; AUTHORIZING THE APPOINTMENT OF A ZONING OFFICER; CREATING A ZONING HEARING BOARD; AND PROVIDING FOR THE ADMINISTRATION, AMENDMENT, AND ENFORCEMENT OF THE ORDINANCE, INCLUDING THE IMPOSITION OF PENALTIES.

BE IT HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of New Milford, Susquehanna County, Pennsylvania, by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as the "Pennsylvania Municipalities Planning Code," as follows:

**ARTICLE I**  
**GENERAL PROVISIONS**

**101 Adoption**

The Borough of New Milford Zoning Ordinance of November 3, 1988, as amended, is hereby amended and restated in its entirety as hereinafter set forth.

**102 Short Title**

This Ordinance shall be known and may be cited as the BOROUGH OF NEW MILFORD ZONING ORDINANCE.

**103 Purpose**

This Ordinance is adopted in accordance with an overall land use control program and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures. This Ordinance is enacted for the following purposes:

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare; coordinated and practical community development; density of population; civil defense and disaster evacuation, airports, and national defense facilities; the provisions of adequate light and air; police protection; vehicle parking and loading space; transportation; natural resources, agricultural land and uses; the safe use of natural or artificial bodies of water, boat docks and related facilities; reliable, safe and adequate water supplies; safe and adequate sewerage disposal, schools, public grounds and other public requirements and other purposes set forth in the Pennsylvania Municipalities Planning Code.
- B. To prevent one or more of the following: overcrowding of land, watercourses and other bodies of water, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that this Ordinance shall not be deemed invalid for the failure to provide for any other specific dwelling type.
- E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

## 104 Applicability

### 104.1 Existing Uses

Any legally established existing use of a building, structure, lot or parcel of land or part thereof, as of the effective date of this Ordinance may be continued.

### 104.2 Conformance

Any activity regulated by this Ordinance shall only occur or be undertaken and be continued in conformance with the requirements of this Ordinance.

### 104.3 Authorization

This Ordinance regulates all matters and activities authorized by Article VI of the Pennsylvania Municipalities Planning Code, as amended.

### 104.4 Regulated Activities

- A. The following activities and any other activity or matter regulated by this Ordinance shall only be undertaken after the required permit or approval has been obtained in full compliance with this Ordinance:
  - 1. Erection, construction, movement, placement or extension of a structure, building or regulated sign;
  - 2. Change in the type of use or expansion of the use of a structure or area of land; and/or,
  - 3. Creation of a lot or alteration of lot lines.
- B. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- C. No lot shall be formed from part of a lot already occupied by a building unless such building, all required setbacks and open spaces connected therewith, and the remaining lot conforms with all requirements prescribed by this Ordinance for the district in which said lot is located. No building permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this Ordinance.
- D. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

#### 104.5 Repairs and Maintenance

Ordinary repairs, structural strengthening, facade improvements and maintenance to existing structures that do not infringe upon a required setback may be made without a zoning permit provided such activity does not involve:

- A. a change in use;
- B. an expansion, construction or placement of a structure;
- C. an increase in the number of dwelling units or boarding house units; and/or
- D. any other activity regulated by this Ordinance.

#### 104.6 Municipal Authorities and Water Companies

A municipal authority, water company or any other municipality that plans to expand water, sanitary sewer or storm sewer service via a new main extension to a proposed development that has not received any municipal approvals within the Borough shall:

- A. Notify the Borough by certified mail, return receipt requested, of its intention and shall provide the Borough an opportunity to provide written comment on whether the proposed expansion of service within the Borough is generally consistent with this Ordinance.
- B. Comply with the other applicable requirements of §608.1 of the MPC.

#### 104.7 Public Utility Commission

- A. This Ordinance shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.
- B. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the Borough have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceedings.

#### 104.8 Effect of Official Map

All activities subject to this Ordinance shall also be subject to the reservations shown and established by the Borough of New Milford Official Map when such map has been enacted by ordinance pursuant to Article IV of the Pennsylvania Municipalities Code, as amended. The Applicant shall, prior to submitting an application, determine if in any of the land proposed for subdivision or land development is subject to the Borough Official Map. If any of the land is subject to the Official Map, the options in the Borough Official Map Ordinance are available to the Applicant. The Applicant is encouraged to contact the Borough Zoning Officer prior to submitting the application.

### **105 Interpretation**

#### 105.1 Interpretation

In interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and the general welfare of the Borough and its citizens.

#### 105.2 Conflict

A. Borough Provisions

1. These regulations are not intended to interfere with or abrogate or annul any other Ordinance, rules or regulations previously adopted or previously issued by the Borough which are not in conflict with any provisions of this Ordinance. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any ordinance in force prior to adoption of this Ordinance.
2. Where this Ordinance imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by such Ordinance, rules, regulations or permits, or by easements, covenants, building restrictions or agreements, the provisions of this Ordinance shall control.

B. Other Laws and Regulations - Whenever the provisions of any other law, regulation and/or statute require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings and/or structures or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Ordinance the provisions of such other law, regulation and/or statute shall govern.

C. Private Provisions

1. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern.
2. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or higher standards than the requirements of this Ordinance, then such private provisions shall be operative and supplemental to these requirements.

105.3 Specificity

Whenever any regulations pertaining to a specific use or activity under authority of this Ordinance require a greater width or size of yards, courts or other open space, or require a lower height of buildings and/or structures or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required for the zoning district or generally required under this Ordinance, the greater or higher standards shall govern.

105.4 Pennsylvania Municipalities Planning Code Amendments

The provisions of this Ordinance that only repeat, summarize or reference provisions of the Pennsylvania Municipalities Planning Code shall be deemed to be automatically superseded and replaced by any applicable amendments to such provisions of the Pennsylvania Municipalities Planning Code at the date such amendments become effective as State law.

**106 Severability**

In the event that any provision, section, sentence, or clause of this Ordinance shall be held to be unconstitutional, such invalidity shall not affect or impair any remaining part of this Ordinance, it being the intent of the Borough that such remainder shall be and shall remain in full force and effect.

**107 Effective Date**

This Ordinance shall be effective immediately upon adoption.

**ARTICLE II**  
**COMMUNITY DEVELOPMENT OBJECTIVES AND COMPREHENSIVE PLAN**

**201 General Community Development Objectives**

This statement of the Community Development Objectives is included under the authority of §606 of the Pennsylvania Municipalities Planning Code. The Community Development Objectives include the following:

- A. To achieve the best use of the land within the Borough, insuring that varying use of land and water bodies will complement one another and thus improve the economic, social, and aesthetic character of the community.
- B. To establish realistic population densities in order to insure health standards, privacy and open space and in order to provide utilities, police protection, and community services and facilities in the most convenient and efficient manner.
- C. To maintain and improve the road system for better internal circulation and movement of through traffic, which will facilitate the efficient and safe movement of people and goods.
- D. To guide the location of future development and establish developmental standards in such a way that negative impacts on the natural environment and natural resources are minimized, and to minimize existing and future water, air, land and noise pollution.
- E. To provide the opportunity for a wide-range and variety of housing types to meet the needs of all Borough residents – newly-formed households, growing families and senior citizens – while maintaining the rural setting.
- F. To update and revise planning goals and objectives, and the operational tools necessary for implementation, in light of new data and changing conditions.
- G. To expand local business and strengthen the economy by encouraging well-planned agricultural, forest production, commercial, industrial, residential, and recreational growth which will provide for local employment, shopping facilities, and recreational opportunities which in turn will strengthen the local tax base.
- H. To allow a reasonable range of home occupations to promote small business while limiting negative effects in the neighborhood.
- I. To strive for coordination between policies, plans, and programs in the community through cooperation among governing officials, community interest groups, and the general populace.

**202 Comprehensive Plan**

In addition to the General Community Development Objectives set forth in §201, this Ordinance is intended to implement the Borough of New Milford Comprehensive Plan of 2016, as amended, and any other plan which may be adopted by the Borough.

## ARTICLE III DEFINITIONS

### 301 Rules of Construction and Definitions

The following rules of construction shall apply to this Ordinance:

- A. For the purpose of this Ordinance, certain terms and words are herein defined. Whenever used in this Ordinance, they shall have the meaning indicated in this Article, except where the context clearly indicates a different meaning.
- B. The particular shall control the general.
- C. The word *shall* and *must* are mandatory and not discretionary. The word *may* is permissive.
- D. Words used in the present sense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The phrase *used for* includes *arranged for, designed for, intended for, and/or occupied for*.
- F. The word *person* includes *individual, profit or non-profit organization, partnership, company, unincorporated association, corporation, or other similar entities*.

### 302 Terms, Phrases, Words Not Defined; Diagrams

- A. Terms, Phrases, Words Not Defined - When terms, phrases, or words are not defined, they shall have the meaning as defined in The Complete Illustrated Book of Development Definitions (Moskowitz, Lindbloom, Listokin, Preiss, and Merriam, Transaction Publishers, New Brunswick, NJ, 4<sup>th</sup> edition, 2015, ISBN: 978-1-4128-5504) or the latest edition thereof, or if not defined therein, they shall have their ordinarily accepted meanings or such as the context may imply.
- B. Diagrams - The diagrams in §303 are for illustrative purposes only and shall not be interpreted as having any effect on the meaning of the associated term.

### 303 Definitions

For the purpose of this Ordinance, the following words, terms and phrases have the meaning herein indicated:

Abandoned or Junked Vehicle: Any unregistered, unlicensed or abandoned automobile, truck, trailer, motorcycle, bus, farm machinery, or other motor vehicle which is partially dismantled, or wrecked or junked, or held or stored for scrap or for salvage. *Junk vehicle* shall not mean any motor vehicle classified as an antique motor vehicle by the Motor Vehicle Code of the State of Pennsylvania (75 Pa.C.S.A. § 101 et seq.).

Abused Person Shelter: See *domestic violence shelter*.

Access Drive, Private: A type of drive permitted by the Borough Subdivision and Land Development Ordinance to serve a residential lot which does not have frontage on a public or approved private road.

Access Point: One combined entrance/exit point or one clearly defined entrance point, or one clearly defined entrance point separated from another clearly defined exit point. This term shall not include access ways or driveways that are strictly and clearly limited to use by only emergency vehicles; such accesses are permitted by right as needed.

Accessory Use or Structure: A use of land or of a structure, or portion thereof, customarily incidental and subordinate in extent or purpose to the principal use of the land or building and located on the same lot with such principal use. A attached portion of a principal building used for an accessory use shall not be considered an accessory structure.

Addition: An extension or increase in floor area or height of a building or structure. See also *alteration* and *repair*.

Adult Business: Any of the following:

- A. A use of a building or land for a business which has obscene materials as a substantial or significant portion of its stock-in-trade.
- B. Any nightclub, bar, restaurant, arcade, theater, or any other establishment that conducts live performances as a principal part of its business that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas, or where any specified sexual activities are conducted for economic gain or any other form of consideration.
- C. Any of the following as defined in this Article III:
  1. Adult Arcade
  2. Adult Bookstore or Adult Video Store
  3. Adult Live Entertainment Use or Facility
  4. Adult Motel
  5. Adult Motion Picture Theater
  6. Adult Theater
  7. Escort Agency
  8. Massage Parlor
  9. Nude Model Studio
  10. Sexual Encounter Center

Additional definitions associated with *adult business* include:

Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images of five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of *specified sexual activities* or *specified anatomical areas*. An *adult arcade* shall be considered an *adult business* for regulation by this Ordinance.

Adult Bookstore or Adult Video Store: A commercial establishment which, as one of its principal business purposes or as a substantial part of its business, offers for sale or rental for any form of consideration, any one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video, or video reproductions, slides or other visual representations which depict or describe *specified sexual*

*activities or specified anatomical areas; or*

- B. Instruments, devices or paraphernalia which are designed for use in connection with *specified sexual activities*.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing *specified sexual activities* or *specified anatomical areas* and still be categorized as *adult bookstore* or *adult video store*. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an *adult bookstore* or *adult video store* so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe *specified sexual activities* or *specified anatomical areas*.

The term *adult bookstore* shall include but not be limited to an *adult video store*, and all such uses shall be considered an *adult business* for regulation by this Ordinance.

Adult Live Entertainment Use or Facility: A commercial use (including, but not limited to, a use selling food or beverages) including live entertainment involving:

- A. Persons (which may include, but is not limited to, waiters, waitresses, dancers, clerks, bartenders, contractors or others) appearing in a state of nudity; or,
- B. Live performances which are characterized by the exposure of specified anatomical areas or simulated or actual specified sexual activities; or,
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

An *adult entertainment use or facility* shall be considered an *adult business* for regulation by this Ordinance.

Adult Motel: A hotel, motel or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of *specified sexual activities* or *specified anatomical areas*.
- B. Offers any sleeping room for rent three or more times in one calendar day.

An *adult motel* shall be considered an *adult business* for regulation by this Ordinance.

Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. An *Adult motion picture theater* shall be considered an *adult business* for the purpose of this Ordinance.

Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas. An *adult theater* shall be considered an *Adult Business* for regulation by this Ordinance.

Escort: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency: A person or business association or establishment which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An *escort agency* shall be considered an *adult business* for regulation by this Ordinance.

Massage: Pressing, squeezing, stretching, or stimulating the face, scalp, neck, limbs, or other parts of the human body with or without cosmetic preparation, either by hand, or with mechanical or electrical appliances.

Massage Parlor: A person or business association or establishment which furnishes, offers to furnish or advertises to furnish as one of its primary business purposes for a fee, tip or other consideration, a massage which involves the exposure of any *specified anatomical areas*. A *massage parlor* shall be considered an *adult business* for regulation by this Ordinance.

Nude Model Studio: Any place, which is not excepted by §507.1D10, where a person who appears in a state of nudity or displays *specified anatomical areas* is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A *nude model studio* shall be considered an *adult business* for regulation by this Ordinance.

Nudity or a State of Nudity: The showing of the human male or female genitals or pubic area with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering or any portion thereof below the top of the areola.

Obscene Materials: Any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, sound recording, article, instrument or any other written or recorded matter which depicts or describes, any *specified sexual activities* and/or *specified anatomical areas*.

Sexual Encounter Center: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude. A *sexual encounter center* shall be considered an *adult business* for regulation by this Ordinance.

Specified Anatomical Areas: Any of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, anus, or female breasts below a point immediately above the top of the areola.
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- C. Masturbation, actual or simulated.

D. Excretory functions as part of or in connection with any of the activities set forth in A, B and C, above.

Adult Care Facility: See *nursing home*.

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

Agent: Any person other than the owner who, acting for the owner, submits an application for the purpose of obtaining approval in accordance with this Ordinance.

Agricultural Use: An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production. It excludes agricultural products processing operations; riding academies, livery or boarding stables and dog or other animal kennels.

Agriculture Products Processing: An industry that involves the processing of raw agricultural products, and transforming those products into a more refined, prepared or marketable state. Includes, but is not limited to, such uses as tanneries, dairies and food canning and freezing operations.

Agritourism: Any activity carried out on a working agricultural operation such as a farm, orchard or vineyard that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities directly related to or part of the agricultural operation, including farming, wineries, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Airport: A tract of land, with or without buildings, where airplanes, jets, helicopters and/or any other type of aircraft land and take off.

Alley: A right-of-way, privately or publicly owned, primarily for service access to the rear or sides of properties.

Alteration: Any construction or renovation to an existing structure other than a repair or an addition. See also *addition* and *repair*.

Amusement Arcade: A building or part of a building in which pinball machines, video games, or other similar player-operated amusement devices are maintained, excluding the use of less than five such devices as an accessory use to any lawful principal use.

Amusement Park: A commercially operated park or facility with various devices for entertainment including, but not limited to, rides, games, electronic games and similar devices, food stands and other associated facilities.

Animal Shelter: A facility used to house or contain stray, homeless, abandoned, or unwanted pets and that is owned, operated, or maintained by a public body, established humane society, animal welfare society (such as the Society for the Prevention of Cruelty to Animals), or other nonprofit organization devoted to the welfare

protection, and humane treatment of animals.

Antenna, Standard: A device, partially or wholly exterior to a building, that is used for sending or receiving electromagnetic waves such as television or radio signals for use on-site, or for transmitting short-wave or citizens band radio signals.

Apartment: See *dwelling*.

Applicant: An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization or other entity acting as a unit, and his/her/its heirs, successors and assigns, which is seeking an approval or permit pursuant to this Ordinance.

Application: Any application required to be filed for approval in accord with the requirements of this Ordinance.

Archery Range, Indoor Commercial: Any area within a fully enclosed building used for the shooting of arrows for recreational or training purposes which is a commercial operation, or which is operated by any government entity, private non-profit entity, or any sportsman's, recreation or fraternal club or association. Considered a *recreation facility, commercial* for regulation by this Ordinance.

Archery Range, Outdoor Commercial: Any area not within a fully enclosed building used for the shooting of arrows for recreational or training purposes which is a commercial operation, or which is operated by any government entity, private non-profit entity, or any sportsman's, recreation or fraternal club or association.

Art Studio: An establishment or work space for the creation, manufacture, and/or preparation of individually crafted art work, jewelry, furniture, sculpture, pottery, art photography, leather craft, hand-woven articles, and related items; it may also include the sale, loan, or display of such items.

Assisted Living Facility: Residences that provide rooms, meals, personal care, and supervision of prescribed medication and which may provide other services such as recreational activities, financial services, and transportation, and which is licensed as an assisted living facility by the Commonwealth of Pennsylvania.

Auction House: A place where objects of art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other.

Attic: Non-living space in or above a dwelling unheated with head space of less than 6.5 feet.

Awning or Canopy: An overhanging projection or covering, usually supported on poles, and made of canvas, fabric, plastic or other materials.

Bank: An establishment for the custody, loan, exchange or issue of money, for the extension of credit, and for facilitating the transmission of funds.

Basement: An enclosed floor area partly or wholly below the finished grade with at least one-half of its floor-to-finished height above the average level of the adjoining finished grade, and with a floor-to-ceiling height of not less than six and one-half feet. A basement shall be counted as a story for the purpose of the building height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if it used for business or dwelling occupancy or storage purposes and not solely for heating, mechanical and similar equipment. See *cellar*.

Bed and Breakfast Inn: An owner or operator-occupied single-family dwelling in which transient visitors to the

area are lodged for compensation, meals for lodging guests may or may not be included, and no cooking facilities are provided in any rental room.

Billiard Hall: An establishment with the principal use of playing cue sports such as pool, snooker or carom billiard.

Block: A tract of land, a lot or groups of lots, bounded by streets, public parks, water courses, municipal boundary lines, unsubdivided land or by any combination of the above.

Boarding or Lodging House: Any dwelling in which more than three persons either individually or as families are housed or lodged for hire with meals normally, but not necessarily, included as a part of the services rendered and no cooking facilities are provided in any rental room.

Borough: The Borough of New Milford, Susquehanna County, Pennsylvania, or where the context indicates action on an application, the Zoning Officer, Borough Council or Zoning Hearing Board as applicable.

Borough Council or Council: The Borough Council of the Borough of New Milford, Susquehanna County, Pennsylvania.

Borough Facilities and Uses: Any building, structure, service or use under the jurisdiction of the Borough of New Milford, Susquehanna County, Pennsylvania.

Brew Pub: A *restaurant* or *tavern*, as defined herein, that includes as an accessory use the brewing of malt beverages of alcoholic and/or non-alcoholic content which produces less than 15,000 gallons of malt beverages per year. (See also *micro-brewery*.)

Brewery: A facility for the production and packaging of malt beverages of alcoholic and/or non-alcoholic content for retail or wholesale distribution, on or off the premises, and which produces 15,000 gallons or more of malt beverages per year. Considered *agricultural products processing* for the purposes of this Ordinance. (See also *micro-brewery*.)

Buffer: A strip of land with fencing, dense vegetative planting, additional setback distances, berms or a combination thereof 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 or improvements which is used to provide separation between incompatible uses to effect a visual barrier, block physical passage between uses, and reduce noise, dust and litter.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building Footprint: The horizontal ground area enclosed by the walls of a building together with the area of all covered porches and other roofed portions.

Building, Attached: A building which has one or more walls or portions thereof in common with an adjacent building.

Building Coverage: The percentage of the area of the lot covered or occupied by the total horizontal projected surface area of all buildings on the lot and including accessory buildings and structures including covered porches, carports and breeze ways, but excluding open and uncovered patios and decks.

Building, Detached: A building surrounded by open space on all sides within the same lot.

**Building Envelope:** An area on a lot or development parcel which has been designated as the area in which development may occur. Building envelopes are identified by building setbacks, conservation areas, site conditions and other factors, and shall be specifically designated on the development plan and established by deed covenants and restrictions.

**Building Height:** The average vertical distance from finished grade at the front and rear of the building to the top of the highest roof beams on a flat or shed roof, to the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs not including chimneys, spires, elevator shaft extensions, mechanical appurtenances, and similar projections.

**Building Permit or Construction Permit:** See *permit*.

**Building, Principal:** A building in which is conducted the main or principal use of the lot on which said building is situated and including any attached portion containing an accessory use.

**Bulk Fuel Storage Facility:** Any facility where gasoline is stored in bulk for distribution by delivery truck, or fuel, including, but not limited, to kerosene, home heating oil, diesel fuel, gasoline, or propane, is stored in large volume tanks for distribution to retail or wholesale establishments.

**Bus, Limousine or Taxi Terminal:** An area and/or building where buses, limousines, and/or taxis are stored or parked on a regular basis with or without maintenance and repair facilities.

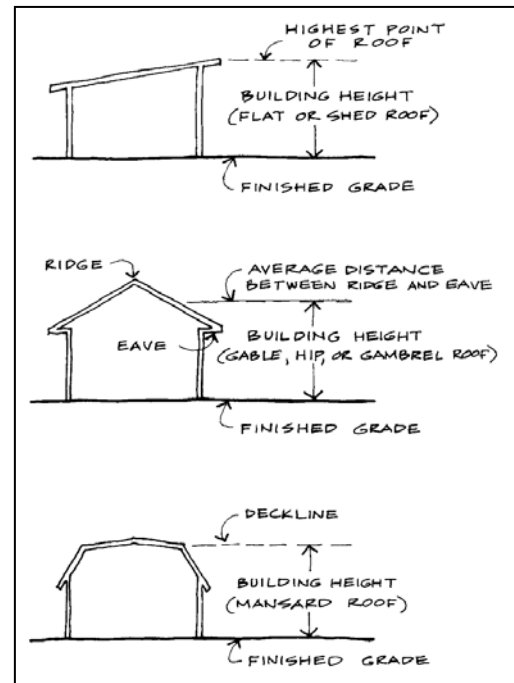
**Bus Shelter:** Any shed-like structure, usually open on one or more sides, located along the regular route of a public bus, van, or other vehicle, including an official school bus, whose purpose is to provide temporary shelter for the users of the vehicle while they are waiting for the bus.

**Bus Station:** An area and/or building where passengers load on and unload from buses, and where parking for passenger vehicles and ticket sales are normally part of the operation, but without bus maintenance and repair facilities.

**Business/Commercial Use:** An enterprise, exchange of money, contract, occupation, trade or profession undertaken, either continuously or temporarily, for profit. The term "business" shall include the occupancy or use of a building or premises or any portion thereof for the transaction of a business or the rendering or receiving of professional or personal service.

**Business Office:** A use comprised primarily of administrative and clerical services and involving no retail trade, lodging, warehousing or manufacturing. Such uses include, but are not limited to, financial services, legal services, travel agencies, insurance agencies, corporate offices and other similar uses.

**Business Services:** Establishments primarily engaged in rendering services to businesses including such activities as advertising and mailing, credit reporting and collection, duplicating, mailing, telemarketing, stenographic services, employment services, research and development and other similar services.



Building Height

**Camp/Retreat:** A parcel or parcels of land with lodging facilities where transient clientele participate in organized recreation, receive instruction or training, or are afforded peace, quiet, privacy or security.

**Campground or Recreational Vehicle Park:** A plot of ground upon which two or more campsites are located, established or maintained for temporary occupancy by persons using tents or recreational vehicles, and which shall not be used for long term residency of occupants.

**Canopy or Awning:** An overhanging projection or covering, usually supported on poles, and made of canvas, fabric, plastic or other materials.

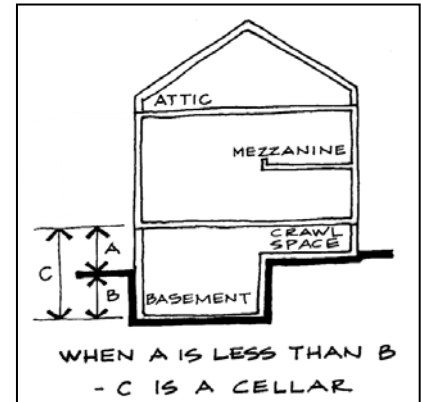
**Carport:** A roofed building intended for the storage of one or more motor vehicles, but which is not enclosed on all sides by walls or doors. If any portion of a carport is attached to a principal building, it shall be considered to be part of that building.

**Car Wash:** Any building or premises or portions thereof used for commercial purposes for washing motorcycles, passenger cars and other two-axle, four-tire, single-unit vehicles without trailers.

**Cartway:** The portion of a street right-of-way paved or unpaved intended for vehicular use, including the travelway and shoulders.

**Cellar:** An enclosed floor area partly or wholly below the finished grade with at least one-half of its floor-to-finished height below the average level of the adjoining finished grade, or with a floor-to-ceiling height of less than six and one-half feet. See *basement*.

**Cemetery:** A place for the interment of deceased pets or human beings in a grave, mausoleum, vault, columbarium or other receptacle, or a memorial garden/area for the dispersal of cremated remains, but not including a private family cemetery.



**Certificate of Use:** A document issued by the Borough stating that a newly constructed or altered building, structure, and/or use complies with this Ordinance and may be lawfully used.

**Change of Use:** Any conversion of a use from one use as regulated by this Ordinance to a different regulated use.

**Charging Station:** The physical device that provides a connection from a power source to an electric vehicle.

**Clear-Sight Triangle:** An area of unobstructed vision at street intersections defined by the right-of-way lines of the streets and by a line of sight between points on the street right-of-way lines at a given distance from the intersection of the right-of-way lines.

**Clinic:** An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients require a stay of less than 24 hours.

**Club/Lodge, Private:** An area of land or building used by a nonprofit civic, social, fraternal, religious, political, labor union, or educational association of persons (established via a meaningful and substantial membership system as opposed to a token system) to pursue common goals, interests, or activities usually with the payment of fees and dues, regular meetings, and a charter and bylaws. A *club/lodge, private* shall not include commercial recreation clubs such tennis or racquetball clubs or any other use which is specifically defined by this Ordinance.

College: An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.

Commercial Communication Device: Any structure, antenna, equipment, cabinet or other device which is intended for commercial or governmental use in transmitting or receiving wireless television, radio, telephone or other electronic communications, including internal or agency communications, but excluding the following which are not appropriate subjects of this Ordinance.

- A. Industrial, scientific and medical equipment as regulated by the Federal Communications Commission in 47 CFR 18.
- B. Military and government radar antennas and associated communication towers used for navigational purposes as regulated by 47 CFR 87.
- C.. Amateur (ham) and citizen band transmitting and receiving antennas and associated communication towers as regulated by 47 CFR 97 and 47 CFR 95.
- D. Radio transceivers normally hand-held or installed in a vehicle, such as an automobile, truck, trailer or water craft.
- E. A radio frequency machine which is designated and marketed as a consumer product, such as auditory assistance devices, biomedical telemetry devices, carrier current systems, Class A or B digital devices, field disturbance sensors, perimeter protection systems, power line carrier systems, microwave ovens or radio controlled devices regulated by 47 CFR 15.
- F. Privately owned antennas for receiving commercial television or radio serving a dwelling.
- F. Towers and equipment used exclusively for emergency services or government communications.

Commercial Communication Device Support Structure: Any pole, telescoping mast, tower, tripod, or any other structure which supports a commercial communication device.

Commercial Communication Device Support Structure Height: The vertical distance measured from the base of the support structure at average grade to the highest point of the structure, including antennas.

Commission: The Planning Commission of the Borough of New Milford, Susquehanna County, Pennsylvania.

Common Area: All of the real property and improvements dedicated for the common use and enjoyment of the residents of a particular development; including, but not limited to, open land, development improvements, common facilities, and recreation area.

Common Facilities: Improvements in a development that are not required by the Borough but have been constructed as part of a development for the common use and enjoyment of the residents of that development; including, but not limited to, community centers, recreation buildings and structures, and administrative and maintenance buildings.

Community Association: See *property owners association*.

Comprehensive Plan: The Borough of New Milford Comprehensive Plan including all maps, charts and textual matter.

Concentrated Animal Feeding Operation (CAFO): Any livestock operation which is defined as a concentrated animal feeding operation by the regulations adopted by the Commonwealth of Pennsylvania.

Conditional Use: A use in a particular zoning district to be allowed or denied by the Borough Council pursuant to public notice and hearing and recommendation of the Borough Planning Commission as authorized by §603(c)(2) of the Municipalities Planning Code.

Condominium: A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

Conference Center: A facility used for conferences and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, meeting rooms, fitness and health center, and/or retail stores and services primarily for conference center guests.

Conservation Easement: A right or interest in land granted primarily for the preservation of the land in its undeveloped state but which may allow limited development (e.g., a residential structure) and other compatible uses such as agriculture and forestry.

Construction: The erection, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of manufactured homes.

Contractor Yard: Any premises used as the base of operation by any tradesman or contractor for the storage of equipment, vehicles and supplies.

Convenience Store: A retail establishment of up to 5,000 square feet selling prepackaged food products, household items, newspapers and magazines, candy, and beverages, a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption, self-service fuel or other goods commonly associated with the same.

Conventional Design Subdivision: A subdivision designed at the dwelling unit density specified in the Borough Zoning Ordinance where individual lot reduction is not permitted.

Corral: An enclosure for confining livestock and which is typically attached to or situated in close proximity to a stable or barn as contrasted to a pasture.

Correctional Facility: A public or private facility used to house and/or rehabilitate adults or juveniles detained, sentenced or adjudicated delinquent by the criminal justice system including, but not limited to, jails, prisons, penitentiaries, reformatories, half-way houses, transitional living facilities, juvenile detention facilities, and similar facilities.

Country Club: A recreational property owned and managed by a non-profit membership organization including recreational facilities, restaurant and meeting rooms, but not including property owner association facilities or other properties operated for profit.

County: The County of Susquehanna, Commonwealth of Pennsylvania.

County Planning Commission: The Planning Commission of Susquehanna County, Pennsylvania.

Coverage, Lot: See *lot coverage*.

Crawl Space: An enclosed portion of a building or an open pier area not exceeding six feet in height from floor to ceiling, located below the first occupied floor of a building and not used for business or dwelling purposes. A crawl space shall not be counted as a story for the purpose of building height measurement or determining the gross floor area of a building.

Crematorium: A furnace or establishment for the incineration of human or animal corpses.

Crop Production: An agricultural use involving the use of land for the raising of cultivated plants or agricultural produce such as grain, vegetables, silage, or fruit. The definition excludes commercial greenhouses and commercial nurseries as defined by this Ordinance.

Crusher Plant: An operation which processes minerals or other materials and crushes them to various sizes for the purpose of resale or use. Considered *mineral processing* for regulation by this Ordinance.

Cultural Center: A public or non-profit operated building open to the public which contains exhibits of a cultural interest, such as a museum, art gallery, nature center, library, etc. Considered a *public or semi-public facility or use* for regulation by this Ordinance.

Day-Care Center: A facility which cares for seven or more children or adults for periods of less than 24 hours per day at any hours of any day of the year.

Day-Care, Family Home: A private residence where six or fewer children or adults receive care or supervision for periods of less than 18 hours per day at any hours between 6:00 a.m. and 12:00 midnight.

Decision: A final adjudication of any board or other body granted jurisdiction under this Ordinance to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to a court of competent jurisdiction.

Deck: An attached or unattached platform structure elevated more than six inches and constructed with no walls and with no roof.

Density: The total number of dwelling units per unit of land.

DEP: The Pennsylvania Department of Environmental Protection.

Detached Building: See *building, detached*.

Detached Structure: See *structure, detached*.

Determination: Final action by an officer, body or agency charged with the administration of this Ordinance or applications hereunder, which has that authority as stated in various parts of this Ordinance. Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

Developer: Any landowner or agent thereof, or tenant or equitable owner under an agreement of sale having the permission of the landowner, who makes or causes to be made a subdivision of land or a land development.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling,

grading, excavation, mining, dredging or drilling operations and the subdivision of land.

Development Improvements: All the physical additions and changes to a tract and the constructed facilities necessary and/or required by the municipality to produce a usable and functional development; including, but not limited to, roads, parking areas, storm water controls and drainage easements, landscaped areas, utilities, and water supplies and sewage disposal systems.

Development Plan: A proposed development plan, prepared in accordance with this Ordinance and the Borough's Subdivision and Land Development Ordinance, including a plat of the subject parcel and any subdivision, locations of various uses, and all covenants relating to uses, locations and sizes of buildings and other structures, intensity of use or density of development, streets, ways, parking facilities, common open spaces, and public facilities.

Development Sales Office: Any structure erected within the confines of a subdivision for use by the owner or developer of the subdivision as an office on a short-term basis for the promotion of sales of real estate exclusively within the confines of the subdivision, with ultimate use of the structure in conformance with the standards applicable in the district in which the structure is located.

Distribution Center/Truck Terminal: An establishment engaged in the receipt, storage and distribution of goods, products, cargo and materials, including transshipment by boat, rail, air or motor vehicle. Breakdown of large orders from a single source into smaller orders and consolidation of several orders into one large one for distribution to several recipients and vice versa are often part of the operation. The operation may include the storage or parking of trucks awaiting cargo as well as facilities for servicing of trucks. Storage facilities, such as warehouses, incidental to the principal use may also be part of the operation. Retail sales, manufacturing and assembly, or product processing, are not considered part of a *distribution center/truck terminal*.

District (or Zone or Zoning District): A designated land area in the Borough within which certain uniform regulations and requirements apply under the provisions of this Ordinance.

Domestic Violence Shelter: A residential use providing food, shelter, medical care, legal assistance, personal guidance, or other services to persons who have been victims of domestic violence, including any children of such victims, and who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

Dormitory: A building used as group living quarters for a student body or religious order as an accessory use to a college, university, boarding school, convent, monastery, or similar institutional use which is owned by and is located on the same parcel as the institution it serves.

Drive-in Stand/Use: An establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

Drive-in Theater: See *theater, drive-in*.

Driveway: A privately owned and constructed vehicular access from an approved private or public road into a lot or parcel having frontage or legal access on the said road.

Dump: See *landfill* and *solid waste facility*.

Dwelling: A structure or portion thereof which is used exclusively for human habitation.

Dwelling, Apartment Unit: One or more rooms with private bath and kitchen facilities constituting an independent, self-contained dwelling unit in a building containing three or more dwelling units.

Dwelling, Multi-Family: (See also *multi-family project*.) A building or buildings designed for occupancy by three or more families living independently of each other in separate dwelling units. The term *multi-family dwelling* shall include condominium as well as non-condominium housing units including the following construction types:

- A. Townhouse: A dwelling unit located in a multi-family dwelling not exceeding two and one-half stories or 35 feet in height in which each unit has its own front access to the outside and may have a rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more vertical common fire resistant walls.
- B. Garden Apartment Building: A multi-family dwelling structure, originally designed as such, containing three to 10 dwelling units and not exceeding two and one-half stories or 35 feet in height, with access to each apartment unit usually from a common hall with the apartment units located back-to-back, adjacent, or one on top of another.
- C. Apartment Building: A multi-family dwelling, originally designed as such, containing three or more apartment units which is more than two and one-half stories but not exceeding the height limitations (in feet) of this Ordinance.
- D. Residential Conversion to Apartment: The conversion of an existing single family detached dwelling into three to five dwelling units.

Dwelling, Single-Family:

- A. Detached: A building containing one dwelling unit that is not attached to any other dwelling by any means and is surrounded by open space or yards.
- B. Semidetached: A single-family dwelling unit that is attached to one other single-family dwelling unit by a common vertical wall with each dwelling located on a separate lot.
- C. Lot Line: A single-family, detached dwelling on an individual lot, with the building set on, or close to, one side property line, so that the lot essentially has only one side setback. This side setback and the rear setback constitute the primary outdoor living areas for the dwelling. Typically, no windows are placed in the building wall that is on the lot line. If the building is set on the lot line, a 5-foot easement is provided on the adjacent property along the lot line for necessary access and maintenance of the building wall.

Dwelling, Two-Family: A building containing two dwelling units either attached side by side through the use of a vertical party wall and having one side setback adjacent to each dwelling unit; or upstairs/downstairs units. (See also *multi-family project* for two-family dwellings in a multi-family project.)

Dwelling Unit: One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. Any part of a dwelling structure which is not connected with full unrestricted access to all other parts of the dwelling structure is considered a separate dwelling unit.

Dwelling in Conjunction with a Nonresidential Use: A dwelling unit in conjunction with a nonresidential use.

Earth Disturbance Activity: Any activity, including, but not limited to, construction, mining, farming, timber harvesting and grubbing, which alters, disturbs and exposes the existing land surface.

Easement: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

Employee: Including, but not limited to, full or part-time workers, volunteers, proprietors and all professionals.

Encroachment: Construction of any building, structure or any obstruction or illegal or unauthorized intrusion within the boundaries of any adjacent land, right-of-way street, setback, watercourse or public or reserved ground shown or laid out on any official map, Borough approved plot plan or in violation of any provision of set forth in this Ordinance.

Engineer, Borough: A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer of the Borough.

Erect: To build, construct, alter, repair, display, relocate, attach, hang, place, suspend or affix to any building or structure.

Essential Services: Municipal or utility facilities that do not require enclosure in a building which are necessary for the public health and safety and which are routine, customary and appropriate to the character of the area in which proposed, including such facilities as poles, towers, wires, utility cabinets, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment. Buildings, sewage treatment plants, solid waste disposal facilities, commercial communication towers, utility company offices, storage of trucks or equipment and bulk storage, and any commercial communications devices and any other use specifically defined by this Ordinance shall not be considered essential services. (For essential services requiring enclosure in a building see *semi-public building or use*.)

Exercise Club: A type of service establishment that offers indoor or outdoor recreational facilities, such as the following: weight rooms, exercise equipment, non-household pool and racquetball courts.

Exotic Animal: See *wild or exotic animal*.

Explosive: As defined by PA Code, Title 25, Chapter 211 - Storage, Handling and Use of Explosives, a chemical compound, mixture or device that contains oxidizing and combustible materials or other ingredients in such proportions or quantities that an ignition by fire, friction, concussion, percussion or detonation may result in an explosion.

- A. The term includes safety fuse, squibs, detonating cord and igniters.
- B. The term does not include the following:
  - 1. Commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, matches and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms or antique devices, as defined in 18 U.S.C.A. §921 (relating to definitions).
  - 2. Smokeless powder, primers used for reloading rifle or pistol cartridges, shot shells, percussion caps and smokeless propellants intended for personal use.

Explosive Plant or Storage Facility: Land with buildings or structures used in connection with the manufacturing

or processing of explosives, as well as the storehouses and magazines for the storage of explosives.

**Family:** A person living alone or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

- A. Any number of people related by blood, marriage, adoption, guardianship or other duly-authorized custodial relationship resulting in one of the following relationships: husband, wife, brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, nephew, niece, sister-in-law, brother-in-law, father-in-law, mother-in-law or first cousin;
- B. Three unrelated people;
- C. Two unrelated people and any children related to either of them;
- D. Not more than eight people who are residents of a group home meeting the requirements of §607; or
- E. Not more than eight people who are granted a special exception as a single nonprofit housekeeping unit (a *functional family*) pursuant to §609.

The definition of a family does not include:

- A. Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;
- B. Any group of individuals whose association is temporary or seasonal in nature; and
- C. Any group of individuals who are in a group living arrangement as a result of criminal offenses.

**Farmers' Market:** The seasonal selling or offering for sale at retail of vegetables or produce, flowers, orchard products, and similar non-animal agricultural products, occurring in a predesignated area, where the vendors are individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

**Farm Stand:** A booth or stall on a farm, nursery or greenhouse and from which produce and farm products grown on the premises are sold to the general public.

**Fence or Wall:** Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land or to be used as a means of protection or confinement; also, a structure which permanently or temporarily prohibits or inhibits unrestricted travel between properties or portions of properties or between the street or public right-of-way and a property. The term *wall* does not include engineering retaining walls, which are permitted uses as needed in all districts. The terms *fence* and *wall* do not include hedges, trees or shrubs.

**Fireworks:** As defined by PA Code, title 34, Part 1, Chapter 5 - Blasting, Demolition, Fireworks and Explosives, a combustible or explosive composition, substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation.

**Fireworks Plant or Storage Facility:** Land with buildings or structures used in connection with the manufacturing or processing of fireworks, as well as the storehouses or magazines for the storage of finished fireworks. This does not include a fireworks retail establishment operated in accord with state and federal requirements.

Flea Market, Indoor: Any sales activity conducted entirely in an enclosed building where stalls or sales areas may be set aside and rented or otherwise provided which are intended for use by various unrelated individuals at which articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique are sold, and which may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. Considered a *retail establishment* for regulation by this Ordinance.

Flea Market, Outdoor: Any sales activity conducted in the open air or under any pavilion or other building, tent or structure which is not fully enclosed where stalls or sales areas may be set aside and rented or otherwise provided which are intended for use by various unrelated individuals at which articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique are sold, and which may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade.

Flood, Floodplain and Related Definitions: See the Borough Floodplain Regulations.

Floor Area or Floor Area, Gross: The sum of the total horizontal areas of all floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, any space where the floor-to-ceiling height is less than six feet, elevator shafts, common stairwells in an apartment building, and unenclosed porches, decks and breeze ways.

Forestry: The management of forests and timberlands when practiced in accord with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any of the following: a land development, the operation of a sawmill or the operation of any other wood manufacturing business.

Fraternity or Sorority House: A building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for fraternity or sorority members and their guests or visitors and affiliated with an institution of higher learning. Considered *group quarters* for regulation by this Ordinance.

Frontage: See *lot frontage*.

Functional Family: See *family* and §609.

Funeral Home: A building or part thereof used for human or animal funeral services. (A *crematorium* is a separate regulated use.) Such building may contain space and facilities for any of the following:

- A. Embalming and the performance of other services used in preparation of the dead for burial.
- B. The storage of caskets, funeral urns, and other related funeral supplies.
- C. The storage of funeral vehicles.

Fur Bearing Animal: Animals raised or trapped in the wild for their pelts such as mink, sable, and ermine.

Gaming Establishment: Any facility in which any form of gaming is conducted as authorized by the laws of the Commonwealth of Pennsylvania including, without limitation, gaming authorized by: (i) the Pennsylvania Racehorse Development and Gaming Act, P.L. 572, No. 71, 4 Pa. C.S.A, § 1101, et seq., as amended from time to time (the *Racehorse Development and Gaming Act*); and (ii) the Racehorse Industry Reform Act, P.L. 435, No. 135, 4 P.S. § 325.101, et seq., as amended from time to time (the *Racehorse Reform Act*). Notwithstanding the

foregoing, for purposes of this Ordinance, the term *gaming establishments* shall not include or encompass facilities or establishments at which small games of chance are played, facilities participating in any lottery authorized by the Commonwealth of Pennsylvania, or any other games of chance permitted by Pennsylvania law as accessory to a commercial use.

Garage, Municipal: A structure owned or operated by a municipality and used primarily for the parking, storage and maintenance of municipal vehicles.

Garage, Private Customer and Employee: A structure that is accessory to an institutional, commercial, or manufacturing establishment, building, or use and is primarily for the parking and storage of vehicles operated by the customers, visitors, and employees of such building and that is not available to the general public.

Garage, Private Residential: A structure that is accessory to a single- or two-family dwelling, is used for the parking and storage of vehicle(s) owned and operated by the residents thereof, and is not a separate commercial enterprise available to the general public.

Garage, Public Parking: A structure or portion thereof, other than a *private customer and employee garage* or *private residential garage*, used primarily for the parking and storage of vehicles and available to the general public.

Garage Sale: See *yard sale*.

Garden Center, Retail: A retail establishment engaged in the sale of ornamental trees, shrubs and plants and supplies for gardening and landscaping.

Gas Stations: A retail establishment where motor fuels are dispensed into the fuel tanks of motor vehicles and may include the sale of other retail products. It may also include light maintenance activities such as tuneups, oil changes, lubrication, tire changing, and minor repairs, but shall not include heavy automobile maintenance activities such as engine overhauls, body work and painting.

Gazebo: An unenclosed or partially enclosed, detached, covered accessory structure primarily used for recreation or socializing.

Golf Course: A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shag ranges; but does not include miniature golf courses or golf driving ranges.

Golf Course, Miniature: A novelty version of golf played with a putter and golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels. Considered a *recreation facility, commercial* for regulation by this Ordinance.

Golf Driving Range: A facility arranged with golf tees and used for longer range play of golf balls where balls are supplied for a fee. It may also include a putting green. Considered a *recreation facility, commercial* for regulation by this Ordinance.

Grade: 1) The average finished ground elevation adjoining a building, or 2) The degree of inclination of a slope, road, or other surface.

Grade, Finished: The final elevation of the average ground level adjoining a building at all exterior walls after development.

Grade, Natural: The elevation of the ground level in its natural state before construction, filling, or excavation.

Grain Storage, Distribution, Processing and Milling Operations: A facility, including necessary structures, where grain is received and stored on site until it is prepared for reshipment or is prepared for use as an ingredient in other products, and is then shipped to other manufactures. Considered *agricultural products processing* for regulation by this Ordinance.

Greenhouse, Commercial: A structure, typically constructed of metal or wood framework and covered with glass or plastic, used for the propagation of plants for wholesale or retail distribution; and including associated structures for office space and storage; but not including retail sales of any products or services.

Greenhouse, Private: An accessory structure, typically constructed of metal or wood framework and covered with glass or plastic, for private noncommercial use.

Group Home: The use of any lawful dwelling unit which meets all of the following criteria:

- A. Involves the care of the maximum number of persons permitted by the *group home* standards of §607, and meets all other standards of such section.
- B. Involves persons functioning as a common household.
- C. Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, mental impairment or other handicap\* as defined by applicable Federal law.
- D. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

\*NOTE: As of 1992, the Federal Fair Housing Act 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 §802 of Title 21.

Group Home, Institutional: A use that would otherwise meet the definition of *group home*, but which includes more than the permitted number of residents specified by this Ordinance.

Group Quarters: All buildings used primarily for the housing of persons non-related by blood or marriage including, but not limited to, dormitories, fraternities, sororities, and all other structures occupied by groups of persons sharing a dwelling. Rooming houses, boarding houses, hotels, motels, and resorts, group homes, jails, prisons and correctional facilities, medical clinics, health facilities and any use specifically listed in a zoning district in Article IV shall not be considered *group quarters*.

Guard Shack: An accessory building or structure, together with any associated gates and related equipment, which is designed, occupied and operated for the purpose of controlling vehicular access.

Halfway House: A transitional facility for individuals after release from an institution (as for mental disorder, drug addiction, or criminal activity) that is designed to facilitate their readjustment to private life.

Health Facility: An establishment primarily engaged in providing services for human health maintenance including medical and dental clinics and hospitals whether publicly or privately operated.

Hearing: An administrative proceeding conducted by the Planning Commission, Governing Body, or Zoning Hearing Board pursuant the requirements of this Ordinance.

Heliport: An area, either at ground level or elevated on a structure, licensed by the federal government and/or the Commonwealth for the loading, landing, and takeoff of helicopters and including auxiliary facilities, such as parking, waiting room, fueling, and maintenance equipment.

Helistop: A heliport without auxiliary facilities, such as parking, waiting room, fueling, and maintenance equipment limited to a maximum total of 15 flights or take-offs in any seven-day period (in addition to flights necessary for emergency medical purposes) and that is not available for use by the general public.

Home Occupation: Any activity conducted for gain by a resident in the resident's dwelling unit.

Homeless Shelter: A government or nonprofit corporation facility providing temporary housing to indigent, needy or homeless persons.

Homeowners Association: See *property owners association*.

Horse: Any animal of the horse family or resembling a horse including, but not limited to,, horses, ponies, mules and donkeys.

Hospital: An institution or establishment providing primary health services and medical or surgical care to persons, primarily inpatients, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, training facilities, medical offices, or staff residences. Considered a *health facility* for regulation by this Ordinance.

Hotel: A facility offering temporary (generally for periods of two weeks or less and not intended to be used as a permanent residence) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, and providing additional services such as restaurants, meeting rooms and recreational facilities.

Impervious Surface: A surface that prevents the percolation of water into the ground such as rooftops, pavement, sidewalks, driveways, gravel drives, roads and parking, and compacted fill, earth or turf to be used as such.

Improvements: See *development improvements*.

Industry: Establishments engaged in the basic mechanical, chemical or other transformation of extracted or raw materials or substances into new products or materials, including, but not limited to, the assembly of component parts, the manufacturing or transformation of products for use by other manufacturers, the blending of materials such as lubricating oils, plastics, resins or liquors, other basic industrial processes, mineral processing, and any facility involving processes resulting in the non-incident storage of hazardous materials or the generation of hazardous waste products, or other environmentally hazardous processes.

Junk: Any scrap, waste, refuse, reclaimable material or debris, vehicles, appliances, equipment or machinery, or parts thereof, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk shall include, but shall not be limited to:

- A. Scrap iron, tin, brass, copper, lead, zinc and all other metals and alloys; bones, rags, paper, used cloth, used rubber, used rope, and similar materials; old or used, or parts of machinery, vehicles, tools, appliances,

furniture, plumbing, heating and other fixtures, and pipe and pipe fittings;

- B. Used lumber, boxes, crates and pallets;
- C. Used tires;
- D. Other worn, deteriorated, or obsolete manufactured goods which are unusable;
- E. Mobile/manufactured homes that are not in habitable condition; and,
- F. Abandoned or junked vehicles.

Junk shall not include:

- A. Any solid or liquid waste the disposal of which is regulated by the Pennsylvania Department of Environmental Protection.
- B. Agricultural vehicles and implements such as tractors, mowers, etc., for use as parts for equipment and machinery used as part of an active, on-going agricultural operation provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.
- C. Construction and contractor's equipment for use as parts for equipment and machinery used as part of an active, on-going contracting business legally operating in accord with this Ordinance, provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.

Junk Yard: An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of junk as defined by this Ordinance, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. Vehicle sales lots managed by licensed vehicle dealers operated in accord with this Ordinance shall not be considered junk yards. The following shall also be considered junk yards:

- A. The outside storage or deposit on a lot of two or more abandoned or junked vehicles; and,
- B. The outside storage or deposit on a lot of one or more mobile/manufactured homes that are not in habitable condition.

Kenel: Any establishment housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals may also be conducted as a business. This definition shall also include any veterinary clinic with outdoor animal runs.

Land Development: Any of the following activities:

- A. A subdivision of land.
- B. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - 1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or

tenure; or,

2. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.

C. The definition of land development shall not include the following:

1. The conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium.
2. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

Landfill: See *solid waste facility*.

Landowner: The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

Livestock: Any animals raised or kept for home consumptive use or profit including, but not limited to, cattle, bison, sheep, goats, horses, llamas, swine, fowl, rabbits, insects, and fur bearing animals.

Livestock Operation: The raising or keeping of livestock for home use, enjoyment or any commercial purpose.

Loading/Unloading Space: An interior or exterior off-street space or berth used for the loading or unloading of people, cargo, products, or materials from vehicles.

Long-Term Residency: See *residency, long term*.

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.

Lot, Corner: A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot, Existing of Record: Any lot or parcel of property which was legally in existence and properly on file with the County Recorder of Deeds prior to October 4, 1966, the effective date of the original Borough Zoning Ordinance.

Lot, Flag: A lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway.

Lot, Interior: A lot other than a corner lot, the sides of which do not abut a street.

Lot, Reverse Frontage: A through lot with frontage on two streets with vehicular access restricted to only one of the streets.

Lot, Through: A lot that fronts on two parallel streets or that fronts on two streets that do not intersect at the boundaries of the lot.

Lot Area: The horizontal land area contained within the lot lines of a lot measured in acres or square feet. In the case of a flag lot, the lot area shall not include the access.

Lot Coverage: That portion of the lot covered by all created improvements, including but not limited to primary buildings, decks, porches, accessory buildings, paving, patios, sidewalks, pools and other impervious areas provided that where a municipal boundary bisects a lot, the total area of the lot, regardless of the municipal boundary, shall be used for the purpose of determining compliance with the permitted lot coverage.

Lot Depth: The horizontal distance between the midpoint of the front lot line and the midpoint of the rear lot line. On corner lots, lot depth shall be measured along the longest dimension of the lot.

Lot Line: A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space. See also *setback, required*.

Lot Line, Front: The lot line(s) separating the lot from any street. In the case of a flag lot, the lot line where the narrow access corridor widens shall be considered the front lot line.

Lot Line, Rear: The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot Width: The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required or approved front setback line. In the case of a lot fronting on a cul-de-sac turnaround or curve, along a chord perpendicular to a radial line located equidistant between the side lot lines, the said chord shall intersect the radial line at a point located at the required or approved building setback line.

Lumbering: See *forestry*.

Lumberyard: An area and structures used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products.

Manufacturing, Light: Facilities involving generally unobtrusive processes carried on entirely within a fully enclosed building and not resulting in the non-incident storage of hazardous materials or the generation of hazardous waste products, or other environmentally hazardous processes.

A. Light manufacturing includes, but is not limited to:

1. Grain storage, distribution, processing and milling operations.
2. Fabrication, processing, assembly, repair, testing, packing and/or storage of products made from previously prepared materials, products, components and parts such as cloth, plastic, food, paper, glass, leather, stones, and electronic components.
3. Research, engineering or testing laboratories.
4. Textile and clothing manufacturing.

5. Furniture or other wood products production.
- B. Light manufacturing does not include:
1. Basic industrial processing as defined by industry.
  2. Processing of raw materials, except for milling and processing of grain.
  3. Slaughterhouses or the production of fish or meat products, or other use as defined by agricultural products processing.
  4. Rendering of fats and oils.

Massage: Pressing, squeezing, stretching, or stimulating the face, scalp, neck, limbs, or other parts of the human body with or without cosmetic preparation, either by hand, or with mechanical or electrical appliances.

Massage Facility, Therapeutic: A *service establishment*, as regulated by this Ordinance that meets all of the following criteria:

- A. Massages are conducted for a fee, tip or other consideration; and,
  - B. The person conducting the massage is licensed by the Commonwealth of Pennsylvania as a health care professional or a therapeutic massage therapist, or is certified by the National Certification Board for Therapeutic Massage and Bodywork or other recognized therapeutic massage organization that requires substantial professional training.
- C. The establishment does not meet the definition of *massage parlor*.

Mechanical Equipment (relating to accessory solar energy systems and accessory wind turbine generators): Any device, such as an outdoor electrical unit/control box, that transfers the energy from the energy system to the intended on-site structure.

Mediation: A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

Meeting, Assembly, or Banquet Halls: A structure designed for an assemblage of persons for gatherings such as weddings, banquet, parties, etc.

Menagerie: A collection of animals which are kept in cages or enclosures, inside a building or outdoors, for exhibition or educational purposes.

Micro-Brewery: A facility for the production, packaging and sampling of malt beverages of alcoholic and/or non-alcoholic content for retail or wholesale distribution, on or off the premises, and which produces less than 15,000 gallons of malt beverages per year.

Mineral: Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat, and crude oil and natural gas.

Mineral Extraction: The mining, removal or recovery by any means whatsoever (including, but not limited to, open excavations and quarries, subsurface mining and drilling) of minerals as defined in this Article III and including the incidental screening, washing, crushing and grading of materials originating on the site. Mineral extraction shall not include:

- A. The salvage removal of already quarried stone from existing quarries where no additional blasting, ripping or other mechanical operations are required.
- B. The extraction of minerals by a landowner for the landowner's noncommercial use from land owned or leased by the landowner.
- C. The extraction of sand, gravel, rock, stone, earth or fill from borrow pits for public road construction undertaken by a public entity or the extraction of minerals associated with a public construction contract.
- D. The handling, processing or storage of slag on the premises of a manufacturer as a part of the manufacturing process.
- E. The extraction, handling, processing or storing of minerals from a building construction excavation on the site of the construction if the minerals removed are incidental to the building construction excavation, regardless of the commercial value of the minerals. The minerals removed are incidental if the excavator demonstrates that:
  1. Extraction, handling, processing or storing are conducted concurrently with construction.
  2. The area mined is limited to the area necessary to construction.
  3. The construction is reasonably related to the use proposed for the site.

Mineral Processing: The refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means, to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products. This shall not include activities typically part of a *pipeline compressor station, metering station or operation/maintenance facility*.

Mini-Mart: See *convenience store*.

Mobile Home: A transportable, single family dwelling intended for permanent occupancy contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation, and which is subject to U.S. Department of Housing and Urban Development regulations.

Mobile Home Lot: A parcel of land in a mobile home park which is leased by the park owner to the occupants of the mobile home erected on the lot and which is improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

Mobile Home Park: A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

Model Home: Any structure erected in an approved residential subdivision for use as a display to promote the

sale of similar residential structures, which may be utilized on a short-term basis as an office, with ultimate use of the structure to conform to a permitted use in the district in which the structure is located. (See also *sample home*.)

Motel: A facility offering temporary (generally for periods of two weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals. Rooms in the facility shall not be used as a principal residence.

MPC: The Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247 as enacted and amended.

Multi-Family Development: Any development of a single parcel of property that includes one or more buildings containing three or more dwelling units. Any residential development which proposes the construction of two or more two-family dwellings on one parcel of property is also considered a multi-family development. Two-family dwellings in a multi-family project are considered townhouses.

Municipal Engineer: A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for the municipality.

Municipality: Borough of New Milford, Susquehanna County, Pennsylvania.

Neighborhood: A development of five to 25 single-family, detached dwellings clustered in a concentrated area which is surrounded by open land or recreation area.

Nightclub: An establishment dispensing food and drink and in which music, dancing, or entertainment is an integral and significant part of the operation.

Nonconforming: See §801.

Nuisance: A condition or situation that results in an interference with the enjoyment and use of real estate.

Nursery, Commercial: A commercial operation where trees and shrubs are grown for transplanting, for use as stocks for budding and grafting, or for sale.

Nursery, Retail: See *garden center*.

Nursing Home: A facility licensed by the Commonwealth of Pennsylvania for the housing and intermediate or fully-skilled nursing care of three or more persons needing such care because of old age or a physical illness or disability or a developmental disability.

Occupancy: Any use of or activity upon a particular premises; or holding real property by being in possession.

Office or Office Building: A building or part of a building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity. It may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, and day care facilities.

Official Map: A map adopted by Borough ordinance in accord with Article IV of the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247 as enacted and amended.

Official Zoning Map: The Official Zoning Map of the Borough of New Milford, Susquehanna County, Pennsylvania.

Off-Track Wagering Facility: A facility licensed pursuant to the provisions of the Racehorse Reform Act for the purpose of gaming authorized at a non-primary location pursuant to the provisions of the Racehorse Reform Act. Considered a *gaming establishment* for regulation by this Ordinance.

Oil or Gas Well: A type of *mineral extraction* involving a bore hole drilled or being drilled for the purpose of or to be used for producing, extracting or injecting any gas, petroleum or other liquid related to oil or gas production or storage, including brine disposal, but excluding bore holes drilled to produce potable water to be used as such. The term *well* does not include a bore hole drilled or being drilled for the purpose of or to be used for systems of monitoring, producing or extracting gas from solid waste disposal facilities, as long as the wells are subject to the act of July 7, 1980 (P.L. 380, No. 97), known as the Solid Waste Management Act, and do not penetrate a workable coal seam.

Open Space: An area that is intended to provide light and air, and is designed for environmental, scenic, recreational, resource protection, amenity and/or buffer purposes and which contains no development improvements which are not specifically permitted by this Ordinance or the Borough Subdivision and Land Development Ordinance.

Open Space, Common: Open space that is part of a particular conservation design subdivision development tract set aside for the use and enjoyment of residents of such development.

Open Space, Conservation: Open space that is part of a particular conservation design subdivision development tract set aside for the protection of sensitive natural features, farmland, forest land, scenic views and other primary and secondary conservation areas and which is permanently restricted from further development except as permitted by this Ordinance and cannot be used as a basis for density for any other development. Conservation open space may be accessible to the residents of the development and/or the Borough, or it may contain areas of farmland or forest land which are not accessible to project residents or the public.

Open Space, Required Public: Open space that is dedicated or reserved for the use of the general public in accord with the requirements of the Borough Subdivision and Land Development Ordinance.

Outdoor Entertainment: Any commercial activity or activity associated with a commercial use where concerts, theater arts, movies or any other type of entertainment is provided outside a fully enclosed building.

Outdoor Recreation Clubs or Camps: Land and/or a stream or body of water and adjacent area on any bank thereof, owned or leased by a person or group of persons duly formed as a club, used principally for hunting/fishing, climbing, gunning, nature observation, or similar recreation purposes open only to members and guests and involving no buildings other than those for lodging, eating and sanitary facilities for members and guests and accessory structures.

Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to submit an application for the development or use of land.

PA DEP or DEP: The Pennsylvania Department of Environmental Protection.

PA DOT or PennDOT: The Pennsylvania Department of Transportation.

Parcel: See *lot*.

Park and Ride Facility: A parking lot designed for drivers to leave their cars and share a ride with another driver

or use mass transit facilities beginning, terminating, or stopping at or near the park-and-ride facility.

Parking Area: Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, garages, private driveways, and legally designated areas of public streets. See *garage*.

Parking Area, Private: A parking area for the exclusive use of the clients, customers or owners of the lot on which the parking area is located or whomever else they permit to use the parking area.

Parking Area, Public: A parking area available to the public, with or without payment of a fee.

Parking Space, Off-Street : A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

Parking Space, On-Street: A temporary storage area for a motor vehicle that is located on a public or private street right-of-way

Patio: An impervious or semi-pervious, uncovered structure with an average elevation no greater than six inches above grade.

Permanent Foundation: A permanent foundation which meets the requirements of the Uniform Construction Code.

Permit: A document issued by the proper authority which authorizes the applicant to undertake certain activities in compliance with all the applicable codes and ordinances.

- A. Zoning Permit: Indicates that a proposed use, building or structure as documented in the development application will comply with the requirements of this Ordinance. Issued by the Zoning Officer for principal permitted uses, accessory uses and signs following confirmation of compliance with applicable standards, for conditional uses following approval by the Borough Council, and for special exceptions following approval by the Zoning Hearing Board.
- B. Building Permit or Construction Permit: Issued by the Building Code Official and indicates that a proposed construction, alteration, or reconstruction of a structure will comply with the Uniform Construction Code.

Person: An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Personal Care Home: A residential use providing residential and support services primarily to persons who are over age 60, and/or physically disabled and/or the developmentally disabled and which is licensed as a personal care center by the Commonwealth of Pennsylvania.

Pet: Domestic cats and domestic dogs, and other animals which are commonly kept primarily inside a dwelling unit for companionship or personal satisfaction (not for consumption or utilitarian use) such as parakeets, parrots and similar birds, ferrets, mice, guinea pigs, hamsters and similar rodents, nonpoisonous snakes, and fish. Pet does not include livestock, small animals and fowl, pot bellied pigs and miniature horses.

Pipeline Compressor Station, Metering Station or Operation/Maintenance Facilities: A facility at which a petroleum product passing through a pipeline is pressurized by a turbine, motor, or engine, the volume of flow

is measured, or permanent facilities are installed for pipeline operation/maintenance, and which compress, decompress, process, heat, alter or transform the pipeline product. The facility may contain some type of liquid separator consisting of scrubbers and filters that capture any liquids or other undesirable particles from the pipeline. The definition excludes pipeline valves, metering stations, pig launchers/receivers, and other components which are located within the pipeline right-of-way and do not compress, decompress, process, heat, alter or transform the pipeline product.

Place of Worship: Buildings, synagogues, churches, temples, cathedrals, chapels, religious retreats, monasteries, seminaries and shrines used primarily for religious and/or spiritual worship and that are operated by a tax-exempt organization qualifying under §501(c)(3) of the Internal Revenue Code for nonprofit and noncommercial purposes which people regularly attend to participate in or hold religious services, meetings or functions, or religious instruction, and which may include customary incidental accessory uses such as kitchen and dining facilities, meeting and activity rooms, and recreation facilities.

Planning Commission: The Planning Commission of the Borough of New Milford, Susquehanna County, Pennsylvania.

Plat or Plat Plan: A map or plan of a subdivision or land development, whether preliminary or final.

Porch: An attached, roofed accessory structure projecting from a wall of a building which may be open or screened and with walls no higher than four feet above the floor level.

Power Plant: Any facility, including structures, machinery and associated equipment, which generates electric energy from another source of energy, such as nuclear reactions, hydroelectric dams, or natural gas or coal fired plants, the primary purpose of which is the commercial sale of the energy which is generated. Power plants which produce electric energy, 75 percent or more of which is used on the site of production, shall be considered part of the principal permitted use for which the energy is used.

Preserve: Protected *open space* (as defined by this Ordinance) for wildlife, flora, fauna or features of geological or other special interest, which is reserved and managed for conservation and which may include special opportunities for study or research.

Prime Agricultural Land: Land used for agricultural purposes that contains soils of the first, second or third class as defined by the United States Department of Agriculture Natural Resource and Conservation Services County Soil Survey.

Principal Building: The building in which the primary or predominate use of a lot is conducted including any structure that is physically attached to the principal building.

Principal Permitted Use: A use allowed in a particular zoning district which may be approved by the Zoning Officer provided the application complies with all requirements of this Ordinance.

Principal Use: The primary or predominate use(s) of a lot.

Professional Office: The office of a member of a recognized profession such as an accountant, architect, author, dentist, engineer, insurance agent, landscape architect, lawyer, minister, optometrist, planner, physician, or realtor.

Property Owners Association: A nonprofit corporation organized by the developer or lot owners for the purpose of establishing an association of all property owners in a planned development which purposes shall include the

ownership and maintenance of open space common areas and all development improvements.

**Public Facilities and Uses:** Any structure, building or use owned and operated by a government body or agency including such things as public schools, parks, civic centers, municipal buildings; but excluding solid waste disposal facilities, institutional uses, nursing homes, hospitals, and other uses specifically defined by this Ordinance.

**Public Hearing:** A formal meeting held pursuant to public notice by the Planning Commission, Governing Body or Zoning hearing Board, intended to inform and obtain public comment, prior to taking action in accord with the Pennsylvania Municipalities Planning Code.

**Public Meeting:** A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84), as amended, known as the *Sunshine Act*.

**Public Notice:** Notice published once each week for two consecutive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

**Qualified Professional:** An individual authorized to prepare plans pursuant to §503(1) of the Pennsylvania Municipalities Planning Code which states that *plats and surveys shall be prepared in accordance with the act of May 23, 1945 (P.L. 913, No. 367), known as the "Engineer, Land Surveyor and Geologist Registration Law," except that this requirement shall not preclude the preparation of a plat in accordance with the act of January 24, 1966 (P.L. 1527, No. 535), known as the "Landscape Architects Registration Law," when it is appropriate to prepare the plat using professional services set forth in the definition of the "practice of landscape architecture" under section 2 of that act.*

**Race Track:** A road course, either oval, circuitous or straight, where motor vehicles including, but not limited to, automobiles, trucks, go-carts, motorcycles, motor scooters, dune buggies and the like, are driven for recreation, testing or competition; or any course where animals are raced for competition.

**Recreation Area:** A private or public space associated with a residential development, including accessory structures such as fences, backstops and bleachers, used for play and/or recreation by individuals.

**Recreation Area, Active:** A private or public space associated with a residential development, including accessory structures such as fences, backstops and bleachers and other equipment, used for play and/or recreation by individuals, and including, but not limited to, golf courses, basketball, volleyball and tennis courts, baseball, football and soccer fields, and playgrounds.

**Recreation Area, Passive:** A private or public space associated with a residential development, not including any accessory structures used for active recreation by individuals, and including, but not limited to, trails, picnic areas, community gardens, and lawns.

**Recreation Facility, Commercial:** Outdoor or indoor areas or structures, operated by private nonprofit or private commercial entities, open to the public, which may contain entertainment and amusement devices or attractions including, but not limited to, picnic groves, tennis and racquetball courts, ski areas, miniature golf courses, golf driving ranges, and the like, but excluding golf courses, theaters, public parks and playgrounds.

**Recreation Facility, Public:** Parks, swimming pools, playgrounds, tennis courts, and other recreational facilities owned and operated by the Borough, County, school district, state, or federal government. See *public buildings*

*and uses.*

Recreational Vehicle: A vehicle primarily designed and utilized as temporary living quarters for recreational, camping or travel use, whether self-propelled or mounted on, or drawn by another vehicle, and including travel trailers, recreational trailers, camping trailer, truck camper, motor homes and similar types of vehicles.

Recreational Vehicle Park: See *campground or RV park*.

Recyclables: Materials intended for reuse, remanufacture or reconstitution and including for the purposes of this Ordinance only the following materials: aluminum beverage containers; glass beverage and food containers; plastic beverage, food and household product containers but not including plastic film or bags; bi-metal food containers; newsprint, magazines, and office paper; and corrugated paper. Recyclables shall not include, except as specifically authorized by the Borough, tires, large appliances such as stoves, refrigerators, washers and dryers, other scrap metal, used motor oil or any other material defined as *Junk or Solid Waste* by this Ordinance.

Recycling Facility: A center for the collection and/or processing of recyclables. Considered *manufacturing, light* for regulation by this Ordinance. A recycling facility does not include municipally operated collection facilities or storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. Any facility accepting or processing waste or other discarded materials which are not recyclables shall be considered a *junkyard or solid waste facility* as regulated by this Ordinance.

Religious Quarters: A dwelling associated with a place of worship in which reside individuals directly involved with the administration or function of a place of worship including clergy and staff and immediate family members.

Repair: The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. See also *addition* and *alteration*.

Research, Engineering or Testing Laboratories: A facility for investigation into the natural, physical, or social sciences, which may include engineering and product development, physical activities usually associated with wet labs or places with running water, gases, special ventilation devices, chemicals, special heating and electrical or electronic equipment, or use of animals or human subjects under controlled conditions. It may also include pilot plant operations not exceeding 25% of the gross floor area of the facility used to test out concepts and ideas, to determine physical layouts, material flows, type of equipment required, costs, and to secure other information prior to full-scale production. Considered *manufacturing, light* for regulation by this Ordinance.

Reservoir Space: A parking place provided to accommodate a vehicle which is queued in a lane awaiting service in a drive-in facility such as a bank, fast-food restaurant or a car wash or truck wash.

Residency (or Occupancy), Long-Term: Occupancy of a dwelling, generally for periods of more than 180 days, as opposed to temporary visits to bed and breakfast establishments, motels, hotels, campgrounds and recreational vehicles, and which serves as the legal address for the occupant. It also includes any dwelling or structure where children who attend school reside.

Resort: A business combining lodging, eating and recreational facilities for lodgers and/or non-lodgers as a single enterprise offered to the public at large or any segment thereof, not including *bed and breakfast establishments, campgrounds, recreational vehicle parks or mobile home parks*. Amenities may include conference centers, retail sales, spas, beauty salons, barber shops, restaurants, indoor and outdoor recreational facilities, health centers, day care centers, facilities for commercial special events, and employee living quarters.

Restaurant, Traditional: An establishment where food and drink are prepared, served, and consumed, mostly within the principal building, which may include limited forms of musical entertainment to accompany the dining experience; however, restaurants that provide dancing and stage shows shall be considered a *nightclub*.

Restaurant, Outdoor: Any part of a food establishment located outdoors, not used for any other purposes, and open to the sky, with the exception that it may have a retractable awning or umbrellas, and may contain furniture, including tables, chairs, railings, and planters that are readily moveable.

Restaurant, Take-Out: An establishment where food and/or beverages are sold in a form ready for consumption, where all or a significant part of the consumption takes place outside the confines of the restaurant. See *drive-in stand/use* for uses where ordering and pickup of food takes place from a vehicle.

Retail Business: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods

Retail Home Heating Fuel Distributors: An establishment that delivers kerosene, home heating oil, and propane to individual dwellings or commercial establishments for use on that premises and not for resale, and where the storage of fuel on the site of the retail home heating fuel distributor does not exceed a combined total of 20,000 gallons.

Right-of-Way: Land reserved for use as an access, street, drainage facility or other private, public or community use

Roof: The outside top covering of a building.

Row House: See *dwelling, townhouse*.

Sample Home: An unoccupied single-family dwelling associated with a principal permitted commercial use and not intended for permanent occupancy, and used solely for demonstration purposes to inform potential purchasers of the types of homes available from the seller. (See also *model home*.)

Satellite Dish Antenna or Satellite Antenna: Apparatus designed for transmitting radio energy to satellites or receiving it from satellites and including any attached mountings or brackets.

Sawmill: A commercial operation where timber is sawed into boards. This does not include a portable sawmill operating temporarily as an accessory to a timber harvest.

School, Public or Private Primary or Secondary School: An educational institution that primarily provides State-required or largely State-funded educational programs. This term shall not include *trade schools*.

Screened: Visibly shielded or obscured from any adjoining or neighboring property, any public or private road right-of-way, or any other premises which is accomplished by topography, fencing, berms, natural and planted vegetation or other means approved by the Borough.

Screening: A method of visually shielding or obscuring a structure or use from another by topography, fencing, walls, berms, planted vegetation or a combination of these methods.

Self-Storage Facility: A building or group of buildings containing separate, individual, and private storage spaces

of varying sizes available for lease or rent for varying periods of time.

Semi-Public Facility or Use: A building or use operated by nonprofit, community-based organizations for the general use of Borough residents, including churches, fire houses, ambulance buildings, private schools, libraries and the like, but excluding institutional uses such as nursing homes, hospitals, sanitariums and clinics. It shall also include essential services and public utilities that require enclosure within any structure or building.

Senior Citizen Housing: A building or structure containing dwelling units designed for, and limited to, occupancy exclusively by persons age 55 or over, living independently, in his or her own dwelling unit. Such structures may include multi-family, garden apartments, apartments, or such other configurations as permitted by the Borough Council pursuant to the conditional use standards of this Ordinance, but shall not include assisted living facilities, personal care facilities, or nursing homes.

Service Establishment: An establishment engaged in providing services involving the care of a person or a person's goods or apparel such as cleaning and garment services, beauty and barber shops, shoe repair, dry cleaning and laundries, photographic studios, etc., and which is not otherwise listed as a use in §405.

Setback, Front: The required minimum open space extending the full width of the lot between the principal structure(s), accessory structures, or other improvements and the front lot line. See also *yard* and *lot line*.

Setback, Rear: The required minimum open space extending the full width of the lot between the principal structure(s), accessory structures, or other improvements and the rear lot line. See also *yard* and *lot line*.

Setback, Required: The required minimum open space between the principal structure(s), accessory structures, or other improvements and the nearest lot line or right-of-way as provided by this Ordinance. See also *yard* and *lot line*.

Setback, Side: A required minimum open space extending from the front setback to the rear setback between the principal structure(s), accessory structures, or other improvements and the side lot line. See also *yard* and *lot line*.

Sewage Disposal, Central, Community or Off-Site - A sewage collection and disposal system in which sewage is carried from more than one individual lot, dwelling or other unit by a system of pipes to a central treatment and subsurface or other type of disposal area or stream discharge in compliance with the Pennsylvania Department of Environmental Protection regulations and/or regulations of New Milford Borough, whichever may be more stringent.

Sewage Disposal, On-site - Any structure designed to biochemically treat sewage within the boundaries of an individual lot from one individual dwelling or other type unit.

Sewage Treatment Plant: A sanitary sewage collection and treatment system meeting the requirements of the Pennsylvania Department of Environmental Protection in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal facility or system, which may be publicly or privately owned and operated, and which uses mechanical, biological and chemical processes to treat and dispose of domestic sewage in accord with DEP Rules and Regulations involving an effluent discharge to surface waters or to a soil-based or other treatment system.

Shed: A detached accessory structure used for the storage of tools, minor equipment, and materials, but too small for the storage of an automobile.

Shooting Range, Indoor Commercial: Any fully enclosed building used for the discharge of any firearm for recreational or training purposes which is a commercial operation, or which is operated by any government entity, private non-profit entity, or any sportsman's, recreation or fraternal club or association. Considered a *recreational facility, commercial* for regulation by this Ordinance.

Shooting Range, Outdoor Commercial: Any area not within a fully enclosed building used for the discharge of any firearm for recreational or training purposes which is a commercial operation, or which is operated by any government entity, private non-profit entity, or any sportsman's, recreation or fraternal club or association.

Shopping Center or Mall: A group of independent (i.e., not dependent on each other for operation) commercial establishments (otherwise allowed in the District of location) occupying spaces separated by walls which are planned, constructed and managed as a total entity, with customer and employee parking provided on site, provision for goods delivery separated from customer access, aesthetic considerations, landscaping, and signs.

Single-Family Dwelling: See *dwelling, single family*.

Slaughter House: An agricultural products processing use involving the killing of animals for the production of food or some other commercial product. A commercial stockyard or similar facility that primarily involves the bulk storage or transferring of animals on the way to slaughter shall also be considered a slaughter house. Slaughter house shall not include a custom butcher shop that does not involve killing of animals which is considered a *retail establishment*.

Solar Access: A property owner's right to have sunlight shine on the owner's land.

Solar Collector: A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy.

Solar Energy System, Accessory: An energy conversion system, including appurtenances, which converts solar energy to a usable form of energy to meet all or part of the energy requirements of the on-site user. This definition shall include the terms passive solar and active solar systems.

Solar Energy Storage Facility: Equipment consisting of containers, heat exchangers, piping, and other transfer mechanisms (including fluids, gases, or solids), controls, and related structural support for transporting and storing collected energy (from solar energy systems), including structural elements designed for use in passive solar energy systems.

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy.

Solar Glare: The effect produced by light reflecting from a solar panel with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Solar Power Generation, Commercial: A facility where one or more solar collectors and/or other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities are located and are used for the generation of electricity which is sold on the open market.

Solid Waste or Waste: Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities. The term shall also include any

garbage, refuse, other discarded material or other waste, including solid, liquid, semi-solid or containing gaseous materials resulting from industrial, mining, agricultural operations, local facilities or any other by-product or effluent from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility or any other material defined by the PA DEP as solid, liquid, municipal, medical, industrial, toxic or hazardous waste.

Solid Waste Facility, Commercial: Any facility or operation of a private individual or firm pursuant to the laws of the Commonwealth of Pennsylvania governing the management and disposal of solid waste including, but not limited to, liquid, solid, toxic, hazardous and medical waste; and, including but not limited to,, transfer stations, solid waste landfills, incinerators, medical waste disposal facilities, hazardous waste disposal facilities and radioactive waste disposal facilities.

Solid Waste Facility, Public: Any facility or operation of a public entity pursuant to the laws of the Commonwealth of Pennsylvania governing the management and disposal of solid waste including, but not limited to,, liquid, solid, toxic, hazardous and medical waste; and including, but not limited to,, transfer stations, solid waste landfills, incinerators, medical waste disposal facilities, hazardous waste disposal facilities and radioactive waste disposal facilities.

Solid Waste Staging Area: Any parcel of property used for the transfer of solid waste from one vehicle to another vehicle, at a location other than the generation site, for transport to a solid waste facility; or which is used for the parking or storage of vehicles and/or containers used to transport solid waste, and which is not regulated by the PA DEP as a solid waste transfer facility.

Special Exception: A use in a particular zoning district to be allowed or denied by the Zoning Hearing Board pursuant to public notice and hearing and recommendation of the Borough Planning Commission as authorized by §603(c)(1) of the Municipalities Planning Code.

Stable, Commercial: A structure or land where horses are kept for remuneration, hire, sale, boarding, training, riding or show, and which includes the commercial hire of horses to the general public for riding or other purposes.

Stable, Private: An accessory structure or use of land where horses are kept for the sole use of the residents of the principal structure, and which includes no remuneration, hire, boarding or other commercial use.

State: The Commonwealth of Pennsylvania and its agencies.

Storage Container: A receptacle such as a wooden or metal box or a trailer of a tractor trailer with wheels removed in which raw materials, products or other items are stored.

Storage Yard for Forest Products and Minerals: An area, not on the same parcel where the products are initially harvested or gathered, to which trees, forest products, flagstone, landscaping stone, wall stone or other minerals are hauled and stored, and which does not involve any land development, the operation of a sawmill, the operation of any other wood manufacturing business, or the operation of any natural resources processing.

Stream: A natural watercourse. See *watercourse*.

Street: A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an alley. Public rights-of-way shall be those open to the general use of the public, not necessarily publicly dedicated.

Structural Alteration: See *alteration*.

Structure: Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

Structure, Permanent: Any structure, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Structure, Portable: Any structure, that is not permanently affixed to the ground but is designed to be moved from place to place including, but not limited to, accessory structures constructed of metal frameworks with plastic or cloth covering.

Structure, Temporary: Any structure that is erected for the limited period of time specified in the zoning permit.

Subdivision: The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted. (See the Subdivision and Land Development Ordinance for details.)

Swimming Pool: A body of water or receptacle for water having a depth at any point greater than two feet, which is used or intended to be used for swimming or bathing and constructed or maintained in or above the ground.

Tattoo, Body Piercing, Scarifying or Branding Parlor: An establishment engaged in any of the following:

- A. The perforation or cutting of any human body part or tissue and the placement of a foreign object in the perforation to prevent the perforation from closing, but not including the use of mechanized, pre-sterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear.
- B. The placement of indelible pigment, inks, or scarifying beneath the skin by use of needles for the purpose of adornment or art. This does not include the practice of permanent makeup and micro-pigmentation when such procedures are performed as incidental services in a medical office or in a personal services establishment such as a hair or nail salon.
- C. The cutting or tearing of human skin for the purpose of creating a permanent mark or design on the skin.
- D. The use of heat, cold, or any chemical compound to imprint permanent markings on human skin by any means other than tattooing.

Tavern: A place where alcoholic beverages are served as a primary or substantial portion of the total trade and where the sale of food may also occur. A tavern is considered a *restaurant* for regulation by this Ordinance.

Temporary: A period of less than 180 consecutive days unless otherwise specified by this Ordinance.

Temporary Construction Building: A building erected on a lot for temporary use in conjunction with construction on that lot.

Theater, Indoor: A building or part of a building devoted to the showing of motion pictures or theatrical or

performing arts productions as a principal use where patrons are seated in the building, but not including an *adult movie theater*.

Theater, Drive-In: An area of land which may include accessory uses such as the sale of snacks and which is devoted to the showing of motion pictures which are viewed by persons in vehicles.

Townhouse: See *dwelling, townhouse*.

Tract: See *lot*.

Trade School: A facility that is primarily intended for education of a work-related skill or craft or a hobby and that does not primarily provide State-required education to persons under age 16.

Travel Plaza: Any building, premises, or land in which or upon which a business or service involving the maintenance, servicing, storage, or repair of automobiles, trucks, recreational and other vehicles is conducted or rendered as a service to travelers, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles, and which may include overnight accommodations and restaurant facilities.

Trip: A single or 1-way motor vehicle movement either to or from a subject property or study area.

Trip Distribution: The measure of the number of vehicles or passenger movements that are or will be made between geographic areas.

Trip Ends: The total of single or one-direction vehicle movements entering and leaving a specified land use or site over a designated period of time.

Trip Generation: The total number of vehicle trip ends produced by a specific land use or activity.

Truck Stop: See *travel plaza*.

Truck Terminal: See *distribution center/truck terminal*.

Truck Wash: Any building or premises or portions thereof used for commercial purposes for washing any vehicle with more than two axles, or more than four tires, or with a trailer.

Two-Family Dwelling: See *dwelling, two family*.

Use: The specific purpose for which land or a building is designed, arranged, intended, or for which land is or may be occupied or maintained.

Utility, Public: Any agency or entity that, under public ownership, or under certificate of convenience and necessity issued by the Pennsylvania Public Utility Commission, or by grant of authority by a governmental agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection, or other similar service.

Variance: Relief granted pursuant to the provisions of this Ordinance and Articles VI and IX of the Pennsylvania Municipalities Planning Code.

Vehicle: Any device in, upon or by which any person or property is or may be transported or drawn upon a

public highway or upon any land, including, but not limited to, automobiles, trucks, vans, buses, utility trailers, tractors, truck tractors, recreational vehicles, motor homes, travel trailers, motorcycles, snowmobiles, machinery, trailers, farm machinery and implements, and other wheeled equipment; any vehicle requiring a state registration; boats; and aircraft.

Vehicle and Equipment Rental Operation: An establishment which rents vehicles and/or equipment to the general public, and which may or may not include the repair of the vehicles and equipment which is for rent. Equipment rental operations conducted entirely within an enclosed building shall be considered a *retail business* for regulation by this Ordinance.

Vehicle and Equipment Repair Operation: An establishment engaged in the service and/or repair of any motor vehicle as its principal use including, but not limited to, auto body shops, repair garages, truck repair garages and agriculture equipment repair, and which may include the dispensing of motor fuels into the fuel tanks of motor vehicles and the sale of other retail products.

Vehicle and Equipment Sales Operation: The use of any building, land area or other premise for the display and sale of new and used automobiles of operable condition; panel trucks or vans; mobile homes or trailers; recreation vehicles; or farm or construction equipment including any warranty repair work and other repair service as an accessory use. No business or facility which generates less than 50 percent of its gross sales from the actual sale of new or used vehicles or equipment of the type herein described (excluding parts and repairs) shall be considered a vehicle and equipment sales operation.

Vernal Pool: An isolated, contained depression that holds water for at least two months in the spring or summer, critical to several amphibian, reptile and invertebrate species, which also provides important storage for stormwater runoff and spring snow melt that would otherwise contribute to downstream flooding.

Veterinary Clinic, Indoor: A place where animals or pets are given medical or surgical treatment and the keeping of animals is limited to short-term care incidental to the clinic use, and no outdoor kennels, pens or paddocks are on the premises.

Veterinary Clinic, Outdoor Facilities: A place where animals or pets are given medical or surgical treatment and the keeping of animals is limited to short-term care incidental to the clinic use, with outdoor kennels, pens or paddocks on the premises.

Wall: See *fence or wall*.

Warehouse: A building or group of buildings primarily used for the indoor storage, transfer and distribution of products and materials, but not including retail sales or a *truck terminal*.

Wastewater Treatment System: See *sewage disposal* definitions.

Water Body: Any natural or manmade freshwater pond, lake or stream. This shall not include any pond or facility designed and constructed solely for storm water management.

Water Extraction/Bottling: Any use which involves the pumping or removal of water from groundwater sources, with or without bottling, for retail or wholesale sale. *Water extraction and bottling* shall be considered *industry* for the purposes of regulation by this Ordinance.

Water Supply, Central, Community or Off-Site : A public or private utility system designed to supply and transmit drinking water from a common source to two or more dwelling units or uses.

Water Withdrawal Facility: A facility immediately adjacent to a water body or stream that typically contains a submerged suction line, pumps, water main, multiple hydrants, truck loading and staging area, and water storage tanks, and which stores water on a temporary basis that is intended to be transported to another site.

Watercourse: Any channel of conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial, intermittent or seasonal flow.

Wetland: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, and similar areas and which are defined as such by the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*.

Wholesale Business: Establishments or places of business with no on site manufacturing, primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wild or Exotic Animal: Any species of animal whose natural or usual habitat within Pennsylvania is either in the wild or in a zoo, as opposed to a domesticated environment, regardless of whether such animal poses an actual or apparent threat to persons, other animals or property.

Wind Energy Facility: A facility where one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities are located and are used for the generation of electricity which is used on-site for commercial purposes or which is sold on the open market. A wind turbine accessory to a principal structure which is sized and intended to be used to generate electricity primarily for the principal structure to which it is accessory shall not be considered a *wind energy facility*.

Wind Rotor: The propeller or blades, plus the hub to which the propeller or blades are attached, that are used to capture wind for the purpose of energy conversion. The wind rotor is mounted on a pole, tower or other structural support system along with other generating, electrical and accessory equipment to form a wind energy conversion system.

Wind Turbine Generator, Accessory: A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any, and which is sized and intended to be used to generate electricity primarily for the principal structure to which it is accessory.

Yard: The area between the principal structure(s) and the adjoining lot line or right-of-way. See also *setback*.

Yard, Lawn, Garage, Tag or Estate Sale: A sale, open to the public, of new, used or previously owned personal property, including but not limited to goods, wares, merchandise and clothing, held on vacant property or on the lawn, yard, porch, patio or in the garage or residence, or in the principal or outbuilding, of the person who is conducting the sale. The buying and selling of new or used items or surplus material shall be considered a commercial operation and shall be prohibited, except as otherwise permitted and regulated by this Ordinance.

Zoning Officer: The administrative officer charged with the duty of enforcing the provisions of this Ordinance.

Zoning Hearing Board: The Zoning Hearing Board of the Borough of New Milford.

Zoning Map: The Official Zoning Map of the Borough of New Milford.

Zoning Permit: See *permit*.

Zoo: A collection of animals which are maintained in a park by an educational, nonprofit or governmental entity.

**ARTICLE IV  
DISTRICT REGULATIONS**

**401 Establishment of Districts**

For the purpose of this Ordinance, New Milford Borough is divided into classes of districts which are designated as follows:

- |                   |                              |
|-------------------|------------------------------|
| R-1 - Residential | D-1 - Redevelopment District |
| C-1 - Commercial  | RD - Rural District          |
| I-1 - Industrial  |                              |

**401.1 Intent**

The intent of each District and the uses permitted in each District are set forth on the Use Regulations contained in this Ordinance or in the specific sections establishing any overlay district.

**401.2 Flood Hazard District**

The Borough’s Floodplain Regulations shall supplement all other applicable regulations of this Ordinance. The Flood Hazard District as identified in the Borough Floodplain Regulations is an overlay district to the zoning districts established by this Ordinance.

**402 Official Zoning Map**

**402.1 Adoption**

The location and boundaries of said districts are hereby established as shown on the New Milford Borough Zoning Map of 2017 (hereinafter referred to as the Official Zoning Map); which is hereby adopted by reference and declared to be a part of this Ordinance together with all amendments thereto. A true and correct copy of the Official Zoning Map (in reduced size) is attached to this Ordinance.

**402.2 Map Changes**

Changes to the boundaries and districts of the Official Zoning Map shall only be made in conformity with the amendment procedures specified by the MPC.

**402.3 Replacement Map**

If the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of changes and additions, or drafting errors or omissions require correction, the Borough Council may, by resolution, adopt a new copy of the Official Zoning Map which shall supersede the prior Official Zoning Map. Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any remaining parts shall be preserved together with all available records pertaining to its previous adoption or amendment.

**403 District Boundaries**

**403.1 Location**

The boundaries between districts are, unless designated or indicated otherwise, either the center lines of streets, lanes, water courses, property lines, and rights-of-way or power lines, railroads, and other public utilities or such lines extended or lines parallel thereto. When the boundaries of a single district are indicated as including directly opposite sides of a street, lane, lake, or water course, or right-of-way of a power line or other public utility or any portion of its length, the district so indicated shall be construed to apply to the entire bed of such street, lane, lake, or water course, or right-of-way or such power line, railroad, or other public utility lying within such portion of its length.

#### 403.2 Uncertainty

Where uncertainty exists concerning the location of any boundary as shown on the zoning map, the Zoning Officer shall make the determination of the district location in accord with the rules in this §403.2. Any decision of the Zoning Officer may be appealed to the Zoning Hearing Board.

- A. Where a district boundary is indicated at approximately following the center lines of a street, lane, lake, or water course, or right-of-way of a power line or other public utility, such center line shall be construed to be such boundary.
- B. Where a district boundary is indicated as approximately following a lot or other property line, such lot or property line shall be construed to be such boundary.
- C. Where a district boundary divides a lot or runs through undivided property, the location of such boundary, unless otherwise specified by figures on the zoning map, shall be determined by the use of the scale appearing on said map.
- D. Where figures are shown on the zoning map between a street and a district boundary, they shall indicate that the district boundary runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated, unless otherwise specified. Where scaled distances do not agree with such figures, the figures shall control.

#### **404 District Regulations**

District regulations in §405 shall apply to any proposed new use, expansion of an existing use or change of use of any land or structure.

#### 404.1 Use Regulations

##### A. Limitations

1. No land and no structure in a particular zoning district shall be used for any use which is not specifically listed in the District, and only in accord with all other requirements of this Ordinance. In other words, any use not specifically allowed by this Ordinance within a Zoning District shall be deemed to be prohibited within that Zoning District.
2. If a use which could be included in a more general use is listed as a separate use in any District, such use shall be permitted only in the District where it is specifically listed and shall not be included in a more general use listing in any other District.
3. Larger lot sizes, greater setbacks, buffers and other more restrictive standards may be required by other provisions of this Ordinance.

B. Principal Uses Permitted Uses and Accessory Uses - Permits for principal permitted uses and accessory uses shall be issued by the Zoning Officer provided such uses comply with the standards in this Ordinance.

C. Conditional Uses and Special Exceptions - Conditional uses and special exceptions are permitted uses which require individual consideration because of their special characteristics and are referred to the Planning Commission for review and preparation of a recommendation to the Borough Council or Zoning Hearing Board, respectively. Following a public hearing, and based on its determination that the proposed use meets the standards of this Ordinance, the Borough Council for conditional uses and the

Zoning Hearing Board for special exceptions may authorize the issuance of a zoning permit by the Zoning Officer.

#### 404.2 Uses Not Specified in Any District

- A. Jurisdiction - Whenever a use is not specifically allowed in any of the various zoning districts established under this Ordinance (i.e., not specifically allowed anywhere in the Borough) and an application is made to the Zoning Officer for such use, the application shall be submitted to the Zoning Hearing Board which shall have the authority to permit the use or deny the use as a special exception in accord with §908.
- B. Findings - The use may be permitted only if the Zoning Hearing Board makes all of the following findings; and, the burden of proof shall be upon the applicant:
  - 1. The use is similar to and compatible with the uses listed for the subject zoning district by the Use Regulations.
  - 2. The use in no way conflicts with the intent of the zoning district and the general purpose and intent of this Zoning Ordinance.
  - 3. The use is not permitted in any other zoning district.
  - 4. The use is in compliance with the standards in §908.4.
- C. Planning Commission Review - At the time the application is submitted to the Zoning Hearing Board, the Zoning Officer shall also provide a copy to the Planning Commission for its recommendation. The Zoning Hearing Board shall not conduct a public hearing on the application until the comments from the Planning Commission are received or thirty (30) days have passed from the time the application was referred to the Planning Commission.
- D. Conditions - The Zoning Hearing Board may attach reasonable conditions and safeguards to any special exception approval granted for a use not specified in the Use Regulations, incorporating standards in this Zoning Ordinance for similar uses in the district and such other conditions as the Zoning Hearing Board may deem necessary to protect and promote the public health, safety, morals and welfare and to implement the purposes of this Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

#### 404.3 Area and Bulk Regulations

Area and bulk regulations and height restrictions are provided in §405 for each District. Larger lot sizes, increased setbacks and other more restrictive standards may be required in accord with other Ordinance sections. Compliance with the standards in each Schedule of Development Regulations shall not exempt any proposed use from compliance with the other applicable standards in this Zoning Ordinance.

#### 404.4 Subdividing and Developing

Any area divided into parcels or developed according to the definition of *subdivision and land development* in Article III shall also be subject to the Borough Subdivision and Land Development Ordinance.

405 Zoning Districts

405.1 R-1 - Residential District

Uses not specifically listed in this §405.1 shall not be permitted in the any R-1 District except as approved in accord with §404.2.

A. Intent - To provide for the continued development of residential neighborhoods with high quality living conditions and without the conflicts with non-residential uses, while providing for community-related uses under appropriate conditions.

B. Principal Permitted Uses (Zoning Officer)

- Bed and breakfast inns on sites of not less than one (1) acre
- Cottage housing development
- Crop production
- Day care, family home
- Group homes
- Forestry
- Model homes
- Multi-family dwellings
- Public and private parks and playgrounds
- Single-family detached dwellings
- Two-family dwellings

C. Accessory Uses (Zoning Officer)

- Accessory uses customary to approved uses
- Day care, family home
- Decks
- Essential services
- Farm stands
- Gazebos
- Home gardens and home nurseries
- Home greenhouses
- Patios
- Pets, keeping of
- Private garages, carports, sheds
- Private swimming pools
- Required parking areas
- Signs accessory to approved uses
- Satellite dish antennae
- Solar energy systems, accessory
- Wind turbine generators, accessory
- Yard sales

D. Special Exception Uses (Planning Commission / Zoning Hearing Board)

- Assisted living facilities
- Bus shelters
- Cemeteries
- Development sales offices
- Home occupations (see §503.3 for home occupations which are accessory uses)
- Nursing homes
- Personal care homes
- Public facilities and uses
- Schools, public and private, primary and secondary
- Semi-public facilities and uses

E. Conditional Uses (Planning Commission / Borough Council)

- none

F. Dimensional Regulations

1. All uses except cottage housing development and multi-family dwellings -
  - Minimum Residential Lot Area ..... 15,000 square feet per dwelling unit
  - Minimum Nonresidential Lot Area ..... 10,000 square feet
  - (see §502.1 for multiple uses on one lot)
  - Minimum Lot Width..... 70 feet
  - Maximum Lot Depth to Width Ratio.....4:1

Minimum Setbacks

- front setback (see §502.2 for corner lots)..... 25 feet measured from front line
- rear setback..... 30 feet measured from rear line
- side setbacks (each) .....15 feet, measured from each side line
- nonconforming lots ..... 25% reduction for front and rear setbacks

Maximum Building Coverage .....40% of the lot area

Maximum Total Impervious Coverage.....60% of the lot area

Maximum Building Height ..... 2.5 stories or 35 feet

Maximum Unattached Accessory Building Height..... 20 feet

2. Cottage housing development - see §601.
3. Multi-family dwellings - see §603.

405.2 C-1 Commercial District

Uses not specifically listed in this §405.2 shall not be permitted in the any C-1 District except as approved in accord with §404.2.

A. Intent - To provide for the development of general commercial trades and services.

B. Principal Permitted Uses (Zoning Officer)

- Amusement arcades
- Art studios
- Assisted living facilities
- Automobile rental
- Bakeries and confectionaries, retail
- Banks
- Bed and breakfast inns
- Billiard halls
- Boarding and lodging houses
- Bus stations
- Business offices
- Business services
- Car washes
- Cemeteries
- Charging stations
- Clinics
- Clubs/lodges, private
- Conference centers
- Crop production
- Day care centers
- Dwellings on the second floor and above commercial uses
- Exercise clubs
- Farmers markets
- Forestry
- Funeral homes
- Garden centers, retail
- Group homes
- Group homes, institutional
- Group quarters
- Health facilities
- Hotels
- Lumberyards
- Manufacturing, light
- Meeting, assembly or banquet halls
- Micro-breweries
- Motels
- Multi-family dwellings
- Nightclubs
- Nursing homes
- Offices and office buildings
- Parking areas, private
- Personal care homes
- Places of worship
- Professional offices
- Public and semi-public facilities and uses
- Public parks and playgrounds
- Recreational facilities, indoor commercial
- Recreational facilities, public
- Religious quarters
- Restaurants, take-out
- Restaurants, traditional
- Retail businesses
- Sample home display
- Schools, public and private, primary or secondary
- Self-storage facilities
- Service establishments

- Shopping centers or malls
- Tattoo, body piercing, scarifying or branding parlors
- Theaters, indoor
- Trade schools
- Veterinary clinics, indoor facilities
- Wholesale businesses

C. Accessory Uses (Zoning Officer)

- Accessory uses customary to approved uses
- Day care, family home
- Decks
- Essential services
- Farm stands
- Gazebos
- Home gardens and home nurseries
- Home greenhouses
- Patios
- Pets, keeping of
- Private garages, carports, sheds
- Private swimming pools
- Required parking areas
- Signs accessory to approved uses
- Satellite dish antennae
- Solar energy systems, accessory
- Wind turbine generators, accessory
- Yard sales

D. Special Exception Uses (Planning Commission / Zoning Hearing Board)

- Bus, limousine or taxi terminals
- Bus shelters
- Colleges and universities
- Domestic violence shelters
- Dormitories
- Drive-in stands/uses
- Halfway houses
- Home occupations (see §503.3 for home occupations which are accessory uses)
- Homeless shelters
- Outdoor entertainment
- Park and ride facilities
- Vehicle or equipment rental operations

E. Conditional Uses (Planning Commission / Borough Council)

- Amusement parks
- Auction houses
- Convenience stores
- Flea markets, outdoor
- Gaming establishments
- Theaters, drive-in
- Vehicle and equipment sales and repair operations
- Warehouses

F. Dimensional Regulations

1. All uses except multi-family dwellings -
  - Minimum Lot Area ..... 4,000 square feet (see §502.1 for multiple uses on one lot)
  - Minimum Lot Width..... 50 feet
  - Maximum Lot Depth to Width Ratio.....4:1
  - Minimum Setbacks
    - front setback (see §502.2 for corner lots)..... 10 feet measured from front line
    - rear setback..... 20 feet measured from rear line
    - side setbacks ..... none
    - side setback if adjoining any R-1 District..... 10 feet
  - Maximum Building Coverage ..... 60% of the lot area
  - Maximum Total Impervious Coverage..... 100% of the lot area
  - Maximum Building Height ..... 3 stories or 35 feet
  - Maximum Unattached Accessory Building Height..... 25 feet
2. Multi-family dwellings - see §603.

405.3 I-1 Industrial District

Uses not specifically listed in this §405.3 shall not be permitted in the any I-1 District except as approved in accord with §404.2.

A. Intent - To stimulate growth in the community by providing for manufacturing and industrial activities and other high intensity uses that can be developed and operated with minimal conflict with the natural environment and the character of the Borough, along with allowing a variety of housing opportunities.

B. Principal Permitted Uses (Zoning Officer)

- Car washes
- Charging stations
- Contractor yards
- Crop production
- Farmers’ markets
- Forestry
- Greenhouses and nurseries, commercial
- Lumberyards
- Manufacturing, light
- Park and ride facilities
- Parking areas, private
- Public and semi-public facilities and uses
- Recycling units, mobile
- Self-storage facilities
- Storage yards for forest products and minerals
- Truck washes
- Vehicle and equipment sales and repair operations
- Warehouses
- Wholesale businesses

C. Accessory Uses (Zoning Officer)

- Accessory uses customary to approved uses
- Day care, family home
- Decks
- Essential services
- Farm stands
- Gazebos
- Home gardens and home nurseries
- Home greenhouses
- Patios
- Pets, keeping of
- Private garages, carports, sheds
- Private swimming pools
- Required parking areas
- Signs accessory to approved uses
- Satellite dish antennae
- Solar energy systems, accessory
- Wind turbine generators, accessory
- Yard sales

D. Special Exception Uses (Planning Commission / Zoning Hearing Board)

- Agricultural products processing
- Bulk fuel storage facilities
- Bus, limousine or taxi terminals
- Commercial communication devices
- Junk yards
- Industry
- Retail home heating fuel distributors
- Sawmills
- Slaughter houses
- Solar power generation, commercial
- Water withdrawal facilities

E. Conditional Uses (Planning Commission / Borough Council)

- Crematoria
- Explosives plants or storage facilities
- Fireworks plants or storage facilities
- Recycling facilities

F. Dimensional Regulations - All uses.

Minimum Lot Area..... 10,000 square feet (see §502.1 for multiple uses on one lot)  
 Minimum Lot Width ..... 75 feet  
 Maximum Lot Depth to Width Ratio .....4:1

Minimum Setbacks

- front setback (see §502.2 for corner lots) ..... 25 feet measured from front line
- rear setback ..... 20 feet measured from rear line
- side setbacks ..... 15 feet measured from each side line

Maximum Building Coverage ..... 60% of the lot area

Maximum Total Impervious Coverage ..... 90% of the lot area

Maximum Building Height ..... 3 stories or 35 feet

Maximum Unattached Accessory Building Height ..... 30 feet

405.4 D-1 Redevelopment District

Uses not specifically listed in this §405.4 shall not be permitted in the any D-1 District except as approved in accord with §404.2.

A. Intent - To provide for a variety of dwellings and housing opportunities for a cross section of the population and all for necessary neighborhood retail and service establishments.

B. Principal Permitted Uses (Zoning Officer)

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>- Amusement arcades</li> <li>- Art studios</li> <li>- Assisted living facilities</li> <li>- Bakeries and confectionaries, retail</li> <li>- Banks</li> <li>- Bed and breakfast inns</li> <li>- Billiard halls</li> <li>- Boarding and lodging houses</li> <li>- Borough facilities and uses</li> <li>- Business offices</li> <li>- Business services</li> <li>- Clinics</li> <li>- Conference centers</li> <li>- Crop production</li> <li>- Day care centers</li> <li>- Dwellings on the second floor and above commercial uses</li> <li>- Forestry</li> <li>- Funeral homes</li> <li>- Group homes</li> </ul> | <ul style="list-style-type: none"> <li>- Group quarters</li> <li>- Health facilities</li> <li>- Multi-family dwellings</li> <li>- Nursing homes</li> <li>- Offices and office buildings</li> <li>- Parking areas, private</li> <li>- Personal care homes</li> <li>- Places of worship</li> <li>- Professional offices</li> <li>- Public and semi-public facilities and uses</li> <li>- Public parks and playgrounds</li> <li>- Recreational facilities, commercial</li> <li>- Recreational facilities, public</li> <li>- Religious quarters</li> <li>- Retail businesses</li> <li>- Schools, public and private, primary or secondary</li> <li>- Single-family dwellings</li> <li>- Theaters, indoor</li> <li>- Two-family dwellings</li> </ul> |
|---|---|

C. Accessory Uses (Zoning Officer)

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>- Accessory uses customary to approved uses</li> <li>- Day care, family home</li> <li>- Decks</li> <li>- Essential services</li> <li>- Farm stands</li> <li>- Gazebos</li> <li>- Home gardens and home nurseries</li> <li>- Home greenhouses</li> <li>- Patios</li> </ul> | <ul style="list-style-type: none"> <li>- Pets, keeping of</li> <li>- Private garages, carports, sheds</li> <li>- Private swimming pools</li> <li>- Required parking areas</li> <li>- Signs accessory to approved uses</li> <li>- Satellite dish antennae</li> <li>- Solar energy systems, accessory</li> <li>- Wind turbine generators, accessory</li> <li>- Yard sales</li> </ul> |
|--|--|

D. Special Exception Uses (Planning Commission / Zoning Hearing Board)

- Home occupations (see §503.3 for home occupations which are accessory uses)

E. Conditional Uses (Planning Commission / Borough Council)

- Convenience stores

F. Dimensional Regulations – All uses.

Minimum Lot Area.....	2,000 square feet (see §502.1 for multiple uses on one lot)
Minimum Lot Width .....	40
Maximum Lot Depth to Width Ratio .....	4:1
Minimum Setbacks	
- front setback (see §502.2 for corner lots) .....	10 feet measured from front line
- rear setback .....	10 feet measured from rear line
- side setbacks .....	none
Maximum Building Coverage .....	60% of the lot area
Maximum Total Impervious Coverage .....	80% of the lot area
Maximum Building Height.....	3 stories or 35 feet
Maximum Unattached Accessory Building Height .....	20 feet

405.5 RD – Rural District

Uses not specifically listed in this §405.5 shall not be permitted in the any RD District except as approved in accord with §404.2.

A. Intent - To provide for development consistent with the rural setting while allowing certain uses not appropriate in other areas of the Borough and applying performance standards to those uses.

B. Principal Permitted Uses (Zoning Officer)

- |   |  |
|---|--|
| - Agricultural uses                     | - Model homes                              |
| - Bed and breakfast inns                | - Nursing homes                            |
| - Cottage housing development           | - Personal care homes                      |
| - Crop production                       | - Public and private parks and playgrounds |
| - Day care, family home                 | - Resorts                                  |
| - Group homes                           | - Single-family detached dwellings         |
| - Forestry                              | - Two-family dwellings                     |
| - Greenhouses and nurseries, commercial | - Veterinary clinics, indoor facilities    |
| - Mobile home parks                     |  |

C. Accessory Uses (Zoning Officer)

- |   |                                      |
|---|--------------------------------------|
| - Accessory uses customary to approved uses | - Pets, keeping of                   |
| - Day care, family home                     | - Private garages, carports, sheds   |
| - Decks                                     | - Private swimming pools             |
| - Essential services                        | - Required parking areas             |
| - Farm stands                               | - Signs accessory to approved uses   |
| - Gazebos                                   | - Satellite dish antennae            |
| - Home gardens and home nurseries           | - Solar energy systems, accessory    |
| - Home greenhouses                          | - Wind turbine generators, accessory |
| - Patios                                    | - Yard sales                         |

D. Special Exception Uses (Planning Commission / Zoning Hearing Board)

- Adult businesses
- Airports
- Animal shelters
- Assisted living facilities
- Bus shelters
- Campgrounds and recreational vehicle parks on sites of not less than five (5) acres
- Commercial communication devices
- Concentrated animal feeding operations
- Distribution centers/truck terminals
- Development sales offices
- Heliports and helistops
- Home occupations (see §503.3 for home occupations which are accessory uses)
- Kennels
- Menageries
- Mineral extraction
- Mineral processing
- Pipeline compressor stations, metering stations or operation/maintenance facilities
- Power plants
- Public facilities and uses
- Race tracks
- Recreational facilities, outdoor commercial
- Schools, public and private, primary and secondary
- Semi-public facilities and uses
- Solid waste facilities and staging areas, public and commercial
- Stables, commercial
- Travel plazas
- Veterinary clinics, outdoor facilities
- Wind energy facilities
- Zoos

E. Conditional Uses (Planning Commission / Borough Council)

- Correctional facilities

F. Dimensional Regulations

1. All uses except cottage housing development and multi-family dwellings -
  - Minimum Lot Area ..... 30,000 square feet  
(see §502.1 for multiple uses on one lot)
  - Minimum Lot Width..... 100 feet
  - Maximum Lot Depth to Width Ratio.....4:1
  - Minimum Setbacks
    - front setback (see §502.2 for corner lots)..... 25 feet measured from front line
    - rear setback.....30 feet measured from rear line
    - side setbacks (each) .....15 feet, measured from each side line
    - nonconforming lots ..... 25% reduction for front and rear setbacks
  - Maximum Building Coverage ..... 40% of the lot area
  - Maximum Total Impervious Coverage..... 60% of the lot area
  - Maximum Building Height ..... 2.5 stories or 35 feet
  - Maximum Unattached Accessory Building Height..... 20 feet
2. Cottage housing development - see §601.

**ARTICLE V  
GENERAL STANDARDS**

The standards that follow shall be applied to the specific situations indicated and are intended to supplement the other standards in this Ordinance. Standards contained in a specific section regulating a specific use shall not exempt said use from other applicable regulations contained in this Ordinance.

**501 Deviations from Required Sizes**

No part of any structure, whether attached to the principal structure or not; including but not limited to, porches, carports, decks, balconies, chimneys, bay windows or overhangs, shall project into any required setback; and no lot, required setback, or other space shall be so reduced in area or dimension as to make it less than the minimum required by this Ordinance except in accord with this §501.

**501.1 Nonconforming Lots of Record**

See §811 of this Zoning Ordinance.

**501.2 Access Drives**

Access drives serving a permitted use shall be permitted in all required setbacks except as may be otherwise regulated by this Ordinance and provided a buffer of five (5) feet is maintained from rear and side property lines.

**501.3 Front Setback Exception**

Where a vacant lot exists between two (2) improved lots, each of which has a building within twenty (20) feet of the property line separating the parcels, a building may be erected on the vacant lot with a front setback not less than the greater front setback of the two (2) adjoining buildings. However, the front setback shall not in any case be reduced to less than ten (10) feet.

**501.4 Height Limitations**

Unless otherwise regulated by this Ordinance, height regulations shall not apply to spires, belfries, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, monuments, water towers, masts and aerials, television antennae, public utility structures that are not buildings, silos, chimneys, ventilators, and parapet walls extending not more than four (4) feet above the regulated height of the building, skylights, bulkheads, and ornamental or necessary mechanical appurtenances. Any such non-agricultural structure which exceeds a height of fifty (50) feet shall be considered a conditional use.

**501.5 Projections into Required Setbacks**

Projections into required setbacks shall be permitted as follows, except that in no case shall a structure or projection be located closer than seven (7) feet to any side or rear lot line or ten (10) feet to any front lot line.

- A. Bay windows, carports, fire places, fire escapes, chimneys, uncovered stairs and landings, and balconies and cornices, eaves, or other architectural features not required for structural support may project into the required front or rear setback not more than a total of three (3) feet.
- B. Porches may project into the required front and rear setbacks up to ten (10) feet.
- C. Patios may be located in the required side and rear setbacks not closer than seven (7) feet to any adjacent property line, and may project into front setbacks up to ten (10) feet.

**501.6 Reduction of Required Area or Space**

The area or dimension of any existing lot, setback, parking area or other space shall not be reduced to less than

the minimum required unless specifically permitted by this Ordinance.

## **502 Unique Lots, Setbacks and Building Locations**

### **502.1 Two or More Uses on a Lot**

- A. Development Standards – With the exception of lot size as permitted by this §502.1, two (2) or more principal buildings or uses located on a parcel in single ownership shall conform to all the requirements of this Ordinance which would normally apply to each building or use if each were on a separate district lot, including but not limited to setbacks, parking, lot coverage, and sewage disposal requirements.
- B. Residential Density - For the purposes of density of dwellings in R-1 Districts, lot size shall be increased to maintain the density required by this Ordinance. For example, the parcel size required for three (3) single-family dwellings on one (1) parcel would be determined by multiplying the minimum lot size for one (1) dwelling by a factor of three (3).
- C. Nonresidential Uses - In the case of nonresidential uses, there shall be no limit on the number of uses or structures on a single parcel provided all other standards of this Ordinance are satisfied. This shall not apply to adult businesses, junkyards, solid waste facilities, or other uses with a special minimum parcel size requirement listed in this Ordinance, in which case the parcel size shall be increased to provide for the minimum land area for each use on the parcel.
- D. Residential and Nonresidential on the Same Lot - The following shall apply only where the lot complies with the required minimum residential lot size for the District.
  - 1. First Unit - One residential unit per property shall be permitted in association with a nonresidential use(s) without an increase in the minimum lot size requirement provided said unit is attached to and is an integral part of the principal nonresidential structure.
  - 2. Other Units - Other residential dwelling units, if provided for in the District in §405, shall be permitted on the same lot as a nonresidential use only if the lot is of sufficient size to meet the residential unit density required by this Ordinance in addition to the land area needed to meet the density requirement for the nonresidential use.
- E. Multi-Family in C-1 District - In the C-1 District, multi-family dwellings shall be permitted on the same lot as a permitted nonresidential use in accord with the applicable standards of this Ordinance. (e.g., apartments above a business.)
- F. Structure Separation - Principal structures located on the same lot shall be separated by a distance at least equal to the height of the highest adjoining structure, but in no case less than twenty (20) feet. (See §503.2 for accessory structures.)

### **502.2 Street Frontage / Front Setbacks**

A principal building shall be permitted only upon a lot with frontage on a public or private road right-of-way. Each setback of a lot which abuts a street shall be equal in size to the front setback required for the district. Any other setbacks may be considered side setbacks.

### **502.3 Clear View at Street Intersections**

On a corner lot, within the following triangular area, no wall or fence or other structure shall be erected to a height in excess of thirty (30) inches; and no vehicle, object or any other obstruction of a height in excess of

thirty (30) inches shall be parked or placed; and no hedge, shrub or other growth shall be maintained at a height in excess of thirty (30) inches, except that trees whose branches are trimmed away to a height of at least ten (10) feet above the curb level shall be permitted. Such triangular area shall be determined by the intersecting street right-of-way lines and a diagonal connecting two (2) points, one (1) on each street right-of-way line, each of which points is thirty (30) feet from the intersection of such street right-of-way lines.. Where a state route is involved the minimum distance shall be as required by PennDOT.

### 503 Accessory Structures and Uses

#### 503.1 Location

Accessory buildings and uses shall be on the same lot with the principal building or buildings or on another owned or rented lot. In the case of a nonresidential use, an accessory building on a separate lot shall only be permitted in a district where the principal permitted use is permitted.

#### 503.2 Accessory Structures

All accessory structures shall conform to the minimum regulations established for each District except as permitted below.

- A. Attached Accessory Structures - An accessory structure attached to a principal building shall comply with the setback requirements for principal structures established for each District.
- B. Unattached Accessory Structures
  1. Unattached Structures Accessory to Residential Buildings - Structures accessory to residential buildings which are not attached to a principal structure may be erected within the required side and rear setbacks only in conformance with the following:
    - a. Maximum Height - one and one-half (1.5) stories or fifteen (15) feet.
    - b. Side Setbacks - not less than seven (7) feet from the side lot line, except in the case of corner lots where the full side setback for principal structures shall be maintained.
    - c. Rear Setback - not less than seven (7) feet.
    - d. Distance from Principal Structure - not less than ten (10) feet.
  2. Unattached Structures Accessory to Nonresidential Buildings - Structures accessory to nonresidential buildings which are not attached to a principal structure shall comply with front and side setback requirements for the principal structure and shall have a minimum rear setback of at least ten (10) feet.
- C. Containers, Truck Trailers
  1. Sea containers, storage containers, truck trailers, and similar structures used as accessory structures shall only be permitted in the I-1 and RD Districts.
  2. Such structures shall not be permitted between the principal structure and any public road right-of-way and shall maintain the side and rear setbacks applicable to principal structures in the I-1 District and RD District. Side and rear setbacks shall be twice the normal required setback in cases where the structure adjoins a residential use or R-1 or D-1 District.
  3. All such structures shall be screened in accord with §506.1 and shall be maintained in good condition.

- D. Fences (See §503.6 for private swimming pools.)
1. Requirements - All fences and fence installations shall comply with the following:
    - a. All fences must be erected entirely within the property line.
    - b. No fence shall be erected within any public right-of-way, sight triangle or public easement.
    - c. When any fence is designed to have a *front* and a *back*, the *front* of the fencing shall face toward the closest property line, while the *back* of the fencing shall face toward the interior of the property upon which the fence is being erected.
    - d. All fences shall be maintained in a safe, sound and upright condition.
    - e. No fence shall be erected which is embedded with or made of pieces of glass, sharpened metal or sharp or otherwise hazardous material, nor shall any fence be erected which is intended to injure persons or animals.
    - f. Fence height shall be measured from ground level at the fence post to the highest portion of the fence, except, when erected upon a man-made berm or non-retaining wall between single-family lots, the height shall be measured from the base of the man-made berm or non-retaining wall.
    - g. Any fence legally existing at the time of the adoption of this Ordinance even though not conforming to the provisions of this section may be continued in existence upon the lot as a nonconforming fence. Any such fence may be restored or repaired in the event of partial destruction thereof.
  2. Residential Areas - Fences on residential lots may be erected, altered or reconstructed to a height not exceeding six (6) feet above the ground level when located in other than the front yard and not exceeding four (4) feet in height when located in the front yard except for gate pillars. Gate pillars (including lights, ornaments and any part of the structure) in the front yard shall not exceed six (6) feet in height. On a corner lot, the front yard referred to above shall relate only to the street upon which the principal dwelling faces. Those portions of the fence located in the front yard shall not have more than fifty (50) percent-closed surface.
  3. Commercial and Industrial Areas - Fences in commercial and/or industrial areas may be erected to a height not to exceed six (6) feet above ground level in any yard, except that open wire fences may be erected to a height not to exceed eight (8) feet above ground level for security purposes.
  4. Barbed Wire Fences - Barbed wire fences shall not be permitted except on an industrial/commercial lot. When used in an industrial/commercial area, barbed wire may only be used when needed for security purposes and must be mounted on top of a fence having a minimum height of six (6) feet above ground level.
  5. Electrically Charged Fences - Electrically charged fences are not permitted. This provision shall not prohibit the use of "invisible fences" used to control domestic animals.

### 503.3 Home Occupations

It is the intent of this subsection to regulate the operation of home occupations so that the average neighbor, under normal circumstances, will not be aware of the existence of the home occupation. The burden of proof shall be on the applicant to demonstrate that the standards will be met. Based upon the potential nuisances of a proposed home occupation not specifically permitted by this section, the Zoning Hearing Board may determine that a particular type or intensity of use is unsuitable to be a home occupation or that the proposed lot area or setbacks are not adequate. The following standards shall apply:

- A. Incidental and Secondary - The home occupation must be clearly incidental and secondary to the use of the dwelling as a residence.
- B. Area - The total area used by all home occupations on the premises shall not exceed more than twenty-five (25) percent of the floor area of the principal residential dwelling or eight hundred (800) square feet, whichever is less.
- C. Outside the Dwelling - There shall be no evidence visible from outside the dwelling (show windows, business displays, advertising, etc.) that the residence is being operated as a home occupation except for a sign, if permitted, and required parking area. No outdoor display or display visible from outdoors, or outdoor storage of materials, goods, products, supplies, or equipment used in the home occupation(s), shall be permitted.
- D. Employees - The home occupation(s) shall be conducted only by members of the family residing in the dwelling and two (2) nonresident persons.
- E. Parking - Off-street parking shall be provided on the premises as required by this Ordinance to prevent parking on any public or private street right-of-way, with a minimum of two (2) spaces provided in addition to that required for the residence.
- F. Nuisances - No home occupation use shall generate nuisances such as traffic, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than what is usually experienced in the residential neighborhood.
- G. Retail or Wholesale - No goods or items for retail or wholesale sale shall be permitted except for items hand crafted on the premises or goods and items incidental to the operation of an approved home occupation with the total display and/or storage area limited to indoors and not more than two hundred (200) square feet
- H. Tractor-Trailer Trucks - The use shall not require servicing by, deliveries by or parking of tractor-trailer trucks. In the R-1 District, the use shall not require the parking or servicing by a vehicle with more than twenty-six thousand (26,000) pounds registered gross vehicle weight, except for deliveries of a maximum of two (2) times per day.
- I. Sign - One (1) sign not more than four (4) square feet for each face shall be permitted in accord with Article VII.
- J. Performance Standards - The performance standards in §506 shall apply.
- K. Prohibited Uses - The following uses shall not be permitted as home occupations: commercial stables, veterinarians, commercial kennels, motor vehicle or small engine repair shops, retail or wholesale sales, restaurant, crematoria, funeral parlors or other uses not meeting the requirements of this §503.3.

- L. Accessory Uses - The following types of uses shall be permitted as accessory uses in all districts, when in compliance with all applicable requirements:
1. Professional offices for individual practitioners.
  2. Rooming and/or housing of not more than two (2) persons.
  3. Custom dressmaking or tailoring.
  4. Foster family care for not more than four (4) children simultaneously.
  5. Day care that provides care for six (6) or fewer children at any one time who are not relatives of the care giver.
  6. Tutoring for not more than four (4) children simultaneously.
  7. Mail order or sales businesses not involving customer contact on the premises or wholesale brokering not involving stock on the premises.
  8. Businesses involving the use of personal computers for sales or services and which do not involve customer contact on the premises.
  9. Single practitioner beauty shops and barbershops.
  10. A no-impact home-based businesses which is clearly secondary to the use as a residential dwelling 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 residential use. The business or commercial activity must satisfy the following requirements as set forth in §107 of the Pennsylvania Municipalities Planning Code:
    - a. The occupation shall be compatible with the residential use of the property and surrounding residential uses.
    - b. The occupation shall employ no other employees other than family members residing in the dwelling.
    - c. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
    - d. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
    - e. The occupation may not use any equipment or process, which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
    - f. The occupation shall not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

- g. The occupation shall be conducted only within the dwelling and may not occupy more than twenty-five (25) percent of the habitable floor area.

M. Special Exceptions - All applications for home occupations not specifically enumerated as permitted in §503.3L shall be considered special exceptions.

503.4 Private Parking Areas, Garages Accessory to Residential Uses (See also §503.2.)

Accessory off-street parking areas or garages serving the residential or nonresidential parking demand created by the principal building are permitted in accord with §504.

- A. Access - Required accessory parking areas and truck loading spaces shall have safe and adequate access to a public street, either by a driveway on the same lot or by means of a permanent easement across an adjoining lot.
- B. R-1 District – In R-1 Districts:
  - 1. A private garage or private parking area may be used only as an accessory to the principal residential use.
  - 2. Not more than one (1) commercial vehicle with a gross weight limited to two and one-half (2.5) tons may be housed on any lot.

503.5 Home Gardening, Nurseries and Greenhouses

Home gardening and accessory structures used for home nurseries or as home greenhouses are permitted in all Districts.

503.6 Private Outdoor Swimming Pools

A single private outdoor, in-ground or above-ground swimming pool per dwelling unit is permitted as an accessory structure in accord with the following:

- A. The swimming pool shall be for the private use of the residents of the dwelling unit or for their guests.
- B. The pool and any associated deck or patio shall be permitted only in rear and side setbacks and shall comply with required setbacks for accessory structures.
- C. The pool shall be protected in accord with PA Uniform Construction Code requirements.

503.7 Reserved

503.8 Satellite Dish Antennae

All private satellite dish antennae shall be considered structures and shall maintain the setbacks required for accessory structures; however, a permit shall not be required.

503.9 Wind Turbine Generators, Accessory

An accessory wind turbine generator is a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any, and which is sized and intended to be used to generate electricity for the principal structure to which it is accessory. Accessory wind turbine generators are permitted in all districts only in compliance with the following and other applicable standards of this Ordinance.

- A. Excess Electricity - Accessory wind turbine generators shall provide power for the principal use and/or accessory use of the property on which it is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
- B. Height - The applicant shall demonstrate that the accessory wind turbine generator and support structure is no higher than required by the manufacturer's standards. Any accessory wind turbine generator which exceeds a height of seventy-five (75) feet as measured from the highest point of the rotor plane or vertical axis shall be considered a conditional use.
- C. Minimum Parcel Size; Setback
1. A minimum lot size of three-fourths (0.75) acres shall be required for an accessory wind turbine generator.
  2. No part of the wind turbine generator, support structure, blades or vertical axis shall be located from any property line and any public road rights-of-way less than ten (10) feet plus the total height of the wind turbine as measured from the highest point of the generator, rotor plane, or support structure, whichever is higher.
  3. Guy wire anchors shall not extend closer than ten (10) feet to any property line or road-right-of-way.
- D. Uniform Construction Code; Manufacturer's Standards
1. Applications for accessory wind turbine generators shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings, documenting compliance with the Uniform Construction Code.
  2. The generator and support structure shall be installed in accord with all Uniform Construction Code and manufacturer requirements.
  3. Prior to the issuance of a certificate of use, the applicant shall provide documentation to the satisfaction of the Zoning Officer that the generator and support structure have been installed in accord with all Uniform Construction Code and manufacturer requirements. If deemed necessary by the Zoning Officer, the Zoning Officer may require certification from a registered professional engineer or a representative of the manufacturer.
- E. Climb Prevention, Locks and Fence
1. Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
  2. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent access by non-authorized persons.
- F. Noise and Shadow Flicker
1. Audible sound from an accessory wind turbine generator shall not exceed forty-five (45) dBA as measured at the property line of the parcel on which the accessory wind turbine generator is located. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall be equal to or exceed the minimum standards for precision described in AWEA

Standard 2.1. 1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*, or replacement document.

2. Best efforts shall be used to minimize shadow flicker on any other parcel.
- G. Color and Lighting; FAA and PA DOT Notice - Accessory wind turbine generators and support structures, including rotors, shall be a non-obtrusive color such as white, off-white or gray. Wind turbines shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No wind turbine may be artificially lighted, except as required by FAA requirements.
- H. Site Plan - A plot plan shall be provided to document all required setbacks.
- I. Removal - The wind turbine and support structure shall be immediately removed when it is no longer in service and failure to do so shall constitute a zoning violation.

#### 503.10 Solar Collectors, Accessory

An accessory solar collector is a freestanding or fixed device, or combination of devices, structures, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy that contributes significantly to a structure's energy supply and which is sized and intended to be used to generate electricity for the principal structure to which it is accessory.

- A. Districts; Standards - Accessory solar collectors and associated energy storage facilities are permitted in all districts only in compliance with this §503.10 and other applicable standards of this Ordinance.
- B. Excess Electricity - Accessory solar collectors shall provide power for the principal use and/or accessory use of the property on which it is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
- C. Mounting - A solar energy system may be roof mounted or ground mounted.
- D. Height
  1. Roof Mounted - A roof mounted system may be mounted on a principal building or accessory building. A roof mounted system whether mounted on the principal building or accessory building, shall not exceed the maximum building height or accessory building height specified for the underlying zoning district.
  2. Freestanding - A freestanding system shall not exceed the maximum building height for accessory buildings.
- E. Setback - The following required setbacks shall apply.
  1. Roof Mounted - In no instance shall any part of the solar energy system extend beyond the edge of the roof.
  2. Freestanding - Freestanding solar collectors shall comply with the required setbacks specified for accessory structures in the underlying zoning district.
- F. Mechanical Equipment - Mechanical equipment shall comply with the required setbacks specified for

accessory structures in the underlying zoning district and shall be screened from any adjacent property.

- G. Power Lines - All power transmission lines from a freestanding solar energy system to any building or other structure shall be located underground.
- H. Uniform Construction Code; Manufacturer's Standards - The system shall be installed in accord with Uniform Construction Code and manufacturer's standards.
- I. Removal - The solar collectors and all associated equipment and facilities shall be immediately removed when it is no longer in service and failure to do so shall constitute a zoning violation.

#### 503.11 Temporary Uses

- A. Definition - A use accessory to another permitted principal use that operates at a fixed location for a temporary period of time.
- B. Zoning Permit Required - No temporary use shall be established unless a zoning permit evidencing the compliance of such use with the provisions of this §503.11 and other applicable provisions of this Ordinance shall have first been issued.
- C. Particular Temporary Uses Permitted - The following are temporary uses which are subject to the following specific regulations and standards, in addition to the other requirements specified in this Ordinance.

##### 1. Contractor's Office and Construction Equipment Sheds

- a. Permitted in any district where use is incidental to a construction project. Office or shed shall not contain sleeping or cooking accommodations.
- b. Maximum length of permit shall be one (1) year.
- c. Office or shed shall be removed upon completion of construction project.
- d. Required water supply and sanitary facilities shall be provided.

##### 2. Real Estate Sales Office

- a. Permitted in any district for any new subdivision approved in accord with the Subdivision Ordinance. The office may not contain sleeping or cooking accommodations. A model home may be used as a temporary sales office.
- b. Maximum length of permit shall be one hundred and twenty (120) days.
- c. The office shall be removed upon completion of the development of the subdivision.
- d. Required water supply and sanitary facilities shall be provided.

##### 3. Temporary Shelter

- a. When fire or natural disaster has rendered a single-family residence unfit for human habitation,

the temporary use of a mobile home or recreational vehicle (see definition in Article III) located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations.

- b. Required water supply and sanitary facilities must be provided.
  - c. Maximum length of permit shall be twelve (12) months, but the zoning officer may extend the permit for a period or periods not to exceed sixty (60) days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least fifteen (15) days prior to expiration of the original permit.
  - d. The mobile home or recreational vehicle shall be removed from the property prior to issuance of any occupancy permit for the new or rehabilitated residence.
- D. Temporary Uses by Conditional Use - For temporary structures or uses that are not specifically permitted by right by this Ordinance, and other than customary accessory uses and other than those uses that were lawfully occurring on a periodic basis prior to the adoption of this Ordinance, a temporary permit may be issued by the Borough Council as a conditional use for structures or uses that would not otherwise be permitted, subject to the following additional provisions:
1. Duration - The Borough Council shall establish a limit on the duration of the use. In the case of a special event, except under special circumstances, this should be a maximum of seven (7) days in any 60-day period. The Borough Council may grant a single approval once for numerous occurrences of an event.
  2. Statement from Owner - The applicant shall present a statement from the owner of record of the land accepting responsibility to ensure that the use or structure is removed once the permit expires.
  3. Removal - Such structure or use shall be removed completely upon expiration of the permit without cost to the Borough. If the structure or use is not removed in a timely fashion after proper notification, the Borough may remove the use or structure at the cost of the person who owns the land upon which the structure or use is located.
  4. Conditions - The temporary use or structure shall: 1) be compatible with adjacent uses and 2) clearly be of a temporary nature.
  5. Fee - The Borough Council may waive and/or return the required application fee if the applicant is an Internal Revenue Service recognized and well-established nonprofit organization, and the applicant clearly shows that the proposed use is temporary and will be used to clearly primarily serve a charitable or public service purpose.
  6. Nonprofit - Only an Internal Revenue Service-recognized nonprofit organization proposing a temporary use to clearly primarily serve a charitable or public service purpose shall be eligible to receive approval for a temporary commercial use in a district where that use is not permitted.
  7. Special Events - For a special event that will attract significant numbers of the public, the Borough Council may deny the use if it determines that the following will not be generally appropriate: sanitary and water service, traffic control, off-street parking and protection of the public health and safety.

**F. Additional Regulations**

1. Documentation must be provided to the Borough that adequate arrangement for temporary sanitary facilities has been made.
2. All uses shall be confined to the dates specified in the permit.
3. Hours of operation shall be confined to those specified in the permit.
4. Access and parking for the exclusive use of the facility shall be provided, and a stabilized drive to the parking area shall be maintained, with a minimum of six (6) inches, or as otherwise needed, of 2 RC stone or equal material.

**503.12 Refuse**

The storage of refuse, waste or garbage exterior to a building for a period of twenty-four (24) hours is hereby prohibited, except that the use of metal or plastic storage bins commercially designed and manufactured specifically for the mechanized handling of such materials shall be permitted.

**503.13 Yard, Lawn, Garage, Tag or Estate Sale** - Yard, lawn, garage, tag or estate sales shall not exceed more than three (3) consecutive days and not more than five (5) times per year in R-1, D-1 and RD Districts and eight (8) times per year in C-1 and I-1 Districts.

**503.14 Private Flea Markets and Similar Events** - Private flea markets, craft fairs, bazaars, celebration and similar community events conducted by a service, nonprofit, religious or charitable organization are permitted as accessory uses provided that the same are conducted upon lands owned by such organizations or conducted upon land situated in a commercial district leased to such organization. Any such organization shall not conduct such an event for more than seven (7) successive days and not more than three (3) such periods in any one (1) calendar year.

**504 Off-Street Parking and Loading**

This §504 shall apply to all new and expanded uses and to changes of use and all such uses shall be provided with parking and loading areas adequate to meet the needs of the use.

**504.1 Availability and Use of Facilities**

- A. **Availability** - The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term *parking space* includes either covered garage space or uncovered parking lot space located off the public right-of-way.
- B. **Location of Parking** - Required off-street parking spaces shall be on the same lot with the principal use served, except as approved in §504.11 or §504.12.
- C. **Continuing Obligation of Parking and Loading Spaces** - All required numbers of parking spaces and off-street loading spaces shall be available as long as the use or building which the spaces serve still exists, and such spaces shall not be reduced in number below the minimum required by this Ordinance.
- D. **Non-parking Use** - Required off-street parking, loading, and unloading facilities and access ways shall not be used for any other purpose, including, but not limited to, sales, display or storage areas, or the parking of any vehicles for which the area was not approved (e.g., parking of tractor trailers in required passenger vehicle areas).

- E. Existing Parking - Any parking spaces serving such preexisting structures or uses at the time of the adoption of this Ordinance shall not in the future be reduced in number below the number required by this Ordinance. If a new principal nonresidential building is constructed on a lot, then any existing parking on such lot that serves such building shall be reconfigured to comply with this Ordinance, including, but not limited to, required parking and areas reserved for additional parking if needed, requirements for channelization of traffic from adjacent streets, channelization of traffic within the lot, minimum aisle widths, paving and landscaping.
- F. Garages and Carports - Garages and carports not in the public right-of-way may be considered parking spaces.

#### 504.2 Site Plan; Design

- A. Site Plan - The project application shall include a site plan that shows the parking, loading and unloading area, and access design.
- B. General - Parking spaces, loading and unloading areas, and access ways shall be laid out to result in safe and orderly use and to fully address all of the following: vehicular access onto and off the site, vehicular movement within the site, pedestrian patterns and any drive through facilities. No parking area shall cause a safety hazard or impediment to traffic on or off the lot.
- C. Pedestrian Access and Circulation - The parking and access plan shall include details of pedestrian access to the site and pedestrian circulation within the site. The intent shall be to facilitate pedestrian access and provide safe and convenient circulation from parking areas to the structure or use.
- D. Design - Off-street parking areas, load and unloading areas, access ways, fire lanes, traffic flow signs, pavement markings, and other necessary facilities shall be designed and provided in accord with the most current Urban Land Institute or Institute of Transportation Engineers methodology, or other generally accepted methodology approved by the Borough. Notwithstanding the above, all parking spaces and the overall design shall be ample in size for the vehicles for which use is intended.

#### 504.3 Lighting

In addition to the other applicable standards in this Zoning Ordinance, all lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways.

#### 504.4 Public Rights-of-Way

Parking, loading and unloading of vehicles shall not be permitted on public right-of-ways, except in designated areas and in accord with municipal parking regulations. No parking area shall be designed which requires or encourages parked vehicles to be backed into a public street.

#### 504.5 Reserved

#### 504.6 Number of Spaces

- A. Parking Required
  - 1. Any structure or building which is hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with off- street

parking spaces adequate to serve such use but with not less than the minimum spaces, as set forth in the following Table, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.

2. For projects involving more than one use and/or structure the total number of parking spaces required shall be determined by summing the number of spaces for each individual use.
3. Additional parking for the handicapped shall be provided in accord with PA Uniform Construction Code requirements.
4. For uses not specifically provided in the Table, the Zoning Officer, with the recommendation of the Planning Commission, shall determine the required number of spaces based upon the similarity of the proposed use to the uses provided.

USE	PARKING SPACES REQUIRED
<b>A. Dwellings</b>	
1. Single-family and two-family	2 per dwelling unit
2. Multi-family	1 per dwelling unit
<b>B. Homes for handicapped or infirm, nursing homes, group care homes, halfway houses and similar uses</b>	
	1 per every 2 beds
<b>C. Hotels, motels, boarding and tourist homes, bed and breakfast establishments and other uses providing overnight accommodations</b>	
	1.1 per bedroom
<b>D. Sales and rental of goods, merchandise and equipment</b>	
1. Retail establishments	1 per 200 SFGFA open to the public
2. Wholesale establishments	1 per 800 SFGFA
3. Flea markets	1 per 200 square feet of lot area designated for display or sales
<b>E. Offices, research facilities and services not primarily related to goods</b>	
1. Serving customers or clients on premises such as attorneys, physicians, insurance and travel agents	1 per 200 SFGFA
2. Drive-in banks	1 per 200 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
3. Serving little or few customers or clients on premises, such as corporate offices	1 per 250 SFGFA
4. Funeral homes	1 per 100 SFGFA open to the public
<b>F. Manufacturing, processing, renovating, assembling goods, merchandise and equipment</b>	
	1 per 600 SFGFA
<b>G. Educational, cultural religious social, fraternal uses</b>	
1. Public schools	1.75 per classroom for elementary and middle schools; and 5 per classroom for high schools
2. Trade and vocational schools, colleges	1 per 100 SFGFA open to the public
3. Churches, synagogues and temples	1 per every 4 seats used for services
4. Libraries and museums, social, fraternal clubs and lodges; and similar uses	1 per every 3 persons of fully utilized design capacity
<b>H. Recreation, amusement and entertainment</b>	
1. Bowling alleys, skating rinks, indoor athletic or exercise facilities and similar uses	1 per every 4 persons of fully utilized design capacity (if measurable in such fashion), otherwise 1 per 200 SFGFA
2. Movie theaters, stadiums and similar uses with seating accommodations	1 per every 4 seats
3. Public and private outdoor recreation facilities	1 per every 3 persons of fully utilized design capacity

USE	PARKING SPACES REQUIRED
such as golf courses, swimming pools and similar uses	
4. Commercial water craft docking facilities, including such facilities at waterfront marinas	2 per every 3 slips
I. Hospitals, clinics and other medical treatment facilities	2 per bed or 1 per 200 SFGFA, whichever is greater
J. Restaurants, bars, taverns and other eating establishments	1 per 2 seats plus reservoir lane capacity equal to 5 spaces per drive-in window
K. Vehicle related uses (See definition of "vehicle" in Article III.)	
1. Sales, service, repair	1 per 250 SFGFA
2. Gas sales	1 per 250 SFGFA plus sufficient parking area at pumps which does not interfere with other required spaces
3. Car wash	1 per 100 SFGFA plus 2 reservoir spaces in front of each stall for self-serve and 5 reservoir spaces for conveyor type
L. Warehousing and storage	1 per 4,000 SFGFA
M. Miscellaneous uses	
1. Veterinary	1 per 150 SFGFA
2. Nursery schools and day care	1 per 150 SFGFA
3. Greenhouses	1 per 150 SFGFA
4. Emergency services	1 per 150 SFGFA
5. Junk and scrap yards	1 per 150 SFGFA
6. Post office	1 per 150 SFGFA
Note: SFGFA means "square feet of gross floor area". Gross floor area is the sum of the total horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, or any space where the floor-to-ceiling height is less than six feet.	

- B. Borough Required Reduction - In the case of parking for new uses, if the Borough determines that the number of parking spaces required by this §504 is not necessarily required to meet the immediate needs of the proposed use, the Borough may require the number of spaces provided to be reduced by a maximum of twenty-five (25) percent. The developer shall dedicate sufficient and suitable area to future parking to meet the normal standards in this §504.
- C. Reserved Parking Disturbance and Stormwater - The reserve parking areas shall remain undisturbed or shall be landscaped, but shall be included in the calculations of lot coverage area and for stormwater management. The stormwater facilities shall be constructed in accord with the approved sequencing design as parking areas are constructed.
- D. Form of Reservation - Each parking reservation shall be in a form acceptable to the Borough Solicitor that legally binds current and future owners of the land to keep the reserved parking area in open space and, if the Borough determines it is necessary, to provide the additional parking in the time and manner as stipulated in the reservation document. Proof of recording of the agreement shall also be provided to the Borough before the issuance of a zoning permit for the project.
- E. Multiple Uses (See also §504.12.) - For projects involving more than one use and/or structure the total number of parking spaces required shall be determined by summing the number of spaces for each individual use.
- F. Handicapped Parking - Parking for the handicapped shall be provided in accord with the PA Uniform Construction Code and shall count as part of the spaces required for the use by this §504.

- G. Applicant Proposed Reduction - The required number of parking spaces may be reduced subject to conditional use approval by the Council. The applicant shall provide evidence justifying the proposed reduced number of spaces, such as studies of similar developments during peak hours. The applicant shall also provide relevant data, such as number of employees and peak expected number of customers/visitors. Any conditional use approval to permit such decrease shall be subject to the following:
1. Ordinance and Plan Consistency - The project design and parking space decrease shall be consistent with the purposes contained in this Ordinance and the goals and objectives of the Borough Comprehensive Plan.
  2. Quality of Design - The applicant shall demonstrate to the Council that the proposed decrease will result in an adequate number of parking spaces for the use based on a specific study of the parking demands for the proposed use or empirical data reported by a generally accepted source such as the Institute of Transportation Engineers, the Urban Land Institute, the American Planning Association, or similar entity.
  3. Local Conditions - In making its determination the Council shall also consider, among others, the demographics and character of the neighborhood, demographics of targeted customers and employees, availability of mass transit, existing on-street parking conditions, and any employer instituted transportation demand management programs.
  4. Burden; Conditions - If the Council, in its sole discretion, determines that the applicant has met the burden of proof, it may grant a conditional use for the decrease. The Council may impose such conditions as will, in its judgment, secure the objectives and purposes of this Ordinance, including, but not limited to, reserving parking.

#### 504.7 Loading and Unloading Areas

- A. Type and Size - In addition to the required off-street parking spaces all uses shall provide adequate off-street areas for loading and unloading of vehicles where necessary. The applicant shall provide details on the type, number and frequency of vehicles operating in connection with the proposed use to justify any necessary loading and unloading areas. The development plan shall provide for the necessary spaces to accommodate the vehicles.
- B. Parking Area Use - No loading or unloading area shall be used in the calculation of off-street parking requirements as required off-street parking areas cannot substitute for load or unloading areas.
- C. Interior Travelways - The applicant shall demonstrate that travelways within the property are adequate to safely and efficiently serve vehicles which are reasonably expected to visit the property. Turning radius templates developed by the American Association of State Highway Transportation Officials (AASHTO) shall serve as the design standard.

#### 504.8 Access to Off-street Parking and Loading Areas

There shall be adequate provisions for ingress and egress to all parking and loading spaces designed for use by employees, customers, delivery services, sales people and/or the general public. Access to and from all off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well-defined separate or common entrances and exits and shall comply with the following provisions:

- A. Residential Street Access - Unless clearly impractical, all residential lots shall have direct access only to a local street. Where lots are created having frontage along existing collector or arterial roads, the proposed street pattern shall provide reverse frontage access to a local street within the development, rather than access onto the collector or arterial road. Front required setback shall be calculated from the local road.
- B. Double Frontage - Where a lot is created or exists between two (2) parallel roads, access from both roads shall be prohibited. In such cases, the provisions of §504.8A shall apply.
- C. Access Intersection Distance - Unless otherwise required by PennDOT for access to a state road, all access ways from lots to a public street shall be located a minimum distance from an intersection, based on the classification of a road as defined by the Comprehensive Plan, as follows:
  - 1. Local Road Intersecting Local Road - Fifty (50) feet.
  - 2. Local Road Intersecting Collector Road - Seventy-five (75) feet.
  - 3. Local Road Intersecting Arterial Road - One hundred (100) feet.
- D. Width - Unless otherwise required by PennDOT for access to a state road, the width of the access way onto a public street at the right-of-way shall be as follows:

WIDTH*	1-Way Use	2-Way Use
Minimum	12 feet	20 feet
Maximum	35 feet	50 feet
*exclusive of the turning radius		

- E. Controlled Access - Each entrance and exit shall be clearly defined with curbing, fencing, landscaping or vegetative screening so as to prevent access to the area from other than the defined entrance and exit
- F. Highway Occupancy Permit - All new uses shall be required to obtain a highway occupancy permit from the Borough or PennDOT, as the case may be. In the case of a change in use or the expansion of an existing use, the Borough shall require the applicant to obtain a highway occupancy permit or a revised highway occupancy permit. Where a use accesses the public right-of-way via a private road, the highway occupancy permit requirement and criteria shall be applied at the public right-of-way intersection.
- G. Traffic Control Devices -The applicant shall be responsible for the construction of any necessary traffic control devices, including acceleration lanes, as required by PennDOT.

**504.9 Parking and Loading Area Setbacks**

All parking and loading areas and parallel circulation and service lanes serving any commercial, industrial, institutional or multi-family use shall maintain a setback of five (5) feet from any public road right-of-way or adjoining property lines unless adjoining uses share parking in accord with §504.12.

**504.10 Grading and Drainage; Paving**

- A. Grading and Drainage - Parking and loading facilities, including driveways, shall be graded and adequately drained to prevent erosion or excessive water flow across streets or adjoining properties.

- B. Surfacing - Except for landscaped areas, all portions of required parking, loading facilities and access ways shall be surfaced with a durable surface such as gravel, asphalt, concrete, paving block or porous pavement or pavers.
- C. Low or Seasonal Usage - The Council may, as a conditional use, allow parking areas with low or seasonal usage to be maintained in grass or other suitable surfaces. For example, the Council may allow parking spaces to be grass, while major aisles are covered by stone.

#### 504.11 Off-Lot Parking

Required parking may be provided on a different lot than on the lot on which the principal use is located, provided the parking is not more than four hundred (400) feet from the principal use lot. Off-lot parking areas shall be permitted only in a district where the principal use is permitted. Both parcels shall be under the same control, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by covenants of record filed in the office of the County Recorder of Deeds requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.

#### 504.12 Joint Use Parking

In the case of multiple use on the same premises or where more than one (1) principal uses share a common property line, shared parking facilities may be approved by the Zoning Officer.

- A. Documentation - The applicant shall provide information to establish that the shared spaces will be used at different times of the day, week, month, and/or year.
- B. Reduction - Parking provided may be credited to both uses based on the extent that the uses operate at different times. However, the required parking shall not be reduced by more than fifty (50) percent of the combined parking required for each use. (Example: If a church parking lot is generally occupied only to ten (10) percent of capacity on days other than a Sunday, another development not operating on a Sunday could make use of the unused church lot spaces on weekdays.)
- C. Agreement - Joint use parking shall be secured in a form acceptable to the Borough Solicitor that legally binds current and future owners of the land to maintain the parking. An attested copy of the agreement between the owners of record shall be provided to the Borough. Proof of recording of the agreement shall also be provided to the Borough before the issuance of a zoning permit for the project.
- D. Common Property Line - The joint-use parking area may span a common property line thereby eliminating the setback required in §504.9.

#### 504.13 Shopping Carts

Establishments furnishing carts shall designate and reserve areas for the return and collection of carts at the rate of at least one return area per every twenty-five (25) parking spaces. Return areas shall be at least one hundred eighty (180) square feet in size.

#### 504.14 Merchandise

No merchandise, materials, or goods shall be stored or displayed in any parking area required by this ordinance.

#### 504.15 Snow Storage and Removal

All plans for proposed parking areas of twenty-five (25) or more spaces shall include details for adequate snow storage and removal.

**505 Reserved****506 Performance Standards**

- A. Intent and Applicability - The intent of this §506 is to regulate the development and operation of all development in the Borough and to protect the environment and the public health, safety and general welfare. The following performance standards shall apply to all proposed new or expanded nonresidential uses, and residential uses and normal agricultural uses explicitly referenced by a specific section.
- B. Affidavit
1. With the exception of residential uses, the applicant for a Zoning Permit for any other principal or accessory use shall include with such application an affidavit acknowledging his understanding of the performance standards in this §506 and applicable to such use, and affirming his agreement to conduct or operate such use at all times in conformance with such standards.
  2. The Right to Know Law protects certain information submitted in connection with a zoning permit from public disclosure by the Borough. §708(3) of the Right to Know Law, 65 P.S. 67.708(3), exempts, "A record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system, which may include ... (iii) building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems, structural elements, technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage and gas systems." Additionally, §708(11) of the Right to Know Law, 65 P.S. 67.708(11), exempts, "A record that constitutes or reveals a trade secret or confidential proprietary information." An applicant for a zoning permit may designate application material submitted to the Borough meeting the exemption criteria of the Right to Know Law as confidential. Such confidential information shall thereafter be protected from public disclosure by the Borough to the extent permitted by law.
  3. Regardless of whether or not a use is required to comply with the procedure specified in this §506B, every use shall comply with all performance standards.

**506.1 Setbacks and Buffers**

Unless otherwise regulated by this Ordinance, where a commercial, light manufacturing or industrial use is proposed contiguous to a R-1 District the minimum size of the abutting setback shall be increased by fifty (50) percent and a landscaped buffer not less than five (5) feet in width shall be provided in accord with this §506.1. If larger setbacks and/or buffers are required by another provision of this Ordinance the larger shall apply.

In the case of conditional uses and special exceptions, landscaped buffers may be required by the Borough in any setback in order to assure the protection of adjoining uses by providing visual barriers that block the glare of lights; reduce noise; serve as a protective barrier by blocking physical passage to dangerous areas; and reduce air pollution, dust and litter; and, to otherwise maintain and protect the character of the District.

- A. Type And Extent - In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.

- B. Width – In the case of special exceptions and conditional uses, a wider buffer may be required.
- C. Vegetation Type - A mix of ground cover and shrubby vegetation and canopy trees shall be used so that a dense screen will be formed, with not less than fifty (50) percent of the vegetation being evergreen. Plants shall be species which are native to Pennsylvania or are suitable for local growing conditions and which are not included on the Invasive Plants list maintained by the PA Department of Conservation and Natural Resources.
- D. Buffer Elements - Berms and landscaped walls or fences, compatible with the principal building design, may be incorporated in the required buffer. Front yard buffers shall be provided in the same manner; however, all clear sight triangles shall be maintained.
- E. Residential Uses - In any case, special consideration shall be given to existing residential uses and sites where residential uses are likely to be developed. In cases where the adjoining use is a commercial use, or when two or more adjacent properties are developed under a common site plan, the width and density of the buffer may be reduced if the Borough shall determine that the proposed use and adjoining use(s) are not incompatible.
- F. Site Plan - Design details of buffers shall be included on the site plan.
- G. Maintenance - It shall be the responsibility of the property owner to maintain all buffers in good condition and replace any dying or dead plants or deteriorating landscape material. The failure to do so shall constitute a violation of the zoning permit.

#### 506.2 Landscaping and Shade Trees

- A. Landscaping - Landscaping shall be provided and the landscaping plan shall include the overall design of the landscaping proposed, the type and size of vegetation to be utilized, and details of installation. Landscaping shall be installed to the following minimum standards.
  1. All disturbed areas of the site shall be included in the landscaping plan, and those areas immediately adjacent to buildings and walkways shall be given extra consideration.
  2. Adequate pedestrian walkways shall be provided for access from parking areas and to common use areas and shall be an integral part of the landscaping; and shall be consistent with the architectural type of the project and shall be a minimum of four (4) feet in width.
  3. Plants shall be species which are native to Pennsylvania or are suitable for local growing conditions and which are not included on the Invasive Plants list maintained by the PA Department of Conservation and Natural Resources.
  4. The variety of landscape materials shall be consistent with building architecture and the surrounding area, and plant type shall be appropriate for the size and location of the space it is to occupy.
  5. Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.
  6. Artificial landscape materials shall not be used in place of live trees, shrubs and vegetative ground cover.

7. Adequate soil preparation in accord with accepted landscape industry practices shall be required.
  8. It shall be the responsibility of the property owner to maintain all landscaping in good growing condition and free of weeds, debris and brush, and replace any dying or dead plants or deteriorating landscape material.
- B. Shade Trees - Any residential or commercial development proposing the creation of a new public road(s) shall provide shade trees along its length. The design shall be as follows:
1. Trees shall be separated by no more than fifty (50) feet, measured parallel to the street, and no more than one hundred (100) feet measured diagonally across the proposed street.
  2. All trees shall be a minimum of fifteen (15) feet in height, from good nursery stock, and of a noninvasive species indigenous to the area and having a deep root system.
  3. Planting species may be mixed, provided each grows to a height which will provide adequate shade during the summer along the entire road.
  4. Shade trees shall be continually maintained. The applicant shall be responsible for plantings for a period of one (1) year upon dedication of the road(s). All non-surviving trees shall be replaced within six (6) months. The failure to do so shall constitute a violation of the zoning permit. The landowner shall be responsible for maintenance after the one (1) year period expires.

#### 506.3 Operations and Storage

- A. Building Requirement - All facilities and operations of any principal use (with the exception of nurseries, agriculture and the display for sales purposes of new or used cars, motorcycles, trucks, trailers, vehicles, or farm equipment, in operative condition) including the storage of raw material, finished products, fuel, machinery and equipment and any other materials or supplies, shall be enclosed and carried out within a building, except as follows:
1. One (1) outdoor sales area meeting the required setbacks for the district shall be permitted not to exceed the lesser of ten (10) percent of the interior retail sales space or five hundred (500) square feet.
  2. Outdoor storage for other uses may be approved as a conditional use and larger setbacks and/or buffers to afford protection to adjoining uses and any public road rights-of-way may be required.
- B. Required Setbacks - Unenclosed uses and activities shall, in any case, meet the required setbacks for principal structures, unless a greater setback is required by the Borough.
- C. Storage - Storage of equipment, supplies, products or any other materials shall not be permitted in any required setback areas.

#### 506.4 Fire and Explosion Hazards

- A. Safety Devices - All activities involving any manufacturing, production, storage, transfer or disposal of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate fire-fighting and fire suppression equipment and devices standard in

the industry shall be required.

- B. Plans - Details of the potential hazards and details of planned safety and accident response actions shall be provided by the developer for review by the local fire company(s).
- C. Open Fires - Burning shall comply with Borough Ordinance 189 (Open Burning), as amended.
- D. Conditions - In the case of conditional uses and special exceptions, larger setbacks, additional buffer areas or fencing may be required by the Borough if the nature of the proposed use as determined by the Borough so requires.

506.5 Radioactivity or Electric Disturbance

No activities shall be permitted which emit dangerous radioactivity, electrical disturbance or electromagnetic radiation adversely affecting any person and/or which exceeds permissible state and federal regulations.

506.6 Noise

The maximum sound pressure level radiated by any use or facility at any lot line shall not exceed the values in the designated octave bands listed in Table 1, after applying the corrections shown in Table 2. The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards prescribed by the American Standards Association, Inc., as designated by the Borough Council.

TABLE 1	
Frequency Band (cycles/second)	Sound Pressure Level (decibels re 0.0002 dyne/cm)
20-75	69
76-150	60
151-300	56
301-600	51
601-1,200	42
1,201-2,400	40
2,401-4,800	38
4,801-10,000	35

TABLE 2	
Type of Operation OR Character of Noise	Correction in Decibels
Day time operation only	+ 5
Noise source operation less than: a. 20% of any one-hour period b.. 5% of any one-hour period c.. 1% of any one-hour period	a. + 5* b. +10* c. +15*
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, scream, screech, etc.)	-5
* Apply only one of these corrections.	

- A. Maximum Levels - Maximum permissible sound pressure levels at the lot line for noise radiated continuously from any facility or activity between the hours of 9:00 p.m. and 7:00 a.m. shall be as listed in Table 1.
- B. Corrections - If the noise is not smooth and continuous, and is not radiated between the hours of 9:00 p.m. and 7:00 a.m., one (1) or more of the corrections in Table 2 shall be applied to the decibel levels in Table 1.

- C. Exemptions - The maximum permissible sound levels of this §601.6 shall not apply to any of the following noise sources:
1. Sound needed to alert people about an emergency or building, equipment, or facility security alarms.
  2. Repair or construction work to provide electricity, water or other public utilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.
  3. Household power tools and lawn mowers between the hours of 7:00 a.m. and 9:00 p.m.
  4. Construction operations (including occasional blasting in construction) and repairs of public facilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.
  5. Agricultural activities.
  6. Motor vehicles when used on public streets in accord with state regulations.
  7. Railroads and aircraft.
  8. Public celebrations, specifically authorized by the Township, the County, state or federal government body or agency.
  9. Unamplified human voices.
  10. Routine ringing of bells or chimes by a place of worship or municipal clock.

#### 506.7 Vibration

No vibration shall be permitted which is detectable without instruments at or beyond the property line; and no use shall generate any vibration which is capable of causing damage to buildings, structures, equipment alignment, or structural soundness. This requirement shall not apply to occasional blasting and other operations conducted in accord with applicable regulations that may be necessary during construction of streets, structure and utilities, and mineral extraction operations in compliance with state regulations

#### 506.8 Odors

No emission shall be permitted of odorous gases or other odorous matter except in full compliance with PA Department of Environmental Protection requirements.

#### 506.9 Other Forms of Air Pollution

No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted except in full compliance with PA Department of Environmental Protection requirements.

#### 506.10 Surface and Ground Water Protection

- A. Safety Devices; Monitoring - All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Monitoring wells and water quality testing may also be required by the Borough.

- B. Report - The Borough may require the applicant to submit a report from a qualified engineer or geologist detailing the geologic structure of the area proposed to be disturbed and identifying the probable impacts on groundwater supply and quality.
  - 1. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and details of planned safety devices and contamination response actions shall be provided by the developer.
  - 2. The developer shall also provide details about the use of ground water and any processes that could result in the depletion of ground water supplies.
- C. Plan; Security - The Borough may require a plan to be submitted for review and approval and may require security for insuring contamination response.
- D. Large Volumes - In cases where the use is of such a nature that large volumes of ground water are required the developer shall provide appropriate hydro-geologic studies which clearly establish that the proposed use will not cause a reduction in the quantity or the quality of ground water supplies available to other properties located within one thousand (1,000) feet of any portion of the property where the proposed use will be located.

#### 506.11 Stormwater Management and Soil Erosion Control

This section shall also apply to all residential uses.

- A. Stormwater Management - Stormwater management shall be provided and maintained in accord with Subdivision and Land Development Ordinance and PA DEP requirements.
- B. Soil Erosion Control - All soil erosion and sedimentation controls shall meet the specifications of the County Conservation District and PA DEP, and shall comply with Commonwealth of Pennsylvania, Title 25, Chapter 102 Department of Environmental Protection regulations for soil erosion and sedimentation control.

#### 506.12 Waste Materials

- A. Prohibition - No liquid, solid, toxic, or hazardous waste shall be stored or disposed in any commercial, light manufacturing or industrial area, either above or below ground level, except for the temporary storage thereof pending removal from the premises.
- B. Temporary Storage - Such temporary storage and handling of waste shall be in a designated area and shall be conducted in compliance with all applicable state and federal regulations in order to prevent any water, soil or air contamination and shall be screened from view of adjoining properties and any public road right-of-way by fencing or other buffers.
- C. Discharge - No waste discharge is permitted into any reservoir, sewage or storm water disposal system, stream, body of water or onto the ground.
- D. Disposal - All waste materials shall be disposed of only in accord with all applicable state and federal regulations and applications for any use which results in waste materials regulated by the state or federal government shall include a list of all such wastes and the method of temporary storage, handling and disposal.

#### 506.13 Settling and/or Storage Ponds and Reservoirs

- A. Access Control - All ponds, reservoirs or other such storage facilities which are associated with any manufacturing or industrial process, or any sewage or waste disposal process shall be fenced or shall otherwise be physically controlled to prevent access by the public. Said fence shall be not less than four (4) feet high and of a design to restrict access to the area to be controlled.
- B. Fence Required - Any such facility which contains any material which is poisonous, toxic or caustic, shall be considered a conditional use unless already classified as a special exception, and the Borough shall, at a minimum, require that such structure be enclosed by a chain link fence not less than eight (8) feet high.

#### 506.14 Security

In cases where deemed necessary by the Borough, the applicant shall provide and implement a plan addressing security needs to protect the health and safety of the public as well as the occupants of the proposed facility. The plan shall:

- A. Facility Description - Include a description of the specific services to be offered, type of patients and/or residents to be served, and the staff to be employed for this purpose.
- B. Security - Identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security.
- C. Facility Design - Provide for the reasonable restriction of unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof.
- D. Lighting And Noise - Address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.

#### 506.15 Travel Routes; Access

The Applicant shall provide a map showing the public roads proposed to be used to travel to and from the facility and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.

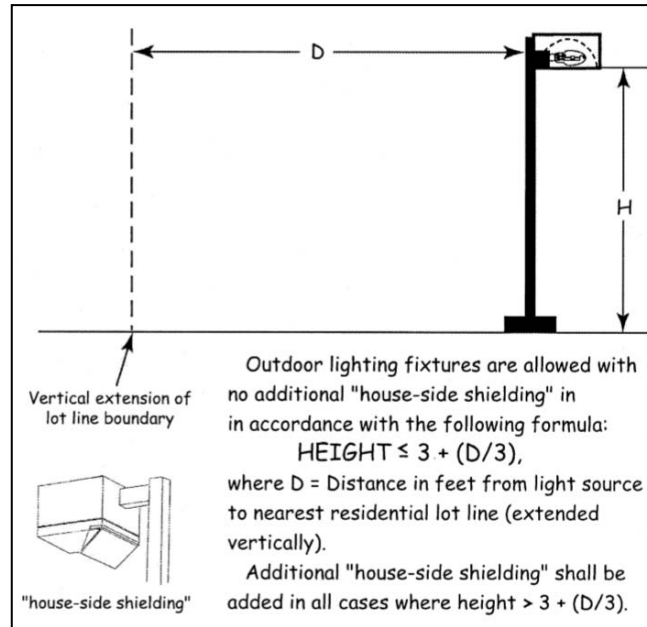
#### 506.16 Lighting and Glare

Lighting shall be controlled in both height and intensity to maintain community character; and lighting design should be an inherent part of the project design and shall also apply to multi-family dwellings. The standards of the Illuminating Engineering Society of North America shall be used for the said design. The applicant shall provide the specifications of the proposed lighting and its arrangement on the site.

- A. Exemption - This §506.16 shall not apply to street lighting that is owned, financed or maintained by the Borough, County, State or electric company.
- B. Areas to be Lighted - All access ways, off-street parking areas and areas of intensive pedestrian use shall be adequately lighted for safety purposes. Appropriate lighting fixtures shall be provided for walkways and to identify steps, ramps, and directional signs.

C. Shielding and Setbacks

1. No light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source.
2. Where the proposed use adjoins an R-1 or D-1 District or a residential dwelling, additional house side shielding or increased setbacks shall be required in accord with the following diagram.



- D. Glare - No direct or sky-reflected glare, whether from overhead lighting, floodlights or from high-temperature processes or otherwise, shall be permitted. This shall not apply to the lighting of the United States, Pennsylvania or other government flags where the minimal amount of light is used to illuminate the flag.
- E. Nuisances - The intensity, height and shielding of lighting shall provide for adequate and proper safety, and shall not be a nuisance or hazard to drivers and residents of the Borough.
- F. Height - The maximum height of light standards shall not exceed the maximum building height of the District but in no case greater than thirty-five (35) feet. This limitation shall not apply to lights needed for air safety.
- G. Building Lighting - The exterior accent lighting of commercial, industrial, institutional and other nonresidential buildings shall be permitted in accord with the following:
  1. The lighting accentuates an architectural or aesthetic element of the building, not the entire building.
  2. The light shall only be directed onto the building facade and shall not spillover beyond the plane of the building.

3. Upward aimed lighting is prohibited. The lighting shall be aimed downward, shall be fully shielded and shall be mounted as flush to the wall as possible.
4. Lights that outline property lines, sales areas or any portion of a structure, or any other lighting which has the effect of advertising or drawing attention to the property or a particular business or commercial activity, shall not be permitted except in accord with §506.6G.

#### 506.17 Water Supply

All uses shall be provided with an adequate and safe water supply, as demonstrated by evidence to be provided by the applicant, documenting that the location, density, and design of all proposed uses will assure the availability of reliable, safe and adequate water supplies to support the proposed land use(s) within the capacity of available water resources. This section shall also apply to all residential uses.

#### 506.18 Sewage Disposal

Sewage disposal shall be provided by a system meeting the needs of the proposed use and the requirements of the Borough and the Pennsylvania Department of Environmental Protection. Discharge to such system shall be limited to normal, domestic and human bodily wastes unless the treatment system has been specifically designed to handle other wastes or the wastes are pre-treated in accord with Pennsylvania Department of Environmental Protection or local sewer authority requirements. This section shall also apply to all residential uses.

#### 506.19 Other Regulations

The Zoning Officer, Planning Commission, Borough Council or the Zoning Hearing Board, as the case may be may require documentation from the Applicant demonstrating that the project complies with all other applicable local, state and federal regulations, and said proposal has obtained all required permits, certifications and authorizations, including, but not limited to, the PA Department of Transportation, the PA Department of Environmental Protection, the PA Department of Labor and Industry, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency.

### **507 Standards for Specific Uses**

In addition to all other applicable standards in this Ordinance, the standards in this §507 shall apply to the uses as provided in the following sections. The omission from a section of a reference to other applicable requirements shall not exempt compliance with such requirements.

#### 507.1 Adult Businesses

- A. Findings - In adopting these standards which apply to adult businesses, the Borough has made the following findings in regard to the secondary effects on the health, safety and welfare of the citizens of the Borough. The findings are based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Borough, and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 427 U.S. 50 (1976), and *Northend Cinema, Inc., v. Seattle*, 585 P. 2d 1153 (Wash. 1978), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Saint Paul, Minnesota; Manatee County, Florida; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin Texas; Seattle, Washington; Oklahoma City, Oklahoma; Beaumont, Texas; and New York City, New York; and also on findings found in the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, June 6, 1989, State of Minnesota.
  1. Health Concerns - The concern over sexually transmitted diseases is a legitimate health concern

which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.

2. Behavior - Certain employees of sexually oriented business regulated by this Ordinance as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.
3. Sexual Acts - Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this Ordinance as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.
4. Unhealthy Conditions - Offering and providing such space, encourages such activities, which create unhealthy conditions.
5. Sexual Activities - Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
6. Communicable Diseases - At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, non B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.
7. Unhealthy Conditions - Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
8. Bodily Fluids - Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult oriented films.
9. Accountability - Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
10. Externalities - There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
11. Operational Characteristics. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
12. Reason for Control - The Borough desires to minimize and control these adverse secondary effects

and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime; preserve the quality of life, preserve property values and the character of the surrounding community.

B. Intent - It is the intent of this §507.1 to:

1. Secondary Effects - Regulate adult business in order to promote the public health, safety and welfare by minimizing the secondary effects on the community which are associated with such businesses, and which include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution), and drive residents and businesses to move elsewhere.
2. Zoning District - Designate a zoning district where adult businesses are permitted, and establish reasonable, content neutral standards applicable to such uses.
3. Content - Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.
4. First Amendment - Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the U.S. Constitution.
5. Intended Market - Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
6. PA Code - Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code.

C. Standards - In addition to the other applicable general standards and the conditional use criteria contained in this Ordinance, the following standards shall apply to adult businesses:

1. Required Setback - Adult businesses shall not be located less than two hundred (200) feet from any:
  - a. Dwelling.
  - b. Place of worship.
  - c. Public or private school or college.
  - d. Public park or public recreation facility.
  - e. Public library.
  - f. Public museum.
  - g. Child day care center.
  - h. Commercial enterprises catering primarily to persons less than eighteen (18) years of age.
  - i. Gaming establishment.
2. Similar businesses - Adult businesses shall not be located within two hundred (200) feet of any other adult business.
3. Measurement - The required setback distances established in this §507.1 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.

4. Enlargement - An existing, lawful nonconforming adult business may be expanded as a conditional use once in total floor area beyond the floor area that lawfully existed in such use at the time of adoption of this provision of the Zoning Ordinance, but only in accord with Article XIV.
5. Limit of One Use - It shall be a violation of this Ordinance for any person to cause or permit: the operation, establishment, or maintenance of more than one (1) adult business in the same building, structure or portion thereof, or an increase of floor area of any adult business in any building, structure, or portion thereof that contains another adult business.
6. Nonconformity - Any adult business lawfully operating on the date of enactment of this Ordinance that is in violation of any of the provisions of this §507.1 shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, altered or extended, except as permitted in §507.1C4. The use may be changed to a conforming use. However, under no circumstances shall a non-conforming use as defined and regulated by this Ordinance be changed to any type of adult business.
7. Location of New Neighboring Uses - An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant of a conditional use permit, a use from which an adult business is required to provide a setback under §507.1D1 above is developed within the required setback distance.
8. Lighting - Overhead lighting shall be provided to illuminate all improved areas of the property; and said lighting shall be in compliance with all requirements of this Ordinance.
9. Visibility and Signs - No sexually explicit material, signs, display, silhouette or word shall be visible at any time from outside of the building. Exterior signs shall comply with the provisions of Article VII; however, business identification signs shall be limited to a maximum of twenty (20) square feet and signs attached to the building facade shall be limited to a maximum total of ten (10) square feet. Content of such signs shall be limited to only the text of the name of the business and the hours of operation.
10. Exemption for Modeling Class - Any modeling class which involves a person appearing in a state of nudity and which is operated by or involves any of the following shall be exempt from the provisions of this §507.1.
  - a. By a proprietary school, licensed by the State, or an academically accredited college or university;
  - b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;
  - c. In a structure
    - (1) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
    - (2) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

(3) where no more than one (1) nude model is on the premises at any one time; or

(4) by an organization which qualifies under §501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

#### 507.2 Agricultural Uses

In addition to the other applicable standards of this Zoning Ordinance, agricultural uses shall be subject to the following requirements:

- A. Crop Production - Crop production shall be permitted in any district on any size of parcel of land.
- B. State Protected Agricultural Operations - Nothing in this Zoning Ordinance is intended to preclude the rights and protections of bona fide agricultural operations afforded by the Pennsylvania Right To Farm Law, as amended; the Pennsylvania Agricultural Securities Area Law, as amended; and other applicable state statutes. Such rights and protections, in terms of limiting the application of the standards in this Zoning Law, shall be afforded to such uses of land which meet the minimum definition of agricultural use as established by the applicable state statute.
- C. Concentrated Animal Feeding Operations – See §507.17.

#### 507.3 Reserved

#### 507.4 Airports and Heliports

The standards in this §507.4, in addition to other applicable standards in this Zoning Ordinance, shall apply to all existing and proposed airports. For the purposes of this §507.4, airports shall include heliports.

- A. Conditional Use - The development of a new airport and any change to an existing airport which would affect the location of airport surface zones, approach zones, or hazard zones, shall be considered conditional uses. In addition to the other requirements of this Ordinance, the requirements of this §507.4 shall apply to any airport conditional use application. The following shall constitute changes at an airport requiring conditional use approval:
  - 1. Any extension of a runway's length;
  - 2. Any change in the height of a runway;
  - 3. The paving of any previously unpaved portions of a runway, if such paving results in any change in airport rating category under 67 Pa. Code §471.5 as amended, effecting or altering the location or extent of any airport hazard zone;
  - 4. Any change of runway direction or alignment;
  - 5. Any change in the status of taxiways or holding areas effecting the location areas of airport hazard zones;
  - 6. Any change in airport rating category under 67 Pa. Code §471.5 as amended, effecting or altering the location or extent of any airport hazard zone.
  - 7. Any other physical, legal or rating change, or change in methods of operation, flight paths or change in instrumentation or technology resulting in a change in the location or extent of any airport hazard

zone.

- B. Application Contents - The application for conditional use shall contain the following documents and information:
1. A full narrative description of the airport and any changes proposed.
  2. Plans and maps prepared by a registered professional engineer showing the airport and any changes proposed to the airport.
  3. Plans and maps prepared by a registered professional engineer showing existing and proposed locations of the airport hazard zones.
  4. Copies of all applications, correspondence, documents, maps or plans submitted to FAA and the Bureau of Aviation relating to the proposed change or construction, rating change, or other rating, legal or physical change.
  5. A plan showing how the lands or air rights negatively affected shall be acquired.
  6. A list of the names and addresses of all landowners negatively affected by the proposed airport or change in airport hazard zones.
  7. A list of the names and addresses of all landowners adjoining lands owned or leased by the airport owner.
- C. Engineering Review - The Borough Engineer shall review the application and report whether the application to the Planning Agency complies with all applicable ordinances, laws and regulations relating to airport hazard zones. The Borough Engineer shall also report how the proposed airport or change will affect neighboring landowners and landowners in airport hazard zones. The Borough Engineer shall also review and report on expected obstructions to aircraft resulting from the airport or change, and upon the adequacy, feasibility and practicality of the applicant's plan to acquire the necessary air rights.
- D. Costs - Any airport or change to an airport resulting in a change of airport hazard zones shall be considered a land development, and in accord with §503(1) of the Pennsylvania Municipalities Planning Code the applicant shall be responsible for paying all reasonable and necessary charges of the Borough's professional consultants or engineer relating to application review and report under the terms of the Subdivision and Land Development Ordinance.
- E. Notice to FAA, the Bureau of Aviation, and the County - The Zoning Officer shall send a copy of the completed application to the Bureau of Aviation, FAA and the County Planning Commission by certified mail, at least fourteen (14) days before the date of the hearing.
- F. Criteria to Review - In granting or denying an application, the Borough shall consider:
1. The effect upon reasonable use of properties affected by the proposal.
  2. How the applicant plans to acquire any necessary air rights.
  3. The character of the flying operations expected to be conducted at the airport;

4. The nature of the terrain within the airport hazard zone area;
5. The character of the community which is affected by the proposal.
6. The effect upon roads, development, transportation routes, and other aspects of the Comprehensive Plan;
7. The provision of hazard lighting and marking;
8. The importance of aircraft safety.

G. Standards

1. The applicant shall document compliance with all applicable state and federal regulations.
2. The runway and/or landing pad shall be a minimum of five hundred (500) feet from any property line but greater setbacks may be required based on specific site characteristics, surrounding uses and state and federal regulations.

507.5 Amusement Parks

Amusement parks, in addition to all other applicable standards, shall be subject to the following standards:

- A. Structure Height - No ride, structure or other amusement attraction shall be located closer to any required setback line than the height of said ride, structure or amusement, but in no case less than fifty (50) feet.
- B. Hours of Operation - Hours of operation shall be limited to the period between 9:00 a.m. and midnight on Fridays, Saturdays and holidays, and between 9:00 a.m. and 11:00 p.m. on other days.

507.6 Animals, Keeping of

- A. Kennels and Animal Shelters - Kennels and animal shelters, in addition to all other applicable standards, shall be subject to the following standards:
  1. Required Setbacks - Any structure, outdoor kennels, or animal exercise areas used for the keeping of dogs shall not be located closer than one hundred and twenty-five (125) feet to any property line or one hundred (100) feet to any public or private road right-of-way.
  2. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance with one space for each non-resident employee and one space per four animals kept on the premises.
  3. Noise Barrier - A noise barrier consisting of a solid fence not less than six (6) feet in height or a dense vegetative planting of not less than six feet in height shall be provided at a distance not to exceed fifteen (15) feet and fully encircling all kennel areas or animal exercise areas not enclosed in a building.
  4. Hours Outdoors - All animals shall be restricted from using kennel areas not fully enclosed in a building from sunset to 8:00 A.M.
  5. Wastes - All waste materials generated on the premises shall be disposed of at a PA DEP-approved

facility, and a detailed plan for the same shall be included with the zoning application. In any case, all animal wastes shall be stored in water-tight containers in an area meeting the required setbacks in §507.6A1 until disposed of and proof of such disposal shall be provided to the Borough.

6. Retail Sales - Minor retail sales incidental to the kennel/animal shelter shall be permitted.
- B. Stables, Commercial and Horses for Hire - Commercial stables, including horses for hire, shall, in addition to all other applicable requirements of this Ordinance, comply with the following requirements:
1. Parcel Size - A minimum parcel of five (5) acres shall be required and a single-family residence for the owner or manager shall be permitted on the premises provided all other sections of this Ordinance and other applicable standards are met.
  2. Number of Horses - Not regulated.
  3. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by fences or other means.
  4. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance with one space provided for each non-resident employee and one (1) space per two (2) horses kept on the premises
  5. Setbacks - Any structure used for the keeping of horses shall not be located closer than one hundred and twenty-five (125) feet to any property line or one hundred (100) feet to any public or private road right-of-way. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback.
  6. Nuisances; Manure Management - The operation of the stable shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property, and the applicant shall provide a plan for soil erosion and sedimentation control and manure management for approval by the Borough.
  7. Uses Permitted - The following types of uses shall be permitted as part of the horse farm operation:
    - a. Breeding, raising, keeping and sale of horses, and necessary buildings and structures.
    - b. Training of horses, and necessary buildings and structures, including facilities for training only.
    - c. Boarding of horses, and necessary buildings and structures.
    - d. The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests.
    - e. Sale of horses other than the horses raised or boarded on the premises.
    - f. Retail sales of any goods or merchandise which are incidental and accessory to the stable use.
- C. Menageries and Zoos - Menageries and zoos shall, in addition to all other applicable Borough, state and federal requirements, comply with the following:
1. Minimum Parcel - A minimum parcel size of five (5) acres shall be required.

2. Sanitary Condition - All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained.
3. Treatment of Animals - The permit holder shall use every reasonable precaution to assure that the animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any means.
4. Incompatible Animals - Animals which are enemies by nature or are temperamentally unsuited shall not be quartered together or so near each other as to cause the animals fear or to be abused, tormented or annoyed.
5. Offensive Odors and Noise - The permit holder shall maintain the premises so as to eliminate offensive odors or excessive noise.
6. Peace and Quiet - The permit holder shall not permit any condition causing disturbance of the peace and quiet of his neighbors.
7. Animal Escape - Animals shall be maintained in quarters so constructed as to prevent their escape. The permit holder assumes full responsibility for recapturing any animal that escapes from his premises. The permit holder shall make adequate provisions and safeguards to protect the public from the animals.
8. Other Regulations - The operation shall conform to all applicable local, state and federal laws and regulations.
9. Pen Required Setback - Any building, pen, corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or animal waste storage shall not be located within two hundred (200) feet of any adjoining property line and one hundred fifty (150) feet from any public or private road right-of-way.
10. Waste Material - All waste materials generated on the premises shall be disposed of at a PA DEP-approved facility, and a detailed plan for the same shall be included with the zoning application. In any case, all animal wastes shall be stored in water-tight containers in an area meeting the required setbacks in §507.6C9 until disposed of and proof of such disposal shall be provided to the Borough.

#### 507.7 Reserved

#### 507.8 Bed and Breakfast Establishments

Bed and breakfast establishments shall comply with the following standards in addition to all other applicable standards in this Zoning Ordinance.

- A. Parking - Adequate off-street parking is provided in accord with this Ordinance with the minimum number of parking spaces provided as follows: one (1) space for each rentable room; one (1) space for each non-resident employee, and two (2) spaces for the dwelling unit.
- B. Number of Rooms - Not more than five (5) rentable rooms shall be provided in the establishment.
- C. Owner/Manager - The owner or manager of the bed and breakfast must reside on the premises.

- D. Lot Size - Bed and breakfast establishments shall not be permitted on lots which are nonconforming in minimum area.

507.9 Bulk Fuel Storage Facilities; Retail Heating Fuel Distributors

- A. Bulk Fuel Storage Facilities - In addition to all other applicable standards, bulk fuel storage facilities shall be subject to the specific regulations and requirements in this section and shall be permitted only in those districts as specified in the Schedule of Uses.

1. Required Setbacks - Storage tanks shall be located not less than one hundred fifty (150) feet from any property line or any road or street right-of-way line. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located not less than two hundred (200) feet from any property line and not less than one hundred fifty (150) feet from any road or street right-of-way line, wetland, watercourse or water body.
2. Fence; Berm - The total tank storage area shall be entirely fenced with an eight (8) foot high industrial type security fence or have an equivalent protection barrier approved by the Borough. Bulk storage tanks shall be encircled by a moat or earthen berm to contain all potential spillage.
3. Other Regulations - Bulk fuel storage facilities shall be developed in complete compliance with all applicable local, state, federal and insurance regulations and requirements and the applicant shall provide documentation confirming compliance.

B. Retail Heating Fuel Distributors

1. Use Regulations - Retail heating fuel distributors shall be limited to the storage and delivery of kerosene, heating oil, and propane to individual dwellings or commercial establishments for use on that premises and not for resale. NOTE: Any operation 1) involving the bulk storage of gasoline for distribution by delivery truck, or 2) any operation involving the bulk storage of any kerosene, heating oil, diesel fuel, gasoline, or propane for distribution to retail or wholesale establishments shall be considered a bulk fuel storage facility as defined in Article III.
2. Required Setbacks - Storage tanks shall be located not less than seventy-five (75) feet from any property line or public road right-of-way, and shall not be less than two hundred (200) feet from any dwelling, school, church or other principal structure not located on the same parcel as the tank. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located not less than seventy-five (75) feet from any property line or public road right-of-way.
3. Screening - If natural vegetation and/or topography does not provide adequate screening, the Borough may require vegetative plantings, berms, fencing or other measures to screen any tank or other part of the operation.
4. Fence - A perimeter security fence of such height and design deemed adequate by the Borough may be required by the Borough.
5. Fuel Spill Containment - A fuel spill containment system adequate to contain the total volume of each storage tank shall be provided to prevent soil and water contamination.
6. Other Regulations - All tanks and operations shall comply with all applicable state, federal and insurance requirements, and proof of such compliance shall be provided by the applicant.

#### 507.10 Bus Shelters

In addition to all other applicable requirements, the following standards shall apply to bus shelters.

- A. Required Street Setback - A bus shelter shall not be located less than ten (10) feet from the edge of any street shoulder within a street cartway.
- B. Considered Structures - A bus shelter shall be considered a structure.
- C. Size - A bus shelter shall not exceed ten (10) feet in height, sixteen (16) feet in width or eight (8) feet in depth.
- D. Signs - Signs on a bus shelter shall not be permitted except for official school district or bus company/authority signs not exceeding a total surface area of four (4) square feet.

#### 507.11 Car and Truck Washes

See §507.53A.

#### 507.12 Reserved

#### 507.13 Cemeteries, Human and Pet

Human and pet cemeteries shall, in addition to all other applicable Borough, state and federal requirements, comply with the following:

- A. Tract Size - The minimum size of the tract shall be one (1) acre.
- B. Required Setbacks - A grave or place of permanent burial shall be set back from the property line of the tract and public road at least ten (10) feet. Buildings and accessory structures shall comply with the setbacks required for the district.
- C. Access - Access roads shall be at least fifteen (15) feet wide and well-maintained with either gravel or paving.

#### 507.14 Reserved

#### 507.15 Commercial Communication Devices

The following regulations shall apply to commercial communication devices (CCD) including but not limited to, cellular phone antennae, antennae for communication service regulated by the PA Public Utility Commission, and other commercial antennae and associated facilities. Such CCD and support structure and associated facilities shall be permitted only in the districts as provided in this §507.15 and §405.

- A. Purposes
  - 1. To accommodate the need for communication devices while regulating their location and number in the Borough in recognition of the need to protect the public health, safety and welfare.
  - 2. To minimize the adverse visual effects of communication devices and support structures through proper design, siting and vegetative screening.
  - 3. To avoid potential damage to adjacent properties from communication device support structure

failure and falling ice, through engineering and proper siting of support structures.

4. To encourage the joint use of any commercial communication device support structures and to reduce the number of such structures needed in the future.
- B. Permits; Use Regulations - A permit shall be required for every CCD and support structure installed at any location and the following use regulations shall apply:
1. Existing Tall Structures - A CCD site with a CCD that is attached to an existing communications tower, smoke stack, water tower, or other tall structure where the height of the CCD does not exceed the height of the existing structure by more than fifteen (15) feet shall be permitted in all districts as an accessory use and conditional use approval shall not be required. The applicant shall provide the following information:
    - a. Evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the Building or other Structure, considering wind and other loads associated with the antenna location.
    - b. Detailed construction and elevation drawings indicating how the antennas will be mounted on the Structure for review by the Borough for compliance with the applicable requirements.
    - c. Evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the CCD and associated equipment can be accomplished.
  2. New Structures and CCD Exceeding Fifteen Feet on Existing Structures - A CCD site with a CCD that is either not mounted on an existing structure, or is more than fifteen (15) feet higher than the structure on which it is mounted shall be permitted only in those districts specified and classified in §405.
  3. Associated Use - All other uses ancillary to the CCD (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the CCD site, unless otherwise permitted in the zoning district in which the CCD site is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the CCD.
  4. CCD as a Second Principal Use - A telecommunications facility shall be permitted on a property with an existing use subject to the following standards:
    - a. The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
    - b. The minimum lot area, minimum required setbacks and maximum height required by this Ordinance for the CCD and support structure shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
    - c. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.

- d. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

C. Standards

1. Location Requirement and Number - The applicant shall demonstrate to the satisfaction of the Borough, using technological evidence, that the CCD and support structure must go where it is proposed, in order to satisfy its function in the company's grid system. The number of CCD to be installed at a site by an applicant may not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by that applicant. The applicant must document the need for the additional CCD to ensure the adequacy of current service and shall provide information on the general location of other towers/sites planned for the region.
2. Co-location; New Tower - If the applicant proposes to build a tower (as opposed to mounting the CCD on an existing structure), the Borough may require the applicant to demonstrate that it contacted in writing the owners of tall structures within a one (1) mile radius of the site proposed, asked for permission to install the CCD on those structures, and was denied for reasons other than economic ones. This would include smoke stacks, water towers, tall buildings, CCD support structures of other cellular phone companies, other communications towers (fire, police, etc.) and other tall structures. The Borough may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the CCD on an existing structure thereby documenting that there exists no other support structure which can reasonably serve the needs of the owner of the proposed CCD. A good faith effort shall demonstrate that one (1) or more of the following reasons apply to a particular structure:
  - a. The proposed equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
  - b. The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
  - c. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - d. Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the federal communications commission governing human exposure to electromagnetic radiation.
  - e. A commercially reasonable agreement could not be reached with the owners of such structures.
3. CCD Height - The applicant shall demonstrate that the CCD is at the minimum height required to function satisfactorily and provide adequate height for five (5) service providers. The Borough may require the tower to be designed and constructed to be stackable (structurally capable of being increased in height) so that additional antennae arrays can be accommodated in addition to the arrays on the original tower to facilitate future collocation. CCD equipment buildings shall comply with the accessory structure height limitations of the applicable zoning district. The Borough may require stealth design (typically resembling a common tree) to ensure that the CCD is compatible

with the surrounding landscape.

4. Parcel Size; Required Setbacks - If a new CCD support structure is constructed (as opposed to mounting the CCD on an existing structure) or if the CCD height exceeds the height of the existing structure on which it is mounted by more than fifteen (15) feet, the minimum parcel size and required setbacks in this §507.15C4 shall apply.
  - a. Separate Parcel - If the CCD is manned and/or the parcel on which the CCD and support structure is a separate and distinct parcel, the zoning district minimum lot size shall apply and in all cases, the lot shall be of such size that all required setbacks are satisfied. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet. The distance between the base of the support structure and any adjoining property line (not lease, license or easement line) shall be equal to the height of the support structure and CCD.
  - b. Lease, License or Easement - If the CCD is unmanned and the land on which the CCD and support structure is leased, or is used by license or easement, the setback for any part of the CCD, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement and to the boundaries of the parent parcel shall be equal to the height of the support structure and CCD.
5. CCD Support Structure Safety - The applicant shall demonstrate that the proposed CCD and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed CCD and support structure will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of any applicable building code. Within forty-five (45) days of initial operation, the owner and/or operator of the CCD and support structure shall provide a certification from a Pennsylvania registered professional engineer that the CCD and support structure comply with all applicable regulations.
6. Fencing - A fence shall be required around the CCD support structure and other equipment, unless the CCD is mounted on an existing structure. The fence shall be a minimum of eight (8) feet in height.
7. Landscaping - Landscaping may be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the CCD and support structure site from neighboring properties. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping. If the CCD is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
8. Co-location; Other Uses - In order to reduce the number of CCD support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including but not limited to other cellular phone companies, and local fire, police, and

ambulance companies. The applicant shall provide evidence of written contact with all wireless service providers who supply service within the Borough for the purpose of assessing the feasibility of co-located facilities. The proposed structure, if evidenced by need as determined by the Borough, shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.

9. Licenses; Other Regulations; Insurance - The applicant must demonstrate that it has obtained the required licenses from the Federal Communications Commission, the PA Public Utility Commission and other agencies. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the CCD; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the CCD and support structure.
10. Access; Required Parking - Access to the CCD and support structure shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all-weather surface for its entire length. If the CCD site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
11. Color and Lighting; FAA and PennDOT Notice - CCD support structures under two hundred (200) feet in height should be painted silver or have a galvanized finish retained, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures two hundred (200) feet in height or taller, those near airports, or those which are otherwise subject to Federal Aviation Administration (FAA) regulations shall comply with the said regulations. No CCD support structure may be artificially lighted except in accord with Federal Aviation Administration requirements. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PennDOT Bureau of Aviation, and the CCD and support structure shall comply with all FAA and PennDOT requirements.
12. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished.
13. Historic Structures - A CCD shall not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.
14. Discontinued Use - Should any CCD or support structure cease to be used as a communications facility, the owner or operator or then owner of the land on which the CCD and support structure is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Borough to remove the facility and assess the cost of removal to the foregoing parties. The Borough may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
15. Site Plan - A full site plan shall be required for all CCD and support structure sites, showing the CCD, CCD support structure, building, fencing, buffering, access, and all other items required in the Subdivision and Land Development Ordinance. The site plan shall not be required if the CCD is to be mounted on an existing structure and the CCD does not exceed the height of the existing structure by more than fifteen (15) feet.

16. Recording of Plan - Recording of a plat of subdivision or land development shall not be required for a lease, license or easement parcel on which a CCD and support structure is proposed to be constructed, provided the CCD is unmanned.

507.16 Reserved

507.17 Concentrated Animal Feeding Operations (CAFO)

This §507.17 is intended to provide standards for industrial-like agricultural operations with animal densities which are likely to create effects on the environment and community which exceed those effects normally associated with typical farming. It is not intended to supersede the Pennsylvania Nutrient Management Act in terms of regulation of the storage, handling or land application of animal manure or nutrients or the construction, location or operation of facilities used for the storage of animal manure or nutrients or practices otherwise regulated by the Act. The definitions and calculations in this section are intended to be consistent with the Nutrient Management Act and all information and studies required by this section shall, at a minimum, include the information required by the Act.

- A. Compliance - Concentrated animal feeding operations shall, in addition to all other applicable requirements, comply with this §507.17.
- B. Definition - Any livestock operation which is defined as a concentrated animal feeding operation by Commonwealth of Pennsylvania regulations shall be considered a concentrated animal feeding operation for regulation by this Ordinance.
- C. Standards - The following standards shall be applied to all CAFOs and no approval shall be granted until all required information and plans have been submitted by the applicant and have been approved by the Borough. Failure of the applicant to implement any of the required plans shall constitute a zoning violation subject to the penalties and remedies contained in this Ordinance.
1. Setbacks - CAFO buildings and corrals used for housing or confinement of animals shall not be less than two hundred fifty (250) feet from any property line and not less than five hundred (500) feet from any existing principal building not located on the land with the CAFO.
  2. Nutrient Management - A nutrient management plan shall be prepared in accord with the requirements of Title 25, Chapter 83, Subchapter D, Pennsylvania Code.
  3. Stormwater Management - A stormwater management plan shall be prepared meeting the requirements of the Subdivision and Land Development Ordinance.
  4. Conservation - A conservation plan shall be prepared meeting the requirements of the County Conservation District.
  5. Buffer - A buffer plan shall be prepared in accord with §506.1 to minimize CAFO visibility from adjoining properties and minimize sound and odor emanating from the property
  6. Solid and Liquid Wastes - Solid and liquid wastes shall be disposed of in a manner to avoid creating insect or rodent problems, and an insect/rodent abatement plan which shall be prepared.
  7. Operation and Management - The applicant shall demonstrate that they will meet the operational and management standards as may be set forth in treatises recognized by agricultural authorities or as the same may be produced by the Pennsylvania Department of Agriculture, Department of Environmental Protection,

Pennsylvania State University, College of Agricultural Sciences, or similar entity.

8. Odor - The applicant shall prepare an odor abatement plan and document the ability to comply with the plan. It is recognized that certain agricultural activities do produce odors, but the applicant shall show that odors can be reduced to a minimum or abated. The plan shall include such steps as may be necessary to abate odors or to allow odors at times to minimize interference with the public health, safety and welfare.
9. Pesticides - The applicant shall document that the use of pesticides will meet state and federal requirements.
10. Floodplain - No CAFO buildings shall be erected in the FEMA-defined one hundred-year floodplain.

#### 507.18 Contractor Yards

See §507.48.

#### 507.19 Correctional Facilities

The requirements of this §507.19 shall apply to correctional facilities.

- A. Parcel Size - In order to provide an adequate buffer area for adjoining private property owners the site shall contain a minimum of five (5) acres.
- B. Site Design Standards - The site shall be improved in accordance with the following minimum requirements:
  1. The building and all secure areas shall not be less than two hundred (200) feet from any property line and the right-of-way line of any abutting public road, and five hundred (500) feet from any:
    - a. residence
    - b. group care facility
    - c. commercial enterprises catering primarily to persons under eighteen (18) years of age
    - d. public or semi-public building
    - e. public park or public recreation facility
    - f. health facility
    - g. House of worship or related use, or other similar religious facility
    - h. public or private school
  2. A perimeter security fence, of a height and type determined by the Borough, may be required.
- C. Security - All applications for institutions shall include a plan addressing security needs to protect the health and safety of the public as well as residents of the proposed facility. Such plan shall include a description of the specific services to be offered, types of residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.
- D. Accessory Uses and Ancillary Activities - Accessory uses permitted in conjunction with an institution shall

include laboratories, offices, snack bars, educational facilities and programs, vocational training facilities and programs, recreational and sports facilities and other accessory uses ordinarily provided in conjunction with such institutions.

#### 507.20 Day Care, Child

All outdoor child day care play areas shall be completely surrounded by a secure fence not less than six (6) feet high meeting district setback requirements for accessory structures.

#### 507.21 Distribution Centers/Truck Terminals

The requirements in this §507.21 shall apply to distribution centers/truck terminals.

- A. Lot Size and Width - A minimum size lot of two (2) acres shall be required.
- B. Setbacks - all activities including storage or parking of vehicles and materials shall be set back from public roads and all lot lines a minimum of fifty (50) feet.
- C. Access - The site shall have direct access to a public arterial or collector road.

#### 507.22 Reserved

#### 507.23 Explosives and Fireworks Plants or Storage Facilities

Explosives plants or storage facilities and fireworks plants or storage facilities (referred to as *facilities*) shall be allowed only in those districts as specified in §405. In addition to all other applicable standards of this Ordinance, the following shall apply.

- A. Setbacks - Setbacks for the facilities shall comply with state and federal regulations. Ancillary facilities such as offices, employee parking, truck parking and loading and accessory structures and uses shall comply with the buffer requirements in §506.1.
- B. Buffer
  1. Buffer Required - An undisturbed area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
  2. Buffer in Setback Area - Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide.
  3. Buffer Design - Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance
  4. Maintenance - It shall be the responsibility of the applicant and/or operator and/or property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

- C. Parking and Staging Areas - Adequate vehicle parking and staging areas for all facilities shall be provided on site to prevent parking or staging on any public road right-of-way.
- D. Local, State and Federal Regulations - The facilities shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.
- E. Informational Requirements
  - 1. Application Information - The applicant and/or operator for all facilities shall provide the information required by this §507.23E, all other application information required by this Ordinance, and all other necessary information to enable the Borough to determine compliance with this Ordinance.
  - 2. Hazardous Materials Inventory - An inventory of hazardous materials, a drawn-to-scale site plan of their locations, and a brief explanation of the hazards involved, are submitted for use by public safety officials.
  - 3. DEP Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection (DEP) Rules and Regulations.
  - 4. Conditions - The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval.
- F. Reporting Requirements - For any facility approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

#### 507.24 Flea Markets, Outdoor

In addition to all other applicable requirements, the following standards shall apply to outdoor flea markets.

- A. Design -The proposed use and related structures shall be arranged and/or constructed in accord with an overall plan and shall be designed as a single architectural style with appropriate landscaping and buffering in accord with Borough requirements.
- B. Outdoor Storage - There shall be no outdoor storage of supplies, goods or waste.
- C. Hours of Operation - Flea market operation shall be limited to the hours between 8:00 a.m. and sunset.

#### 507.25 Reserved

#### 507.26 Gaming Establishments

In addition to all other applicable requirements, the following standards shall apply to gaming establishments and resorts.

- A. Location - Gaming establishments shall not be located less than fifty (50) feet from any parcel of land containing any of the following:
  - 1. Dwelling.

2. Place of worship.
  3. Public or private school or college.
  4. Public park or public recreation facility.
  5. Public library.
  6. Public museum.
  7. Child day care center.
  8. Commercial enterprises catering primarily to persons under eighteen (18) years of age.
  9. Adult business.
- B. Similar Establishments - Gaming establishments shall not be located within five hundred (500) feet of any other gaming establishment.
- C. Measurement - The required setback distances established in this §507.26 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.
- D. Other Uses - Any gaming establishment offering other service such as a restaurant, lounge, etc., shall comply with all standards applicable to such other use.
- E. Accessory Games of Chance - Small games of chance conducted by nonprofit organizations in accord with the Pennsylvania Local Option Small Games of Chance Act (10 P.S. §§ 311-327), as amended, and other games of chance permitted by Pennsylvania law as accessory to commercial uses shall be permitted as an accessory.

507.27 - 507.28 Reserved

507.29 Industrial Wastewater Treatment Facilities and Water Withdrawal Facilities

Industrial wastewater treatment facilities and water withdrawal facilities (referred to as *facilities*) shall comply with this §507-29.

- A. Setbacks - A setback of seventy-five (75) feet shall be maintained for the facilities and any truck parking or staging areas from property lines and road rights-of-way. Ancillary facilities such as offices, employee parking, and accessory structures shall comply with the buffer requirements in §507.29B.

Property Lines, Road rights-of-Way - Two hundred (200) feet to adjoining properties and public road rights-of-way.

1. Residential Structures - Three hundred (300) feet to any existing residential structure not located on the project parcel.
  2. Water Bodies - Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland. This shall not apply to any required discharge or intake structures or facilities at the receiving stream or water supply.
- B. Buffer
- (1) An undisturbed area of not less than twenty-five (25) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and

discharge/intake lines. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.

- (2) Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation.
  - (3) Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.
  - (4) It shall be the responsibility of the applicant and/or operator and/or property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- C. Parking and Staging Areas - Adequate vehicle parking and staging areas for all facilities shall be provided on site to prevent parking or staging on any public road right-of-way.
- D. Local, State and Federal Regulations - The facilities shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.
- E. Informational Requirements
1. Application Information - The applicant and/or operator for all facilities shall provide the information required by this §507.29E, all other application information required by this Ordinance, and all other necessary information to enable the Borough to determine compliance with this Ordinance
  2. DEP Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection (DEP) Rules and Regulations.
  3. Conditions - The findings of the Borough based on this information shall serve as a basis for the establishment of conditions.
- F. Reporting Requirements - For any facility approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

#### 507.30 Junk Yards

Junk yards shall comply with the Borough Junk Yard ordinance and the Borough Nuisance Ordinance and all other applicable regulations.

#### 507.31 -507.32 Reserved

#### 507.33 Mineral Extraction (including oil and gas well operations)

In addition to other applicable standards of this Ordinance, this §507.33 shall apply to mineral extraction including oil and gas well operations.

- A. Findings - The Pennsylvania Municipalities Planning Code clearly recognizes mineral extraction as a lawful use. Along with other community effects, such uses can have impacts on water supply sources and are governed by state statutes that specify replacement and restoration of affected water supplies. Planning Code Section 603(l) states that *zoning ordinances shall provide for the reasonable development of minerals in each municipality*. The Code definition of minerals is: *Any aggregate or mass of mineral matter, whether or no coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas*. The Code, at Section 603(b) allows zoning ordinances to regulate mineral extraction, but only to the extent that such uses are not regulated by the state Surface Mining Conservation and Reclamation Act, the Noncoal Surface Mining Conservation and Reclamation Act, and the Oil and Gas Act.
- B. Intent and Exemption
1. Intent - The intent of this section is to ensure the Borough is supplied with all necessary information for making an informed decision about the proposed mineral extraction and, in the case of conditional uses, to establish the foundation for any conditions required to protect the public health, safety and general welfare.
  2. Oil and Gas Wells; Horizontal Capture of Natural Gas - Oil and gas wells shall comply with this §507.33 and the other applicable requirements of this Ordinance. However, the horizontal capture of natural gas under the surface of a property where no surface disturbance is involved on the horizontal capture property is exempt from regulation by this Zoning Ordinance.
- C. Use Classification; Mineral Extraction, Minor; Mineral Processing a Separate Use
1. Use Classification - Mineral extraction and oil and gas wells shall be permitted only in those Districts as listed in §405.
  2. Mineral Extraction, Minor - The intent of this section is to permit mineral extraction operations limited in area, duration and mechanical operations.
    - a. Extent of Operation - Mineral extraction operations with an open face of ten thousand (10,000) square feet or less which will not result in a total disturbed area of more than two (2) acres on any one parcel over the life of the operation, and which do not involve on-site screening, washing, crushing and grading, and/or any mineral processing or the use of manufacturing equipment, shall be hereinafter referred to as *mineral extraction, minor*.
    - b. Duration - The duration of the minor mineral extraction process shall not exceed one-hundred eighty (180) days and reclamation of the entire site shall be completed within one (1) year of the issuance of the zoning use permit.
    - c. Subdivision - The subdivision of a parcel to qualify for additional *mineral extraction, minor* uses shall not be permitted.
    - d. Plan Exemption - Mineral extraction, minor uses shall be exempt from the reporting requirements; however, said operations shall comply with the other standards of this §507.33.
    - e. Oil and Gas Wells - No oil or gas well shall be considered mineral extraction, minor.

3. Mineral Processing (See also §507.34.)
  - a. Separate and Distinct Use; Conditional Use in Specified District - Any use which involves the refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products, shall be considered *mineral processing*, a separate and distinct use regulated as *manufacturing* by this Zoning Ordinance.
  - b. Incidental with Extraction Operation - This shall not preclude the incidental screening, washing, crushing and grading of materials originating on the site as part of a mineral extraction operation.
- D. Standards - In addition to the performance standards in §506 and all other applicable standards of this Ordinance which are not preempted by state statute, mineral extraction operations shall comply with the following:
  1. Number of Oil and Gas Wells on Pad - Multiple wells may be permitted on one (1) drilling pad.
  2. Setback - A setback of one hundred (100) feet shall be maintained between any disturbed area associated with any mineral extraction, mineral extraction, minor or oil and gas well operation and adjoining properties and public road rights-of-way.
  3. Undisturbed Buffer - The required setback areas shall be undisturbed to provide a buffer and shall not be used for parking, storage or any other purpose associated with the operation except landscaping and crossing of access roads.
  4. Conditional Use Buffers - In determining the type and extent of the buffer required for conditional uses, the Borough shall take into consideration the design of any project activities and/or structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
    - a. If required, the landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide.
    - b. Buffers shall be designed in accord with §506.1 and the design details shall be included on the site plan. Buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Borough Subdivision and Land Development Ordinance.
    - c. It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
  5. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the operation and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.
  6. Access Road

- a. The access road to the site shall be improved with a dust-free all weather surface in such a manner that no water, sediment or debris will be carried onto any public or private road and the access road grade shall not exceed ten (10) percent.
  - b. Such road shall be installed and maintained to ensure a "mud free" gravel surface for at least two hundred (200) feet from a point on the access road to its intersection with all public and private roads.
7. Tire Cleaning Surface - A tire cleaning surface consisting of a minimum of one hundred (100) feet of Number 3 Penn Dot approved stone having a depth of not less than six (6) inches at all intersections with public roads during construction for drilling operations shall be installed and maintained.
  8. Surface Water - If surface water from any access road is anticipated to be redirected off the property onto adjoining property, the owner and/or operator shall submit a deed of easement, release and right of entry agreement or other similar document or agreement, signed by the adjoining property owner(s) and owner and/or operator, in a recordable form evidencing such owner's permission to discharge surface water onto their property.
  9. Waiting Vehicles - An off-street area for vehicles to stand while gaining entrance to the access road shall be provided on the site so that the normal flow of traffic on the public or private road is not disrupted.
  10. Conditions of Approval - If the Borough determines that the standards in §506 which are not preempted or are not adequate, the Borough shall attach such other conditions deemed necessary to protect the public health, safety and welfare, provided the conditions do not include requirements which are preempted by state statute. Such conditions may be related to hours of operation, more stringent noise control, dust suppression, outdoor operations and storage, lighting and glare, stormwater management, security, and other necessary safeguards.
- E. Local, State and Federal Regulations - Mineral extraction, mineral extraction, minor and oil and gas well operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations. Applicable laws and rules and regulations include, but are not limited to the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law.
- F. Informational Requirements - The applicant shall provide:
1. Borough Application Information - The applicant shall, at a minimum, provide the information required by this Zoning Ordinance and the information required for land developments in the Subdivision and Land Development Ordinance. In addition the applicant shall submit all other information required to enable the Borough to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval.
  2. DEP Application Information - A copy of all applications and information required by the applicable DEP Rules and Regulations.
- G. Reporting Requirements - For any mineral extraction operation approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

- H. Expansion of Nonconforming Mineral Extraction Operations - Mineral extraction operations which are nonconforming by location in a zoning district where such operations are not allowed by §405 may expand to the limits of the DEP permit in effect at the time the operation became nonconforming. Any such expansion shall comply with the requirements of this §507.33.
- I. Additional Requirements for Oil and Gas Wells
1. Plot Plan - In addition to the information required by §902.3, the plot plan shall show:
    - a. The proposed location of the well or wells.
    - b. The proposed means of access to the well or wells.
    - c. The proposed gathering or transmission lines.
    - d. The distance from any existing structures on the subject property or the immediately adjacent properties.
    - e. The location of local water supply wells or systems within two-thousand five hundred (2,500) feet of the well pad
    - f. Contours, existing and proposed, drawn at two-foot vertical intervals.
    - g. The location of site, streams, wetlands, and floodplains within five hundred (500) feet of the well location and other uses regulated by the PA Oil and Gas Act.
  2. Information - The applicant shall provide:
    - a. Logs or other documentation showing the estimated deepest fresh groundwater.
    - b. The estimated depths of the proposed wells and the expected surface pressure.
    - c. A statement whether a pre-alteration or pre-drilling survey is to be conducted.
    - d. A proposed schedule indicating the following anticipated dates:
      - (1) Beginning and end of:
        - (a) site preparation.
        - (b) drilling activity.
        - (c) completion (perforating) work.
        - (d) stimulation (fracturing) work.
        - (e) production work.
      - (2) Plugging date.
  3. Emergency Response Plan - The applicant shall submit an emergency response plan to the Borough, the local fire companies and the County Emergency Management Agency, providing, at a minimum:
    - a. The recommended first response by fire companies and other first responders to address:
      - (1) Well leakage.

- (2) Spill containment.
  - (3) Vandalism creating unknown conditions.
  - (4) Defective casing or cementing.
  - (5) Potential communication between the well and the groundwater supply.
- b. A copy of the control and disposal plan for any expected fluids or solids encountered during the drilling and production stages indicating the following:
    - (1) The size and location of a storage pit for any material emanating from the well during drilling and site restoration;
    - (2) The size and location of any tankage designed for the site and dikes for spill containment of said tank during well production.
    - (3) Methods of oil separation and removal of all solids or liquid byproducts, including oil, from the site during production, if applicable
  - c. Emergency contact information.
  - d. A proposed response plan containing a National Incident Management System (NIMS) compliant emergency management protocol.
  - e. An emergency traffic control plan.
4. Setback - Any disturbed area associated with an oil or gas well shall be located at least three hundred (300) feet from any dwelling or other inhabited structure.
  5. Site Maintenance and Fencing - The immediate areas surrounding all permanent production facilities shall be kept mowed and cleared of combustible materials for a distance of fifteen (15) feet in all directions and shall be enclosed by a chain link fence not less than six (6) feet in height topped with a double outward strand of barbed wire.
  6. Transmission Lines - The owner and/or operator of all transmission lines shall provide the Zoning Inspector with a plat drawn to scale of all transmission line within one thousand (1,000) feet of the well. All transmission lines, buried or above ground, shall be marked with permanent markers. All lines crossing public highways shall be marked with permanent markers at each side of the right-of-way.

#### 507.34 Mineral Processing and Mineral Depots

In addition to the performance standards in §506 and all other applicable standards of this Ordinance, the requirements of this §507.34 shall apply to mineral processing and mineral depots.

- A. Setbacks - A setback of seventy-five (75) feet from property lines and road rights-of-way shall be maintained for any building, processing operation, unloading/loading area, or processing equipment or mineral storage area.
- B. Buffer
  1. An undisturbed area of not less than twenty-five (25) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage

- or any other purpose except landscaping and crossing of access roads. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
2. Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation.
  3. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the County Subdivision and Land Development Ordinance.
  4. It shall be the responsibility of the property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- C. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the operation and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.
- D. Access Road
1. The access road to the site shall be improved with a dust-free all weather surface in such a manner that no water, sediment or debris will be carried onto any public or private road and the access road grade shall not exceed ten (10) percent.
  2. Such road shall be installed and maintained to ensure a "mud free" gravel surface for at least two hundred (200) feet from a point on the access road to its intersection with all public and private roads.
  3. Tire Cleaning Surface - A *tire cleaning surface* consisting of a minimum of one hundred (100) feet of Number 3 Penn Dot approved stone having a depth of not less than six (6) inches at all intersections with public roads during construction for drilling operations shall be installed and maintained.
- F. Surface Water - If surface water from any access road is anticipated to be redirected off the property onto adjoining property, the owner and/or operator shall submit a deed of easement, release and right of entry agreement or other similar document or agreement, signed by the adjoining property owner(s) and owner and/or operator, in a recordable form evidencing such owner's permission to discharge surface water onto their property.
- G. Waiting Vehicles - An off-street area for vehicles to stand while gaining entrance to the access road shall be provided on the site so that the normal flow of traffic on the public or private road is not disrupted.
- H. Conditions of Approval - If the Borough determines that the standards in §506 are not adequate the Borough shall attach such other conditions deemed necessary to protect the public health, safety and welfare. Such conditions may be related to hours of operation, more stringent noise control, dust suppression, outdoor operations and storage, lighting and glare, stormwater management, security, and other necessary safeguards.
- J. Local, State and Federal Regulations - All operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant

provides evidence of compliance with state and federal regulations.

- K. Informational Requirements - The applicant shall provide the information required by this §507.34K and all other necessary information to enable the Borough to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval. The Applicant shall provide the following:
  - 1. Application Information - The information required by this Ordinance and all other necessary information to enable the Borough to assess compliance with this Ordinance.
  - 2. DEP Application Information - A copy of all applications and information required by the applicable DEP Rules and Regulations.
- L. Reporting Requirements - For any operation approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

507.35 – 507.36 Reserved

507.37 Pipeline Compressor Stations, Metering Stations or Operation/Maintenance Facilities

Pipeline compressor stations, metering stations or operation/maintenance facilities (referred to as *facilities*) shall be allowed only in those districts as specified in §405. In addition to the performance standards in §506 and all other applicable standards of this Ordinance, the requirements of this §507.37 shall apply.

- A. Building; Noise - All compressors, engines and any mechanical equipment which requires noise reduction to meet Borough standards shall be located within a fully enclosed building with soundproofing and blow down silencers and mufflers adequate to comply with the noise standards established by §506.6 or as otherwise established as a condition of approval. In any case, the operation of the equipment shall not create any noise that causes the exterior noise level to exceed the pre-development ambient noise levels as measured within three hundred (300) feet of the compressor station building(s). The applicant and or operator shall be responsible for establishing and reporting to the Borough the pre-development ambient noise level prior to the issuance of the zoning permit for the station.
- B. Setbacks and Buffers
  - 1. Facilities - The following setbacks and buffers shall be applied to any facilities used to compress, decompress, process, heat, alter or transform the pipeline product:
    - a. Setbacks - A setback of seventy-five (75) feet from property lines and road rights-of-way shall be maintained.
    - b. Buffer
      - (1) An undisturbed area of not less than twenty-five (25) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project

structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.

- (2) Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation.
  - (3) Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.
  - (4) It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
2. Other Components - Pipeline valves, metering stations, pig launchers/receivers, and other components which are located within the pipeline right-of-way and do not compress, decompress, process, heat, alter or transform the pipeline product shall not be less than twenty-five (25) feet from any adjoining property line not subject to the right-of-way.
- C. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the facility and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.
  - D. Local, State and Federal Regulations - All facilities and operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.
  - E. Informational Requirements - The applicant shall provide the following information and all other necessary information to enable the Borough to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval. The Applicant shall provide the following:
    1. Application Information - All required application information and all other necessary information to enable the Borough to assess compliance with this Ordinance.
    2. DEP Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection Rules (DEP) Rules and Regulations.
  - F. Reporting Requirements - For any facility approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

#### 507.38 Power Plants

Power plants shall comply with this §507.38.

##### A. Purposes

1. To accommodate the need for power plants while regulating their location and number in the Borough in recognition of the need to protect the public health, safety and welfare.

2. To avoid potential damage to adjacent properties through engineering and proper siting of such structures.

B. Standards

1. Building; Noise - All turbines, compressors, engines and any mechanical equipment which requires noise reduction to meet Borough standards shall be located within a fully enclosed building with soundproofing and blow down silencers and mufflers adequate to comply with the noise standards established by §506.6 or as otherwise established as a condition of approval. In any case, the operation of the equipment shall not create any noise that causes the exterior noise level to exceed the pre-development ambient noise levels as measured within three hundred (300) feet of the building(s). The applicant and or operator shall be responsible for establishing and reporting to the Borough the pre-development ambient noise level prior to the issuance of the zoning permit for the station.

2. Setbacks and Buffers

- (a) Facilities - The following setbacks and buffers shall be applied to any facilities used as part of the electricity generation process:

- (1) Setbacks - A setback of seventy-five (75) feet from property lines and road rights-of-way shall be maintained.

- (2) Buffer

[a] An undisturbed area of not less than twenty-five (25) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.

[b] Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation.

[c] Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.

[d] It shall be the responsibility of the applicant and/or operator and/or property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

- (b) Other Components - Pipelines and valves, metering stations, pig launchers/receivers, and other components which are located on the site shall not be less than twenty-five (25) feet from any adjoining property line.

3. Fencing - A fence may be required around the perimeter of the power plant site unless the design of the structures adequately provides for safety.
  4. Access; Required Parking - Access to the power plant shall be provided by means of a public street or easement to a public street adequate to serve the number and type of vehicles anticipated. The access and parking shall be improved with a dust-free, all weather surface. The number of required parking spaces shall equal the number of people on the largest shift.
  5. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the facility and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.
  6. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished, and this may be accomplished by remedial measures instituted by the power plant developer.
  7. Historic Structures - A power plant shall not be located within five-hundred (500) feet of any structure listed on any public historic register.
- C. Site Plan - A full land development plan shall be required for all power plant sites, showing all power plant facilities, fencing, buffering, access, and all other items required for conditional uses by this Ordinance and the Subdivision and Land Development Ordinance.
- D. Local, State and Federal Regulations - All facilities and operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.
- E. Insurance - The applicant shall provide a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the power plant.
- F. Informational Requirements - The applicant shall provide the following information and all other necessary information to enable the Borough to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval. The Applicant shall provide the following:
1. Application Information - The information required by this §507.38, all required application information, and all other necessary information to enable the Borough to assess compliance with this Ordinance.
  2. Additional Information - The Borough may require the applicant to submit details about ground and surface water protection, an Environmental Impact Statement, and a Traffic Impact Study.
  3. State and Federal Application Information - A copy of all applications and information required by the applicable state and federal agencies.
  4. Emergency Response - The Applicant shall submit the name, address and emergency telephone number for the operator of the power plant; and shall develop a Emergency Preparedness,

Prevention and Control Plan in accord with state and federal requirements and generally accepted practice and submit the Plan for review and comment by the Borough and the County Emergency Management Agency.

- G. Reporting Requirements - For any facility approved by the Borough, the operator shall submit to the Borough copies of all state or federal required or issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

507.39 Reserved

507.40 Race Tracks

In addition to all other applicable standards, the following additional standards shall apply to race tracks:

- A. Setbacks - All areas for the driving, testing and/or maintenance of motor vehicles shall not be less than five hundred (500) feet from any property line or public road right-of-way. Greater setbacks and buffers may be required in accord with §506.1 to address community effects.
- B. Animal Race Tracks - In addition to the other standards in this §507.40, the following additional standards shall apply to animal race tracks:
1. The race course for any animal race track shall not be less than two hundred fifty (250) feet from any property line or public road right-of-way. Greater setbacks and buffers may be required in accord with §506.1 to address community effects.
  2. Any stable building, corral, kennel or other indoor or outdoor area used for the keeping or feeding of animals, concentrated confinement of animals or manure and animal waste storage shall not be less than one hundred (100) feet from any property line or public road right-of-way.
  3. The Applicant shall provide a plan for manure and animal waste management satisfactory to the Borough demonstrating that all manure and animal waste shall be managed and disposed of in accord with applicable local, state and federal regulations.
- C. Buildings - All buildings on the race track parcel shall comply with Uniform Construction Code and PA Department of Labor and Industry Standards.
- D. Time Limitations - No motor vehicle race shall be conducted between the hours of 10:00 P.M. and 9:00 A.M. However, the Borough may establish more restrictive time limits as a condition of approval.
- E. Repair Activities - All service and repair activities shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes, and glare; except that minor servicing such as changing tires, sale of gasoline or oil, windshield washing and other similar normal activities may be conducted outside the said building.
- F. Tire and Part Storage - All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening, but in no case shall such outdoor storage exceed five hundred (500) square feet in area. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.
- G. Storage - No vehicles, supplies, parts, or any other material shall be stored in any required setback areas normally required for the district.

- H. Fuel Documentation - Documentation shall be provided that all fuel and fuel storage areas comply with State and Federal requirements.
- I. Fencing and Barriers - Security fencing shall be provided around the facility (excluding parking areas) to prevent intrusion onto the racetrack and related areas. Safety fencing/barriers shall be provided between the racetrack and all areas where spectators, the public or any employee or other person has access.
- J. Safety Plan - A facility safety plan shall be prepared to detail the specific procedures which will be followed to ensure the safety of the public, spectators, employees and participants which shall, at a minimum, address the following:
  - 1. Design standards of all safety fencing/barriers.
  - 2. Procedures for fuel storage, handling and dispensing.
  - 3. Emergency services, including fire and ambulance, which will be available during events.
  - 4. Disaster/emergency response procedures.
  - 5. Crowd management.
- K. Bond/Insurance - Based on the type and size of the race track, the Borough may require the Applicant to provide a bond and/or insurance to cover the cost of any environmental clean-up or enforcement action which may be required at the site. The amount of the coverage shall be determined by the Board based on the type and size of the track.

#### 507.41 Reserved

#### 507.42 Self-Storage Facilities

Self-storage facilities shall comply with the following standards in this §507.42.

- A. Bulk Requirements - Minimum lot size, lot width and setbacks, and maximum lot coverage and building height shall conform to district standards.
- B. Setback Areas - There shall be no storage, use or structure within the setback area, with the exception of the access drive(s).
- C. Habitation - No storage unit shall be used for habitation or residential purposes and individual mini-warehouse units shall not be served by a water supply or a sewage disposal system.
- D. Storage Limitations - No storage unit shall be used for any other purpose except storage and shall not be used for any other type of commercial or manufacturing activity. No material, supplies, equipment or goods of any kind shall be stored outside of the warehouse structure, with the exception of the vehicles required for the operation of the warehouse and boats and recreational vehicles and trailers
- E. Lighting - All facilities shall be provided with adequate outdoor lighting for security purposes; and such lighting shall be so directed as to prevent glare on adjoining properties.
- F. Fire or Water Damage - All storage units shall be fire-resistant and water-resistant.
- G. Materials Stored - All self-storage facility proposals shall include detailed information on the nature and quantity of materials to be stored on the premises. Proposed space rental agreements shall be

submitted with the conditional use application and shall provide specific rules and regulations to insure that the requirements of this §507.42 are or will be satisfied.

#### 507.43 Shooting Ranges, Outdoor Commercial

This §507.43 is intended to provide minimum standards to regulate commercial outdoor shooting ranges (hereinafter referred to as *ranges*) in order to protect neighboring property owners and the public at large from dangers of wild or ricocheting projectiles and from excessive noise and other nuisances.

- A. Setbacks - All outdoor shooting ranges shall be situated not less than five hundred (500) feet from any property line and not less than one thousand (1,000) feet from any principal residential or principal nonresidential building existing on the effective date of this §507.43. This shall not apply to structures on the same parcel as the shooting range.
- B. Safety Design - All ranges shall be designed and constructed with safety facilities to prevent accidental wild or ricocheting projectiles and stray arrows, and the Borough may require such additional safety features deemed necessary to meet the intent of this §507.43. Such features may include but not be limited to increased setbacks, earthen berms and setbacks, range orientation, and a limitation of hours of operation.
- C. Noise Reduction - All ranges shall be designed and operated to minimize any noise created by the facility and shall at a minimum comply with the requirements of §506.6 unless more restrictive standards are required by the Borough as a condition of approval.
- D. Hours of Operation - No firearm shall be discharged outdoors between sunset and 8:00 a.m. However, the Borough may establish more restrictive time limits as a condition of approval.
- E. Fence - Security fencing may be required by the Borough of such extent and design to restrict accidental access to any range.
- F. Posting - A three hundred (300) foot perimeter around any outdoor range shall be posted with warning signs to adequately inform anyone entering the area.
- G. NRA Guidelines; State and Federal - The applicant shall provide evidence of compliance with any applicable National Rifle Association guidelines and state and federal regulations and best management practices.

#### 507.44 Slaughterhouses

Slaughterhouses shall require a minimum of ten (10) acres and shall comply with this §507.44.

- A. Setbacks
  1. Buildings - The minimum setbacks for all buildings shall be seventy-five (75) feet from property lines and road rights-of-way.
  2. Animals – Structures which are not fully enclosed, corrals and other areas for the outdoor confinement of animals shall comply with the following setbacks unless state or federal regulations require a greater setback:
    - a. Up to 499 animals: 100 feet
    - b. 500 to 999 animals: 200 feet.

- c. 1,000 or more animals: 300 feet.

B. Buffer

1. An undisturbed area of not less than twenty-five (25) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
2. Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation.
3. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.
4. It shall be the responsibility of the applicant and/or operator and/or property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

- C. Animal Confinement - All animals shall be confined to the slaughterhouse property at all time by fences or other structures

- D. Wastes - Solid and liquid wastes shall be disposed of in a manner to avoid creating insect or rodent problems, and an insect/rodent abatement plan which shall be prepared. No discharges of liquid wastes and/or sewage shall be permitted into a reservoir, sewage or storm sewer disposal system, holding pond, stream or open body of water, or into the ground unless the discharges are in compliance with the standards of local, state and/or federal regulatory agencies.

- E. Operating Standards - The applicant shall demonstrate that they will meet the operational and management standards as may be set forth in treatises recognized by agricultural authorities or as the same may be produced by the Pennsylvania Department of Agriculture, Department of Environmental Protection, Pennsylvania State University, College of Agricultural Sciences, or similar entity.

- F. Odor (See also §506.8.) - The applicant shall prepare an odor abatement plan and document the ability to comply with the plan. It is recognized that certain activities do produce odors, but the applicant shall show that odors can be reduced to a minimum or abated. The plan shall include such steps as may be necessary to abate odors or to allow odors at times to minimize interference with the public health, safety and welfare.

507.45 Solar Power Generation, Commercial

In addition to all other applicable standards in this Ordinance, the following regulations shall apply to commercial solar power generation facilities which shall be permitted only in the districts as provided by the Use Regulations.

- A. Purposes - To accommodate the need for solar power facilities while regulating their location and number in the Borough in recognition of the need to protect the public health, safety and welfare.

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B. Permits; Use Regulations

1. Permits - A permit shall be required for every solar power facility installed in the Borough.
2. Associated Use - All other uses ancillary to the solar power facility (including a business office, maintenance depot, etc., greater than one thousand (1,000) sq. ft.) are prohibited from the solar power facility, unless otherwise permitted in the zoning district in which the solar power facility is located. This shall not prohibit the installation of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the solar power facility as accessory structures.
3. Solar Power Facility as a Second Principal Use - A solar power facility shall be permitted on a property with an existing use subject to the following standards:
  - a. The minimum lot area, minimum required setbacks and maximum height required by this Ordinance for the solar power facility shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
  - b. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  - c. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed solar power facility and that vehicular access is provided to the solar power facility.

C. Standards and Design

1. Height - Solar collectors shall not exceed the principal structure height limitations for the underlying zoning district.
2. Parcel Size; Required Setbacks - Separate Parcel - If the parcel on which the solar power facility is a separate and distinct parcel or if the parcel is leased, the zoning district minimum lot size shall apply and in all cases, the lot shall be of such size that all required setbacks are satisfied to the property line and/or lease line. The required setback of solar collectors, all structures, equipment containers and any associated mechanical facilities shall comply with setback requirements for principal structures of the underlying zoning district.
3. Fencing - A fence may be required around the facility or portions of the facility for safety reasons.
4. Landscaping - Landscaping may be required to screen as much of the solar power facility ground features as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the solar power facility ground features from neighboring properties. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping.
5. Licenses; Other Regulations; Insurance - The applicant shall demonstrate that it has obtained the required licenses from governing state and federal agencies, and agreement from the local electric

utility. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the solar power facility; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the solar power facility.

6. Access; Required Parking - Access to the solar power facility shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a gravel or better surface for its entire length. If the solar power facility site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
7. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties shall not be disturbed or diminished, and this may be accomplished by remedial measures instituted by the solar power facility developer.
8. Glare - The applicant shall provide details about anticipated glare from the facility, including the time of day, time of year and direction of peak glare periods and document how potential nuisances to area properties and on public roads shall be controlled.
9. Historic Structures - A solar power facility shall not be located within five hundred (500) feet of any structure listed on any public historic register.
10. Standards; Certification - The design of the solar power facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories or other similar certifying organizations. The operator shall repair, maintain and replace the solar collectors and associated equipment in like manner, as needed to keep the facility in good repair and operating condition.
11. Uniform Construction Code - To the extent applicable, the solar power facility shall comply with the Pennsylvania Uniform Construction Code.
12. Electrical Components - All electrical components of the solar power facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
13. Warnings - A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
14. Signs - No advertising material or signs other than warning, manufacturer and equipment information or indication of ownership shall be allowed on any equipment or structures.
15. Transmission and Power Lines - On-site transmission and power lines shall, to the greatest extent possible, be placed underground.
16. Stray Voltage/Electromagnetic Fields (EMF) - The operator shall use good industry practices to

minimize the impact, if any, of stray voltage and/or EMF.

17. Emergency Services - The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the solar power facility. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the solar power facility.
  18. Site Plan - A full site plan shall be required for all solar power facility sites, showing the solar power facility, fencing, screening, buffers, access, and all other items required by this Ordinance.
- D. Public Inquiries and Complaints - The solar power facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project, and the solar power facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.
- E. Decommissioning.
1. Time Limit - The solar power facility owner and operator shall, at its own expense, complete decommissioning of the solar power facility, or individual components, within twelve (12) months after the end of the useful life of the solar power facility or individual components. The solar power facility or individual components shall be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
  2. Depth Requirement - Decommissioning shall include removal of collectors, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.
  3. Disturbed Earth - Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored and such request is granted.
  4. Professional Engineer - An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning (decommissioning costs) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (net decommissioning costs). Said estimates shall be submitted to the Borough after the first year of operation and every fifth year thereafter.
  5. Financial Security Bond - The solar power facility owner or operator shall provide financial security to the Borough as obligee, in an amount approved by the Zoning Hearing Board, but not less than \$50,000, from a company and in a form and content acceptable to the Borough, to insure the decommissioning within one hundred eighty (180) days of the expiration of the license or lease and/or cessation of use. The bond shall remain in place for as long as the facilities exist at the site.
  6. Funds - Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Borough.
  7. Landowner Responsibility - If the solar power facility owner or operator fails to complete the decommissioning within the prescribed time period, then the landowner shall have one hundred eighty (180) days to complete decommissioning.

8. Borough Intervention - If neither the solar power facility owner or operator, nor the landowner complete decommissioning within the prescribed periods, then the Borough may take such measures as necessary to complete decommissioning. The entry into the record and submission of evidence of a participating landowner agreement to the Borough shall constitute agreement and consent of the parties to the agreement, and their respective heirs, successors and assigns that the Borough shall have the right, but not the obligation, to take such action as necessary to implement the decommissioning plan.
9. Release of Decommissioning Funds - The decommissioning funds shall be released when the solar power facility owner or operator has demonstrated and the Borough concurs that decommissioning has been satisfactorily completed, or upon written approval of the Borough in order to implement the decommissioning plan.

#### 507.46 Solid Waste Facilities

- A. Intent - The intent of this §507.46 is to minimize the effects of solid waste facilities on the environment, the community and the public health, safety and general welfare by:
  1. Controlling the location of facilities and establishing setbacks to minimize dispersal of material, provide adequate open space, minimize odors and limit the spread of vermin.
  2. Requiring fencing and buffers to prevent the dispersal of material and minimize odors.
  3. Establish base line testing and water quality safeguards to limit the leaching of any liquids into surface and ground water and minimize air and soil pollution.
  4. Establishing reporting procedures to ensure the proper operation and maintenance of the facility.
- B. Compliance; Application.
  1. Compliance
    - a. Solid waste facilities, including transfer stations, and staging areas, herein referred to as facilities shall, in addition to the other applicable standards in this Ordinance, be subject to all applicable state and federal regulations and the requirements of this §507.46.
    - b. Where a difference exists between applicable State regulations and Borough regulations, it is intended for the purposes of this §507.46 that the more stringent requirements shall apply.
  2. Application. In addition to the application requirements of this Ordinance, the facility application shall include copies of all information, documents, plans and reports required by PA DEP.
- C. Required Setbacks and Buffers
  1. Required Setbacks - The facility shall comply with PA DEP requirements, but in no case shall any facility be operated less than:
    - a. Two hundred fifty (250) feet from a public or private right-of-way or property line.

- b. Five hundred (500) feet from any occupied principal building unless the owner of the building has provided a written waiver consenting to the facility being closer. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. A closed landfill that submits an application to reopen and expand shall also be subject to this requirement.
2. Buffers - The required setback shall remain unoccupied with no improvements, except required fencing and access road(s). A buffer not less than twenty-five (25) feet in width shall be provided in all required setbacks in accord with §506.1 and additional buffers and setbacks may be required.
- D. Fencing - All facilities shall be completely enclosed by a chain link fence not less than ten (10) feet in height. All gates shall be closed and locked when closed for business. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence.
- E. Storage and Loading/Unloading - Storage of materials, supplies or solid waste in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted. Any solid waste stored for more than three (3) hours shall be stored in an enclosed building. For any facility other than a sanitary landfill, all transfer, loading and unloading of solid waste shall only occur within an enclosed building with negative pressure, and over an impervious surface which drains into a holding tank that is then adequately treated.
- F. Effluent Treatment - The facility shall provide for treatment and disposal for all liquid effluent and discharges generated by the facility due to the storage, loading or unloading, transfer, container or vehicle washing, or other activity undertaken in processing or transporting the solid waste. All such activities shall be conducted only over an impervious surface and all drainage shall be collected for treatment. Any water discharge from the facility, after being treated by the wastewater treatment system, shall meet all applicable Department of Environmental Protection regulations and Borough requirements.
- G. Dangerous Materials - No radioactive, hazardous, chemotherapeutic or infectious materials may be disposed of or stored or processed in any way, except for types and amounts of hazardous substances customarily kept in a commercial business for on-site use. Infectious materials are defined as medical wastes used or created in the treatment of persons or animals with seriously contagious diseases.
- H. Emergency Access - The operator of the facility shall cooperate fully with local emergency services. This should include allowing practice exercises on the site and the provision of all information needed by the emergency services to determine potential hazards. Adequate means of emergency access shall be provided and maintained.
- I. Hours of Operation - Under the authority granted to the Borough under State Act 101 of 1988, all such uses shall be permitted to operate only between the hours of 7:00 a.m. to 7:00 p.m. and are not permitted to operate on Sundays, Christmas Eve Day, Christmas Day, New Year's Day, Memorial Day, 4th of July, Labor Day, or Thanksgiving Day. All deliveries of solid waste shall be made during the hours between 7:00 a.m. to 5:00 p.m. and not on Sundays or the above specified holidays.
- J. Nuisances - Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors. The applicant shall prove to the satisfaction of the Borough that the use would not routinely create noxious odors off of the tract. The operator shall regularly police the area of the facility and surrounding street to collect litter that may escape from the facility or truck. The

applicant shall provide documentation to the satisfaction of the Borough that proposed facility shall operate in such a manner as to not create a general nuisance, endanger the public health, safety and welfare, or inhibit the public's use or enjoyment of their property.

- K. Attendant and Inspections - An attendant shall be present during all periods of operation or dumping. The applicant shall, if granted a permit, allow access at any time to the facility for inspection by appropriate Borough Officials and provide the Borough with the name and phone number of a responsible person(s) to be contacted at any time in the event of an inspection.
- L. O & M and Reporting.
1. O & M - The operation and maintenance of the facility shall comply with all applicable State and Federal regulations as a condition of the continuance of any permit issued by the Borough. Violations of this condition shall also be considered to be violations of this Ordinance.
  2. Reporting - If the facility is approved by the Borough, the operator shall concurrently submit to the Borough a copy of all information, documents, plans and reports required by PA DEP, and shall forward to the Borough a copy of all correspondence, notices and documents received from DEP which are related to the ongoing operation, maintenance and compliance of the facility.
  3. Violation - The failure to comply with the requirements of this §507.46L shall be a violation of this Ordinance.

#### 507.47 Reserved

#### 507.48 Staging Areas for Equipment/Materials and Contractor Yards

The intent of this section is to provide standards for access to public roads and setbacks for staging areas for equipment/materials and contractor yards.

##### A. Access to public roads

1. Highway Occupancy Permit - Access roads to Borough and State roads shall be in accord with a valid highway occupancy permit.
2. Stabilization - The access road shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto the public road.
3. Weight Limitations - All operations shall comply with all posted weight limits and road bonding regulations.
4. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the operation and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use. The Applicant shall also comply with the Borough road bonding requirements.

##### B. Required Setbacks

1. Residential and Nonresidential Buildings - Contractor yards and staging areas for equipment/materials shall not be less than three hundred (300) feet from any existing principal residential, commercial, institutional, public or semi-public building, other than such building

located on the property on which the facility is located.

2. Property Lines - Contractor yards and staging areas for equipment/materials shall not be less than fifty (50) feet from any property line other than a property line along a public road right-of-way.
  3. Public Roads - Contractor yards and staging areas for equipment/materials Storage yards shall not be less than fifty (50) feet from any public road right-of-way.
- C. Slope - Contractor yards and staging areas for equipment/materials shall be located on gently sloping ground. Low spots and poorly drained places shall be avoided.

#### 507.49 Storage Yards for Forest Products and Minerals

The intent of this §507.49 is to provide standards for access to public roads and setbacks for storage yards for forest products and minerals.

##### A. Access to Public Roads

1. Highway Occupancy Permit - Access roads to Borough and State roads shall be in accord with a valid highway occupancy permit.
2. Stabilization - The access road shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto the public road.
3. Weight Limitations - All operations shall comply with all posted weight limits and road bonding regulations.
4. Use of Public Roads - Felling or skidding on or across any public road shall be prohibited without the express written authorization of the Borough or the Pennsylvania Department of Transportation, as applicable.

##### B. Setbacks

1. Residential and Nonresidential Buildings - Storage yards shall not be less than three hundred (300) feet from any existing residential, commercial, institutional, public or semi-public building, other than such building located on the property on which the landing is located.
2. Property Lines - Storage yards shall not be less than fifty (50) feet from any property line other than a property line along a public road right-of-way.
3. Public Roads - Storage yards shall not be less than fifty (50) feet from any public road right-of-way.
4. Slope - Storage yards shall be located on slopes less than eight (8) percent. Low spots and poorly drained places shall be avoided.

#### 507.50 Swimming Pool, Commercial

Commercial swimming pools comply with the standards in this §507.50.

- A. Setback - The pool, accessory structures and areas used by bathers shall be not less than one hundred (100) feet from any property line and any public road right-of-way.

- B. Buffer - A buffer fifty (50) feet in width shall be provided along all property lines and any public road right-of-way.
- C. Enclosure - A fence, wall or other enclosure meeting the requirements of the Uniform Construction Code shall be provided. not less than six (6) feet high and of a design to restrict access shall completely surround the area of the swimming pool. This enclosure shall be designed to be difficult for children to climb or slip through. All gates or door openings through such enclosure shall be self-closing and include a self-latching device on the pool side for keeping the gate or door securely closed when the pool is not in use.
- D. Access - Access to all pools shall be restricted when the pool is not in use.

507.51 - 507.52 Reserved

507.53 Vehicle and Equipment Related Uses

Vehicle related uses shall, in addition to all other applicable standards, shall comply with the standards in this §507.53.

- A. Car and Truck washes - The following standards shall apply to the location and design of a car or truck wash, whether designed as an automatic or self-wash facility:
  - 1. Required Setback - The facility shall be setback a minimum of fifty (50) feet from any street right-of-way to permit adequate stacking and parking area for cars entering and exiting the site, including areas for drying and polishing.
  - 2. Waiting Vehicles - Access and service aisles shall provide sufficient length to accommodate at least four (4) vehicles outside of street rights-of-way for automatic washes, and two (2) vehicles for each washing bay in a self-wash facility.
  - 3. Drainage - No wash water shall drain off the surface of the site. The facility shall be designed so as to limit water from leaving the site, in order to avoid the potential for water and ice from building on public roads. This includes surface drainage and water dripping from cars as they leave the facility.
- B. Vehicle or Equipment Repair Operations and Vehicle or Equipment Sales or Rental Operations - In addition to all other applicable standards, all vehicle or equipment repair operations and all vehicle or equipment sales or rental operations of new and used automobiles, trucks, motorcycles, mobile homes, recreation vehicles, boats, and travel trailers and other vehicles and equipment shall be subject to the following specific regulations and requirements:
  - 1. Repair and Service - All repair, service or similar activities shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes and glare.
  - 2. Exterior Storage
    - a. Parts and Other Materials - Exterior storage of dismantled vehicles, tires, auto parts and similar materials shall not be permitted except in a designated storage area in accord with §507.53B2c Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.

b. Vehicles

- (1) Only vehicles with current license and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored in any unscreened exterior area. Any vehicle stored for more than thirty (30) days shall be stored in a designated storage area in accord with §507.53B2c.
- (2) Not more than four (4) vehicles per service stall may be stored outside a fully enclosed building.
- (3) Proof of current license and current registration or ownership of any vehicle shall be required upon demand by the Zoning Officer.

c. Designated Storage Area

- (1) All operations storing parts, materials or vehicles outdoors shall establish a designated storage area meeting principal structure setback requirements.
- (2) A secure and durable fence, six (6) to ten (10) feet in height, shall be erected around the perimeter of the storage area and the area shall be screened.
- (3) The area shall be stabilized with paving or other suitable material to prevent mud and minimize dust.

3. Flammable Materials

- a. Exterior storage of flammable materials such as oil, kerosene, gasoline, etc., shall be prohibited at all times.
  - b. Small propane bulk filling tanks are permitted if fully in compliance with all existing local, state and federal regulations and requirements.
4. Accessory Goods - Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products shall be permitted on the respective islands or provided for in a suitable and safe stand or rack that does not encroach upon the required aisles or parking areas.
  5. Bulk Storage - The storage of gasoline and flammable oils in bulk shall be in compliance with state and federal regulations.
  6. Pumps - Gasoline pumps and other service appliances may be located in the required front setback but shall not be situated closer than thirty (35) feet from the road right-of-way line and property lines.
  7. Canopy - Any canopy structure over the pumping area shall not be less than twenty (20) feet from any highway right-of-way or lot line and shall not exceed a height of twenty (20) feet.
  8. Floor Drainage - Floor drainage basins shall be plugged or flow into a holding tank and be disposed of periodically in accord with applicable regulations. Verification of proper disposal may be requested at any time by the Borough Zoning Officer or any authorized local, state, or federal

agency.

9. Vehicle and Equipment Display - The outdoor display of new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers and other vehicles or equipment shall meet the side and rear setback requirements for accessory buildings.

507.54 Reserved

507.55 Wind Energy Facilities, Commercial

In addition to all other applicable standards in this Ordinance, the following regulations shall apply to commercial wind energy facilities:

A. Purposes

1. Need and Location - To accommodate the need for wind energy facilities, while regulating their location and number in the Borough, in recognition of the need to protect the public health, safety, and welfare.
2. Adjacent Properties - To avoid potential damage to adjacent properties from wind turbine structure failure and falling ice, through engineering and proper siting of such structures.

- B. Number - The number of wind turbines on a particular parcel shall be governed by compliance with all setback, separation and height requirements.

C. Permits; Use Regulations

1. Permits - A zoning permit shall be required for every wind energy facility and wind turbine installed in the Borough.
2. Associated Use - All other uses ancillary to the wind energy facility (including a business office, maintenance depot, etc., greater than one thousand (1,000) sq. ft.) are prohibited from the wind energy facility, unless otherwise permitted in the district in which the wind energy facility is located. This shall not prohibit the installation, as accessory structures, of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the wind energy facility.
3. Wind Energy Facility as a Second Principal Use - A wind energy facility shall be permitted on a property with an existing use in districts where permitted, subject to the following land development standards:
  - a. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the wind energy facility and wind turbines shall apply; and, the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
  - b. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  - c. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access

is provided to the facility.

D. Standards

1. Wind Energy Facility Height - The applicant shall demonstrate that the wind turbines are at the minimum height required to function satisfactorily. No wind turbine that is taller than this minimum height shall be approved.
2. Parcel Size; Required Setbacks
  - a. Separate Parcel - If the parcel on which the wind energy facility is a separate and distinct parcel, the district minimum lot size shall apply; and, in all cases, the lot shall be of such size that all required setbacks are satisfied.
  - b. Lease, License or Easement - If the land on which the wind energy facility is leased, or is used by license or easement, the setback for any wind turbine, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement. In any case, no wind turbine shall be located closer to any property line (not lease, license or easement line) than one and one tenth (1.1) times the turbine height, including the rotor plane.
  - c. Public and Semi-Public Structures - No wind turbine shall be located less than two thousand (2,000) feet from any existing public or semi-public principal structure measured from the center point of the turbine base. (For the purposes of this §507.55, existing principal structure shall mean any existing principal structure or any principal structure for which a zoning permit has been issued.)
  - d. Principal Structures on Wind Energy Facility Parcel - No wind turbine shall be located less than six hundred (600) feet from any existing principal structure on the wind energy facility parcel or lease, license or easement parcel as measured from the center point of the turbine base, unless the property owner provides written permission allowing for a lesser distance. (For the purposes of this §507.55, existing principal structure shall mean any existing principal structure or any principal structure for which a zoning permit has been issued.) In no event shall the setback distance be less than one and one tenth (1.1) times the total height of the wind turbine as measured from the highest point of the turbine, including the rotor plane.
  - e. Principal Structures on Other Parcels - No wind turbine shall be located less than two thousand (2,000) feet from any principal structure existing on any other parcel prior to the erection of the wind turbine as measured from the center point of the turbine base, unless the owner of such existing principal structure shall have executed a written waiver or non-disturbance easement, covenant or consent, any of the aforementioned which has been recorded in the Office of the County Recorder of Deeds, Pennsylvania. Such easement or covenant shall run with the land and, at a minimum, provided that the said property owner waives and releases any and all claims, damages and/or losses resulting from higher noise levels, visual impacts or flickering reflections and/or shadows which may arise as a result of the location of a wind turbine generator within the established setback distance of an existing principal structure on the property of the owner executing same. Such easement, covenant or consent shall meet such requirements as to form and content as may be required by the Borough. In no event shall the setback distance be less than one and one tenth (1.1) times the total height of the wind turbine as measured from the highest point of the turbine, including the rotor plane.

- f. Property Lines and Public Roads - No wind turbine shall be located less than one and one tenth (1.1) times the total height of the wind turbine from property lines and public road rights-of-way as measured from the highest point of the turbine, including the rotor plane.
  - g. Communication and Electric Lines - No wind turbine shall be located less than one and one tenth (1.1) times the total height of the wind turbine from the nearest above ground public electric power line or public telephone line or other public communication line as measured from the highest point of the turbine including the rotor plane.
  - h. Horizontal Rotors - The required setbacks for windmills with horizontal rotors shall not be less than one and one tenth (1.1) times the height of the turbine tower or one and one tenth (1.1) times the height of the turbine tower plus the distance of the outer end of the rotor from the tower, whichever is greater.
3. Wind Energy Facility Design
- a. Standards; Certification - The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
  - b. Reserved
  - c. Uniform Construction Code - The wind energy facility shall comply with the Pennsylvania Uniform Construction Code.
  - d. Controls and Brakes - All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
  - e. Electrical Components - All electrical components of the wind energy facility shall conform to applicable local, state and national codes.
  - f. Warnings - A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
  - g. Signs - No advertising material or signs other than warning, equipment information or indicia of ownership shall be allowed on the wind turbine generators. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners, or waiving, fluttering or revolving devices, but not including weather devices.
  - h. Climb Prevention/Locks/Fence
    - (1) Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.

- (2) All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
    - (3) A fence may be required around each wind turbine support structure and other equipment. The fence shall be a minimum of eight (8) feet in height.
  - i. Emergency Services - The facility shall comply with all applicable local, state and federal fire code and emergency services guidelines; and, all wind turbine generators shall be equipped with portable fire extinguishers, unless the local fire department or Borough Engineer provides written documentation establishing that the same is not necessary.
  - j. Other Regulations - The applicant shall document compliance with all applicable state and federal regulations.
4. Noise and Shadow Flicker
- a. Audible sound from a wind energy facility shall not exceed forty-five (45) dBA as measured at the exterior of any occupied building on any other parcel. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1. 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
  - b. The facility owner and operator shall use best efforts to minimize shadow flicker to any occupied building on any other parcel.
  - c. For the purposes of this Subsection 4, occupied building shall mean a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.
5. Landscaping - Landscaping shall be required to screen as much of the support structure as possible and any other ground level features (such as a building); and, in general, buffer the wind turbine and support structure site from neighboring properties. Any required vegetation shall be maintained in good condition. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping.
6. Water Supplies - All wind turbine generator sites shall be designed and constructed in such a fashion as to avoid any disruption and or interference with private wells, springs and/or other water sources. In the event any problems occur with any private water source, which problems are proximately caused by the operator, the operator shall immediately supply potable water in such quality and quantity as supplied by the original private water source.
7. Licenses - The applicant shall demonstrate that it has obtained the required licenses from the Borough and governing state and federal agencies.
8. Access; Required Parking - Access to the wind energy facility shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its

entire length. If the wind energy facility site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift.

9. Color and Lighting; FAA and PA DOT Notice - Wind turbines, including rotors, shall be a non-obtrusive color such as white, off-white or gray. Wind turbines shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No wind turbine may be artificially lighted, except as required by FAA requirements. If lighting is required, the lighting alternatives and design chosen shall minimize the disturbance to the surrounding views. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PA DOT Bureau of Aviation.
  10. Transmission and Power Lines - On-site transmission and power lines between wind turbines shall, to the greatest extent possible, be placed underground.
  11. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties shall not be disturbed or diminished; and, this may be accomplished by remedial measures instituted by the wind energy facility operator.
  12. Stray Voltage/Electromagnetic Fields (EMF) - The operator shall utilize Good Utility Practice to minimize the impact, if any, of stray voltage and/or EMF.
  13. Water and Sewer - Water, other than for facility cooling and fire suppression purposes, and sewage facilities shall not be permitted at wind energy facility sites to preclude person(s) from living or staying on the site, unless such facilities serve a use otherwise approved in accord with this Ordinance.
  14. Emergency Services - The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the wind energy facility. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.
  15. Site Plan - A full site plan shall be required for all wind energy facility sites, showing the wind energy facility, wind turbines, building, fencing, buffering, access, and all other items required by this Ordinance and the Subdivision and Land Development Ordinance.
- E. Certification - The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed wind energy facility and support structure shall be designed and constructed in accord with accepted engineering practices and all requirements of this Ordinance. Within 45 days of initial operation, the owner and/or operator of the wind energy facility shall provide a certification from a Pennsylvania registered professional engineer that the wind energy facility and all structures comply with all applicable regulations.
- F. Wind Test Towers - Temporary wind test towers may be erected as a special exception in districts where wind energy facilities are permitted in accord with other applicable requirements of this Zoning Ordinance. Such towers shall be removed within eighteen (18) months of installation.

### 508 Special Conservation Standards

All uses permitted by this Ordinance shall be subject to the following special conservation performance standards. The procedures and standards are as follows:

### 508.1 Steep Slope Areas

Steep slopes shall be defined as slopes in excess of twenty-five (25) percent. Slope shall be measured at the points where any earth will be disturbed or where structures or other improvements are proposed. For use of sites partially or wholly included within an area identified as steep-sloped, the following performance standards shall be met: (This shall not apply to agricultural and forestry enterprise uses.)

- A. An accurate map prepared by a Registered Surveyor in the Commonwealth of Pennsylvania has been submitted showing property boundaries, building and drive locations, contours at two (2) foot intervals and any areas to be graded. The proposed location of other factors shall also be shown including streams, wetlands, areas subject to landslides and extent of vegetative cover.
- B. A grading and drainage plan has been prepared showing existing and proposed ground surfaces, plans for drainage devices, plans for walls or cribbing, etc., map of the drainage area affected, computation of the amount of runoff expected, an erosion control plan and schedule for completion of work.
- C. The total amount of impervious surface that may be installed or maintained on steep slopes shall not exceed fifty (50) percent of the maximum amount of impervious surface permitted for such use on any lot in the underlying zoning district. Provision shall be made and approved by the Borough Engineer for control of runoff from impervious surfaces to prevent erosion and stormwater damage to downstream properties.
- D. No finished grade where fill is used shall exceed a fifty (50) percent slope.
- E. Where fill is used to later support structures, a minimum compaction of ninety (90) percent of maximum density shall be achieved.
- F. Soils listed by the Natural Resource Conservation Service as highly susceptible to erosion shall be avoided.
- G. Roads and utilities shall be installed along existing contours to the greatest extent possible.
- H. Any steep slope areas also characterized by seasonal high water tables shall be avoided.
- I. Removal of, or disturbance to, existing vegetation on the site shall be minimized. The proposed impacts on existing vegetation shall be evaluated in terms of the potentially detrimental effects on slope stability, erosion potential, transpiration and recharge of stormwater, aesthetic and traditional characteristics of the landscape, and existing drainage patterns. Mitigation measures may be required.
- J. In cases where structures are proposed, the applicant shall submit plans to the Zoning Officer detailing how the limitations of slope will be mitigated by the design of the structure(s).

### 508.2 Buffers for Wetlands

Buffers for wetlands shall be provided as follows unless state or federal regulations require larger and/or more restrictive buffers.

- A. Delineation - If the Borough determines that wetlands may be present or may be impacted by the proposed development, the Borough may require wetlands, as defined and regulated by the Pennsylvania Department of Environmental Protection, the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service, to be delineated on any application proposing a new use or expanded use of

land.

- B. Applicant Responsibility - The applicant shall be responsible for said delineation and shall warrant that said wetlands have been properly delineated
- C. Buffer - A buffer of twenty (20) feet in width shall be maintained for all wetlands. The buffer shall be measured perpendicular to and horizontally from the edge of the delineated wetland for the required distance.
  - 1. Unpaved trails and non-clear cut forestry enterprises (e.g., selective regeneration harvest) shall be permitted in accord with this Ordinance.
  - 2. Vegetation shall not otherwise be disturbed except for buffer maintenance and restoration, or the correction of hazardous conditions.
  - 3. No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted.
- D. No Wetlands Present - If no wetlands are present, the applicant shall provide a certified statement to that effect. No development shall be undertaken by the applicant except in accord with all State and Federal wetland regulations; and the applicant shall provide to the Borough evidence of such compliance.
- E. State or Federal Compliance - No zoning approval granted by the Borough shall in any manner be construed to be an approval of compliance by the applicant with any State or Federal wetland regulations; and the Borough shall have no liability or responsibility to the applicant or any other person for compliance with said regulations.
- F. Protective Easement - In residential subdivisions the buffer shall be protected via a protective easement.

### 508.3 Buffers for Lakes and Ponds

Unless state or federal regulations require larger and/or more restrictive buffers, a buffer of not less than twenty (20) feet in width, measured perpendicular to and horizontally from the edge of the water body, shall be maintained from the edge of all lakes and ponds.

- A. Unpaved trails and stormwater conveyance facilities required by the Borough shall be permitted.
- B. Vegetation shall not otherwise be disturbed except for buffer maintenance and restoration, or the correction of hazardous conditions.
- C. Residential accessory structures, boat docks and accesses, and tree trimming for lake front views shall be permitted provided that no more than thirty-five (35) percent of the buffer area is affected.
- D. No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted.
- E. In residential subdivisions the buffer shall be protected via a protective easement.

**ARTICLE VI  
SPECIAL RESIDENTIAL STANDARDS**

**601 Cottage Housing Development (Developer’s Option)**

601.1 Intent and Age Restrictions

- A. Applicability - This section may be applied at the developer’s request in those districts where permitted in §405.
- B. Description - Cottage Housing Development (CHD) is a type of housing appropriately sized for smaller households which encourages efficient use of land, affordability and energy conservation. Cottage Housing allows for a higher density development than is normally allowed and is made possible by smaller home sizes, clustered home sites and parking and design standards.
- C. Age Restrictions - Dwelling units in a cottage development shall be restricted to occupancy for at least one (1) person fifty-five (55) years of age or older and with no person less than nineteen (19) years of age pursuant to the Housing for Older Persons Act of 1995, as may be amended. However, not more than thirty (30) percent of the units may be restricted to occupancy for at least one (1) person forty-five (45) years of age or older and with no person less than nineteen (19) years of age.

601.2 Definitions

The definitions in this §601.2 shall supplement those in Article III.

- A. Cluster - A group of four (4) to twelve (12) cottages, arranged around a common open space.
- B. Common Open Space - An area improved for passive recreational use or gardening, owned and maintained commonly through a homeowners' or condominium association or similar mechanism.
- C. Cottage - A single family detached dwelling unit that is part of a cottage housing development.
- D. Cottage Housing Development (CHD) - One or two clusters of cottages developed under a single land development plan, or as part of another land development plan.
- E. Footprint - The gross floor area of a cottage's ground-level story.

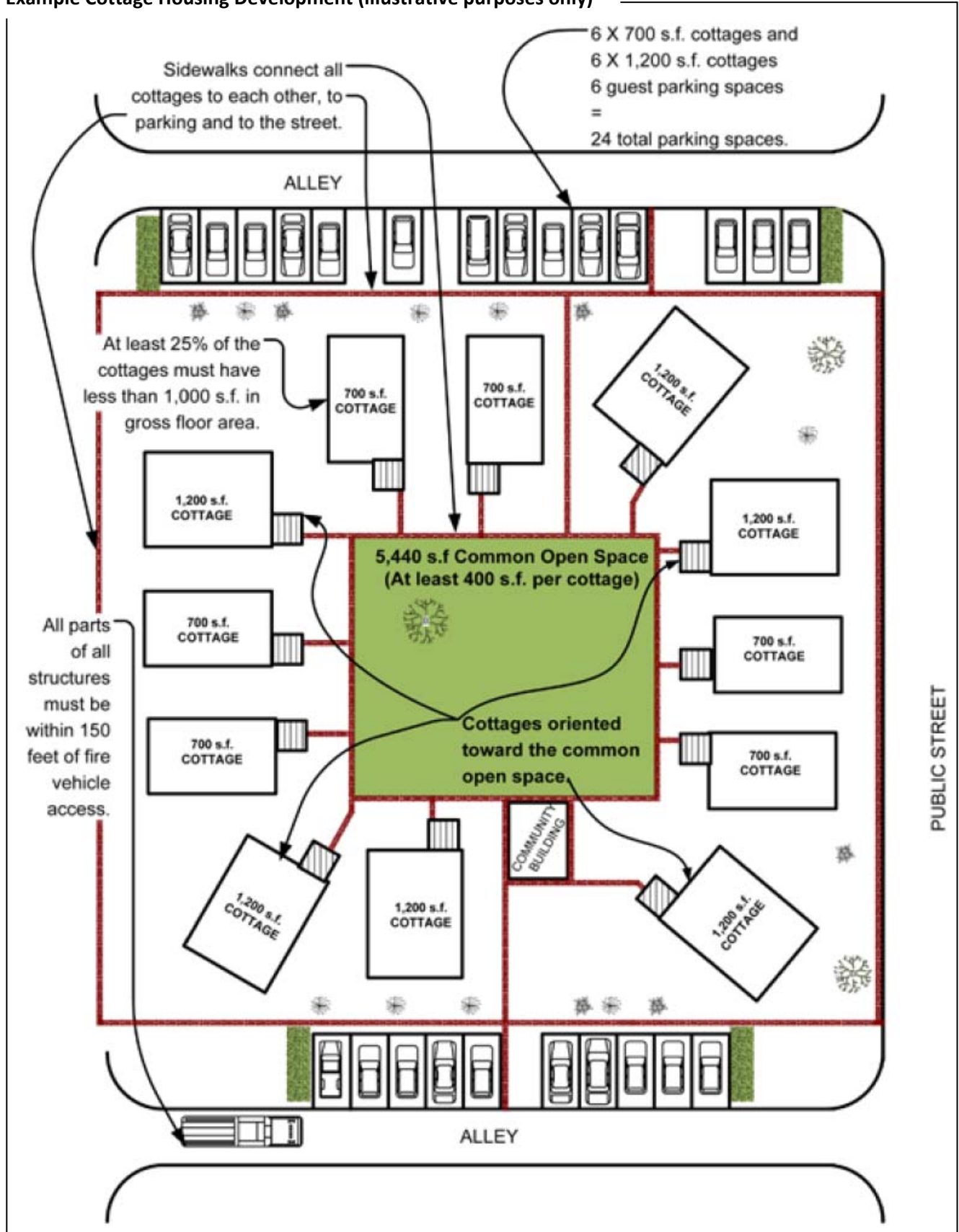
601.3 Water Supply and Sewage Disposal

CHD shall only be permitted in areas served by central water supply and central sewage disposal.

601.4 Density; Units per Cluster

- A. Density - Cottages may be built at up to twice the underlying zoned density for single-family detached housing.
- B. Units per Cluster - A CHD is composed of clusters of cottages.
  - 1. Minimum units per cluster: four (4).
  - 2. Maximum units per cluster: twelve (12).
  - 3. Maximum clusters per CHD: two (2).

Example Cottage Housing Development (illustrative purposes only)



601.5 Community Assets

A. Common Open Space

1. Each cluster of cottages shall have common open space to provide a sense of openness and community for residents.
2. Each cluster shall include at least four hundred (400) square feet of common open space per cottage in the cluster.
3. Each area of common open space shall be in one (1) contiguous and useable piece.
4. To be considered as part of the minimum open space requirement, an area of common open space must have a minimum dimension of thirty (30) feet on all sides.
5. The common open space shall be at least three thousand (3,000) square feet in area, regardless of the number of units in the cluster.
6. Required common open space may be divided into no more than two (2) separate areas per cluster.
7. At least two (2) sides of the common open space shall have cottages along its perimeter.
8. Parking areas, required setbacks, private open space and driveways do not qualify as common open space.

B. Community Building

1. Community buildings are permitted in CHDs.
2. Community buildings shall be clearly incidental in use and size to dwelling units.
3. Building height for community buildings shall be no more than one (1) story.

601.6 Common Ownership

Community buildings, parking areas and common open space shall be owned and maintained commonly by the CHD residents through a condominium association, a homeowners' association, or a similar mechanism, and shall not be dedicated to the Borough.

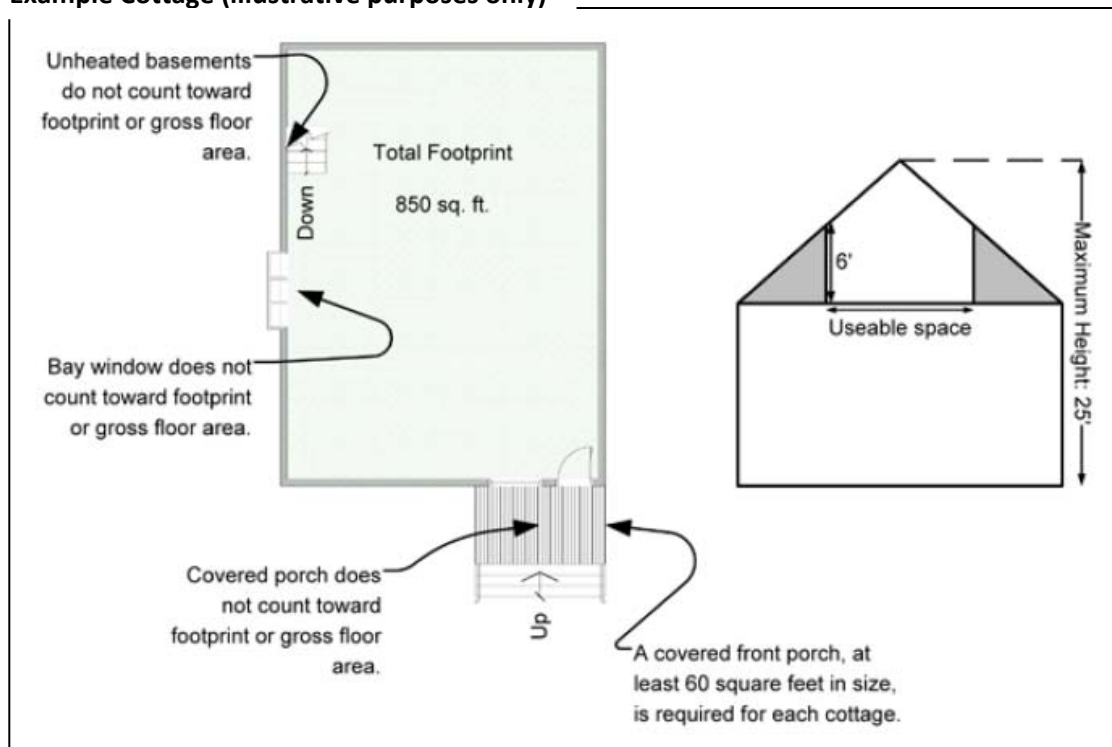
601.7 Design

A. Cottage Size

1. The gross floor area of each cottage shall not exceed one-thousand two-hundred (1,200) square feet.
2. At least twenty-five (25) percent of the cottages in each cluster shall have a gross floor area less than one-thousand (1,000) square feet.
3. Cottage areas that do not count toward the gross floor area or footprint calculations are:

- a. Interior spaces with a ceiling height of six (6) feet or less, such as in a second floor area under the slope of the roof;
  - b. Basements;
  - c. Architectural projections such as bay windows, fireplaces or utility closets no greater than twenty-four (24) inches in depth and six (6) feet in width;
  - d. Attached unenclosed porches;
  - e. Garages or carports;
4. The footprint of each cottage shall not exceed eight hundred and fifty (850) square feet.

**Example Cottage (illustrative purposes only)**



- B. Unit Height - The maximum height of cottage housing units shall be twenty-five (25) feet.
- C. Orientation of Cottages
1. Each dwelling unit shall be clustered around a common open space. Each unit shall have a primary entry and covered porch oriented to the common open space.
  2. Lots in a CHD are not required to abut a public street.
  3. Each unit abutting a public street (not including alleys) shall have a facade, secondary entrance, porch, bay window or other architectural enhancement oriented to the public street.

D. Cottage Setbacks

1. The minimum setbacks for all structures (including cottages, parking structures and community buildings) in a CHD shall be:
  - a. Ten (10) feet from any public right-of-way.
  - b. Ten (10) feet from any other structure.
2. Cottages shall be no more than twenty-five (25) feet from the common open area, measured from the facade of the cottage to the nearest delineation of the common open area.
3. No part of any structure in the CHD (including, but not limited to, cottages, parking structures and community buildings) shall be more than one hundred and fifty (150) feet, as measured by the shortest clear path on the ground, from fire department vehicle access.

E. Porches

1. Cottage units shall have covered front porches. The front porch shall be oriented toward the common open space.
2. Covered porches shall have at least sixty (60) square feet in floor area.

F. Basements - Cottages may have basements.

601.8 Parking

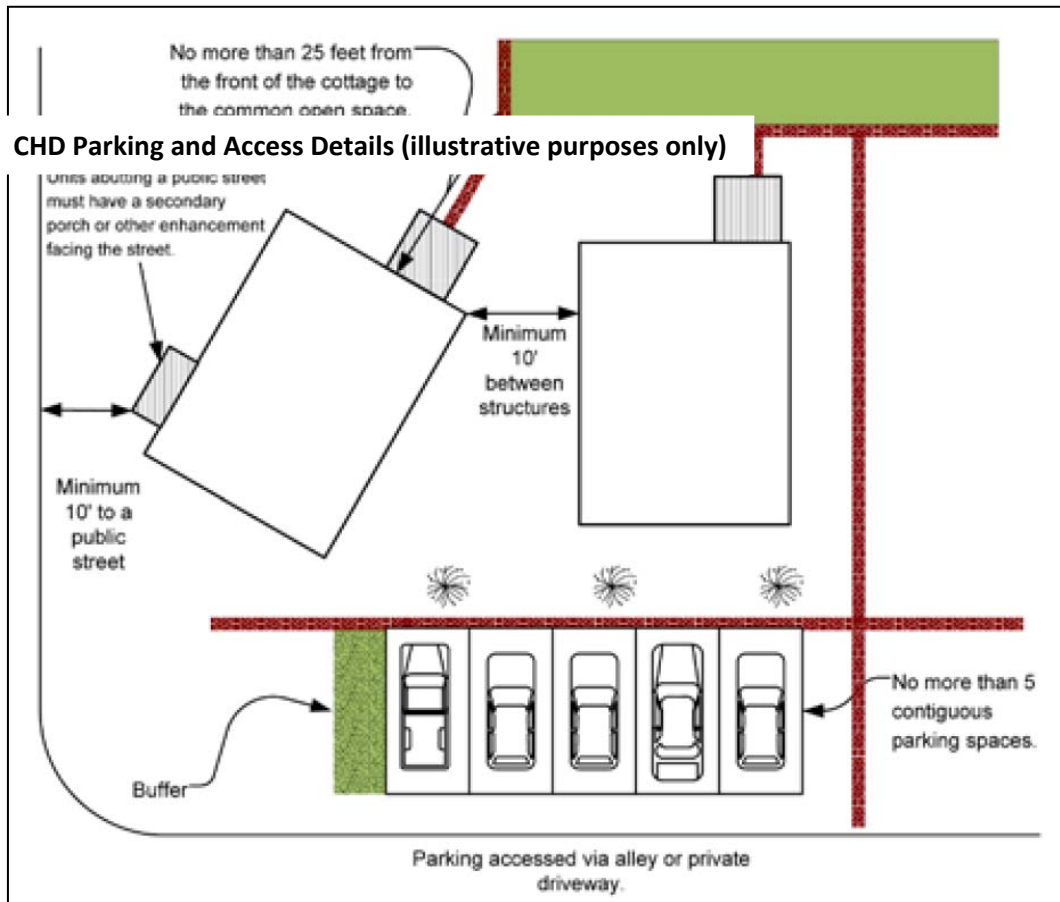
A. Minimum Number of Off-Street Parking Spaces

1. Units up to 700 square feet: one (1) space per dwelling unit.
2. Units 701-1,000 square feet: one and one-half (1.5) spaces per dwelling unit, rounded up to the next whole number.
3. Units with more than 1,000 square feet: two (2) spaces per dwelling.
4. The CHD shall include additional guest parking. A minimum of one-half (0.5) guest parking spaces per dwelling unit, rounded up to the next whole number, shall be provided for each cottage cluster. Guest parking may be clustered with resident parking; however, the spaces shall include signs clearly identifying them as reserved for visitors.

B. Parking Design

1. Parking shall be separated from the common area and public streets by landscaping and/or architectural screening. Solid board fencing shall not be allowed as an architectural screen.
2. Parking areas shall be accessed only by a private driveway or a public alley.
3. The design of garages and carports-including roof lines-shall be similar to and compatible with that of the dwelling units within the CHD.

- 4. Parking areas shall be limited to no more than five (5) contiguous spaces.



601.9 Walkways

- A. A CHD shall have sidewalks along all public streets.
- B. A system of interior walkways shall connect each cottage to each other and to the parking area, and to the sidewalks abutting any public streets bordering the CHD.
- C. Walkways and sidewalks shall be at least four (4) feet in width.

**602 Two-Family Dwellings**

Where permitted, two-family dwellings shall comply with the requirements of this §602 and other applicable standards in this Ordinance.

602.1 Common Property Line

In cases where a two-family dwelling is a duplex involving a common (i.e. party) wall and common property line, said wall shall be located on the common property line separating the adjoining lots. The minimum lot size shall comply with the District requirements in §405.

602.2 Single Parcel

In cases where the two-family dwelling is located on a single parcel with side-by-side units or with one (1) unit located on the second floor above a first floor dwelling unit, the lot size shall comply with District requirements

in §405. If such a two-family dwelling is proposed on two (2) or more separate lots of record, said lots shall be combined into one (1) lot prior to the issuance of a Zoning Permit.

**603 Multi-Family Dwelling Design Standards**

The following standards shall apply to the design of residential development involving multi-family dwellings as defined in Article III:

603.1 Water Supply and Sewage Disposal

CHD shall only be permitted in areas served by central water supply and central sewage disposal.

603.2 Parcel Size, Density and Units per Building

- A. Parcel Size - No minimum parcel size.
- B. Density - No maximum density is established.
- C. Units per Building
  - 1. R-1 Districts - The number of units in a multi-family building shall not exceed six (6).
  - 2. Other Districts where Permitted - No maximum number of units.

603.3 Common Ownership

Community buildings, parking areas and common open space shall be owned and maintained commonly by the residents through a condominium association, a homeowners' association, or a similar mechanism, and shall not be dedicated to the Borough.

603.4 Height - The maximum height of multi-family dwellings shall be thirty-five (35) feet.

603.5 Setbacks

- A. The minimum setbacks for all structures in a multi-family development shall comply with the setbacks in the District of location.
- B. No part of any structure in the development (including, but not limited to, dwelling units, parking structures and community buildings) shall be more than one hundred and fifty (150) feet, as measured by the shortest clear path on the ground, from fire department vehicle access.

603.6 Parking - Parking shall comply with §504 and the following requirements:

- A. Minimum Number of Off-Street Parking Spaces - A minimum of one (1) space per dwelling unit shall be provided, rounded up to the next whole number.
- B. Parking Design
  - 1. Parking shall be separated from the common area and public streets by landscaping and/or architectural screening. Solid board fencing shall not be allowed as an architectural screen.
  - 2. Parking areas shall be accessed only by a private driveway or a public alley.

**604 Reserved****605 Conversion to Dwellings**

Any conversion of any building to a residential use or the conversion of any dwelling to accommodate additional dwelling units shall comply with the standards in this §605 and the other requirements applicable to the proposed dwelling type.

**605.1 Allowed Use in District**

The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units, or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this Ordinance.

**605.2 Standards**

The resulting occupancy shall comply with the requirements governing new construction in such district with respect to dwelling unit, living space, lot coverage, dimensions of setbacks and other open spaces, off-street parking, and other applicable standards.

**606 Mobile Homes on Individual Lots**

It is the intent of this §606 to provide for the placement of mobile homes on individual building sites not located in a mobile home park.

**606.1 Bulk Requirements**

Mobile homes not located in a mobile home park shall comply with lot areas, setback, height, and other requirements established by this Ordinance applicable to single-family dwelling.

**606.2 Foundation**

Mobile homes not located in a mobile home park shall be placed upon and be permanently attached to a complete, permanent, frost-free foundation meeting the requirements of the PA Uniform Construction Code.

**607 Group Homes**

Group homes shall be permitted in any lawful single-family dwelling unit in accord with the Use Regulations, this §607 and other applicable standards of this Zoning Ordinance.

**607.1 Supervision**

There shall be adequate supervision as needed by an adequate number of person(s) trained in the field for which the group home is intended.

**607.2 Certification**

The use shall be licensed or certified under an applicable State, County or Federal program for group housing, if applicable. A copy of any such license or certification shall be filed with the Borough, and shall be required to be shown to the Zoning Officer in the future upon request. The group home shall notify the Borough within fourteen (14) days if there is a change in the type of clients, the sponsoring agency, or the maximum number of residents or if an applicable certification/license expires, is suspended or is withdrawn.

**607.3 Parking**

One off-street parking space shall be provided for each employee on duty at any one time, and every two (2) residents of a type reasonably expected to be capable of driving a vehicle. Off-street parking areas of more than five (5) spaces shall be buffered from adjacent existing single-family dwellings by a planting screen meeting the requirements of §506.1 of this Zoning Ordinance.

**607.4 Appearance**

If the group home is within a R-1 District, the building shall be maintained and/or constructed to ensure that it is closely similar in appearance, condition and character to the other residential structures in the area. No exterior signs shall identify the type of use.

**607.5 Bulk and Density**

The construction of new group homes shall comply with the minimum lot size and other bulk and density requirements applicable to single-family residential dwellings.

**607.6 Number of Residents**

Not more than eight (8) persons shall reside in a group home, plus the maximum number of employees/supervisors and/or care providers routinely in the group home at any point in time.

**608 Boarding and Lodging Houses**

The following provisions shall apply to boarding and lodging houses:

**608.1 Number of Residents**

A maximum of ten (10) boarders shall be permitted to reside in the boarding and lodging house.

**608.2 Kitchen Facilities**

Each boarding and lodging house shall contain a kitchen with all facilities which is available to all boarders. Sanitary facilities may be shared.

**608.3 Owner and/or Manager**

The owner and/or manager shall reside on the property.

**608.4 Exterior Changes**

There shall be no exterior changes to a building, excluding safety measures including fire escapes.

**609 Functional Families**

**609.1 Purpose**

This §609 is to provide for the regulation of functional families that may request to reside in a dwelling unit and to prohibit larger groups of unrelated persons from residing in dwelling units. Larger groups of unrelated persons have been frequently shown to have a detrimental effect on residential neighborhoods since larger groups of unrelated persons do not live as a family unit and do not have significant economic or emotional ties to the neighborhood.

**609.2 Special Exception; Standards**

The Zoning Hearing Board shall consider each application for a functional family as a special exception in accord with the standards of §908.4 and, among others, the following considerations:

A. The proposed occupants:

1. Share a strong bond or commitment to a single purpose (e.g. religious orders);
2. Are not legally dependent on others not part of the functional family;
3. Can establish legal domicile as defined by Pennsylvania law;
4. Share costs of food, rent or ownership, utilities and other household expenses;
5. Prepare food and eat together regularly;
6. Share in the work to maintain the premises;

7. Legally share in the ownership or possession of the premises; and
  8. Share the entire dwelling unit or act as separate roomers.
- B. Whether the household has stability akin to a permanent family. The criteria used to make this determination shall include, among others, the following:
1. The length of stay together among the occupants in the current dwelling unit or other dwelling units;
  2. The presence of minor, dependent children regularly residing in the household;
  3. Whether the household is a temporary living arrangement or a framework for transient living; and
  4. Whether the composition of the household changes from year to year or within the year.
  5. Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

**609.3 Conditions**

The Zoning Hearing Board may impose such additional conditions as it deems necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed.

**ARTICLE VII  
SIGNS**

**701 General**

**701.1 Purpose**

The Purpose of this Article VII is to establish standards for the regulation of signs in order to safeguard the public interest and to:

- A. preserve the beauty and the unique character of the Borough and thereby enhance tourism and business;
- B. establish reasonable time, place and manner for the exercise of free speech, without regulating content;
- C. protect property values and ensure compatibility with the character of neighboring uses;
- D. protect the general public from damage and injury which may caused by the faulty construction of signs;
- E. protect pedestrians and motorists from damage or injury caused, or partially attributable to the distractions and obstructions caused by improperly situated signs;
- F. promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic;
- G. assure that signs are clear and provide the essential identity or direction to facilities in the community; and,
- H. enable the fair and consistent enforcement of the sign restrictions throughout the Borough.

**701.2 Applicability – Effect**

A sign may be erected, placed, established, painted, created or maintained in the Borough only in conformance with the standards, procedures, exceptions, and other requirements of this Article. The effect of this Article as more specifically set forth herein is to:

- A. establish a permit system to allow a variety of types of signs in the various zones, subject to the standards and the permit procedures of this Article;
- B. allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Article, but without a requirement for permits;
- C. provide for temporary signs without commercial messages in limited circumstances in a right-of-way; and,
- D. prohibit all signs not expressly permitted by this Article.

**701.3 Requirement of Conformity**

No sign, for which a permit is issued after the effective date of this Article, may be placed or maintained in the Borough except as provided herein. All signs maintained contrary to the provisions of this Article are declared to be nuisances, and as such may be abated as provided by law.

701.4 Recommended Types of Signs

It is recommended that signs be:

- A. Designed as an integral architectural element of the building and component of the site.
- B. Comprised of restrained colors, materials, and lighting and compatible with the building and site, and character of the Borough.

**702 Definitions and Interpretation**

Words and phrases used in this Article VII shall have the meanings set forth in this Section. Words and phrases not defined in this §702 but defined in Article III shall be given the meanings set forth in said Article. Principles for computing sign area and sign height are contained in this section. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Illustrations are for reference purposes only and shall not be used in the interpretation of this Article.

A-Frame or Sandwich Board Sign: A movable sign consisting of two faces, connected and hinged at the top.

Abandoned Sign: A Sign located on a property or premise which is vacant and/or unoccupied for a period of six (6) months, or a sign which is damaged, in disrepair, or vandalized and not repaired within sixty (60) days of the date of the damaging event and/or for which no legal owner can be found.

Advertising Sign, Off-premises: A sign which conveys a commercial or noncommercial message unrelated to the activity conducted on the lot where the sign is located or a sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than on the same lot where the sign is located. A structure intended to support or contain such a sign shall also be considered an off-premises advertising sign.



A-Frame / Sandwich Board

Animation: The movement or the optical illusion of movement of any part of the sign structure, design or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a sign; the movement of a sign set in motion by the atmosphere. Time and temperature devices shall be considered animated signs.

Applicant: A person or entity who applies for a sign permit in accordance with the provisions of this Article.

Area of Sign: See §704.3B

Attraction Board: See *changeable panel sign*.

Automated Teller Machine Directional Sign: A traffic directional sign which is used to direct pedestrian or vehicular traffic on a parcel to the location of an automated teller machine.

Automated Teller Machine Sign: Any sign located on or architecturally associated with the exterior face of an automated teller machine.

Awning Sign: Signs which are placed on or integrated into fabric or other material



Awning Sign

canopies which are mounted on the exterior wall of a building.

**Banner Sign:** A sign intended to be hung either with or without a frame with characters, letters, illustrations, or ornamentations applied to paper, plastic, fabric or similar material excluding flags, emblems, and insignia of political, professional, religious, education, or corporate organizations providing that such flags, emblems, and insignia are displayed for noncommercial purposes.

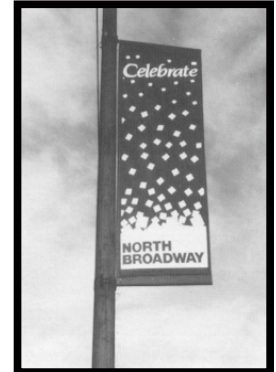


Civic Event Banner



Development Sign

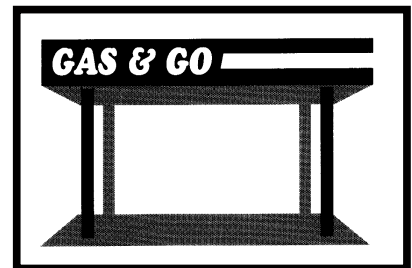
**Billboard:** A type of off-premises advertising sign and which conveys a commercial or noncommercial message unrelated to the activity conducted on the lot where the sign is located, or a sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than on the same lot where the sign is located. A structure intended to support or contain such a sign shall also be considered a billboard.



Banner Sign

**Business:** For the purposes of this Article VII, business shall mean any approved non-residential use including commercial, manufacturing, and industrial enterprises; public buildings and uses such as public schools, parks, civic centers, municipal buildings; and semi-public buildings and uses such as churches, fire houses, ambulance buildings, private schools, and libraries.

**Business Name:** The name by which a business is commonly recognized and used by the applicant. The applicant shall provide stationary or other supporting documents illustrating the use of the business name or verification of the official business license or tax name. Slogans or product information shall not be considered as the business name.



Canopy Sign on Freestanding Canopy

**Canopy Sign:** Any sign that is a part of or attached to an awning, canopy or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

**Changeable Panel Sign:** A sign designed to allow its informational content to be changed or altered.

**Commercial Message:** Any sign wording, logo, or other representations that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**Construction Sign:** A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.



Changeable Panel Sign

**Contractor or Subcontractor Signs:** The temporary signs which identify the

contractor or subcontractor engaged in the construction, reconstruction or repair of a building or buildings on a lot or parcel or property.

Development Sign: A temporary sign used to identify an approved future development.

Directional Sign – An on-site sign, providing no advertising of any kind except the business name and logo, which provides direction or instruction to guide persons to facilities intended to serve the public, including, but not specifically limited to, those signs identifying rest rooms, public telephones, public walkways, parking areas, and other similar facilities.

Directory Sign: A sign which provides a listing of the names of businesses, activities, addresses, locations, uses or places within a building or complex of buildings for the purposes of giving directions, instruction, or facility information and which may contain the name and logo of an establishment but no advertising copy.

Double-Faced Sign: A sign with two faces, essentially back to back.

Easel Sign: A self-supporting, movable sign consisting of one (1) face with supporting legs or a supporting frame, or a sign displayed on an easel.



Directional Sign

Electronic Message Sign: Any sign, or portion of a sign, that displays an electronic image or video, which may or may not include text, where the rate of change is electronically programmed and can be modified by electronic processes. This definition includes television screens, plasma screens, digital screens, LED screens, video boards, holographic displays, and other similar media.

Emergency Signs: Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

Facade: Any exterior wall of a building exposed to public view; and any structure or part of a structure attached to, or otherwise mounted parallel to, an exterior wall or other vertical part of the structure.



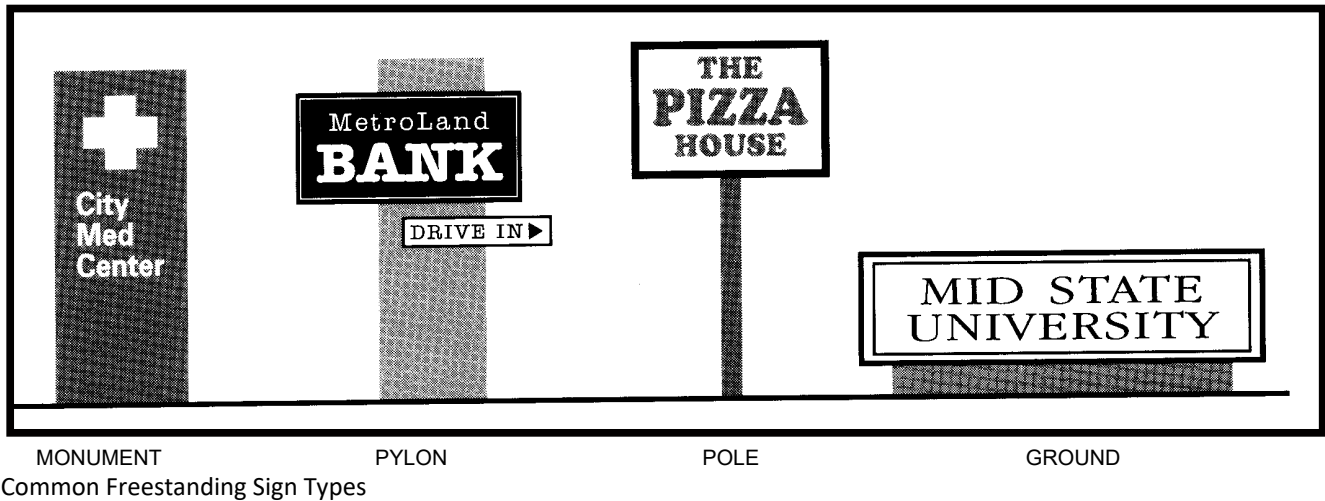
Directory Sign

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity which is mounted on a pole, cable, or rope at one end.

Freestanding Sign: A sign supported permanently upon the ground by poles or braces and that is not attached to any building. (See next page for illustrations.)

Government Sign: Any temporary or permanent sign erected and maintained by the Borough, county, state, or federal government for traffic direction or for designation of or any school, hospital, historical site, or public service, property, or facility.

Grand Opening: The introduction, promotion or announcement of a new business, store, shopping center or office, or the announcement, introduction or promotion of an established business changing ownership. A business qualifies for a grand opening sign when it has been closed to the public for a period of thirty (30) days.



**Ground Level:** The finished grade of the adjacent street curb or where there is no street curb, six (6) inches above street grade. Ground level shall be the existing natural grade.

**Ground Sign:** A freestanding sign that is architecturally integrated with the building with individually mounted letters and/or logos only. This sign shall be built with continuous background surface built from the ground up.

**Height:** See §704.3C.

**Illegal Sign:** Any sign erected without first obtaining an approved sign permit, other than non-conforming signs, and which does not meet the requirement of this Article.

**Illuminated Sign:** A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

**Indirect Illumination:** A source of external illumination located away from the sign, but which is itself not visible to persons viewing the sign from any street, sidewalk or adjacent property.

**Individual Letters:** A cut-out or etched letter or logo which is individually placed on a landscape, screen wall, building wall or ground sign.

**Incidental or Instructional Sign:** A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental or instructional.

**Internal Illumination:** A source of illumination entirely within the sign which makes the contents of the sign visible at night by means of the light being transmitted through a translucent material but wherein the source of illumination is not visible.

**LED:** Light emitting diode.



Internal and External Illumination



Incidental Sign or Instructional Sign

**Lineal Building Front Foot:** The length of the building which contains the primary entrance used by patrons. In a center with more than one (1) building, the linear building front foot shall be calculated for each building and totaled to determine the total lineal front foot for the center.

**Logo:** A graphic symbol representing an activity, use or business. Permitted logos shall be registered trademarks or symbols commonly used by the applicant, and may include graphic designs in addition to lettering. The applicant shall provide stationary or other supporting documents illustrating the use of the logo.

**Luminance:** A measure of the brightness of a surface which is emitting or reflecting light. The unit of measurement is candelas per square meter or nits (1 nit = 1 cd/m<sup>2</sup>).

**Maintenance:** The replacing or repairing of a part or portion of a sign necessitated by ordinary wear, tear or damage beyond the control of the owner or the reprinting of existing copy without changing the wording, composition or color of said copy.

**Marquee:** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building generally designed and constructed to provide protection from the weather.

**Monument Sign:** A free-standing cabinet or panel sign mounted on, or within a base (above grade), which is detached from any building.



Marquee Sign

**Multiple Occupant Commercial Building:** A commercial development in which there exists two or more separate commercial activities, in which there are appurtenant shared facilities (such as parking or pedestrian mall), and which is designed to provide a single area in which the public can obtain varied products and services. Distinguishing characteristics of a multiple tenant commercial building may, but need not, include common ownership of the real property upon which the center is located, common-wall construction, and multiple occupant commercial use of a single structure.

**Nameplate:** A small sign which identifies a resident's or home's name and address or the name of a farm, ranch or commercial stable. Such signs may be shingle, building wall or archway-mounted signs.

**NIT:** A unit of measure of luminance. See *luminance*.

**Nonconforming Sign:** Any sign which is not allowed under this Article, but which, when first constructed before this Article was in effect and for which a sign permit was issued, was legally allowed.

**Noncommercial Free Speech Sign:** A sign with no commercial content which expresses personal ideas and values, advocates a position on an issue, or seeks converts and supporters and which does not meet the definition of a *political sign*.

**Occupancy:** A purpose for which a building, or part thereof, is used or intended to be used.

**Owner:** A person recorded as such on official records. For the purpose of this Article, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the Zoning Officer.

Panel: A two-dimensional visual background behind the sign letters and logos which is visually separated from the mounting upon which the sign letters and logos are placed by the presence of a border, different colors, different materials, or other technique of visual framing around the letters or logos.

Parapet: That portion of a building exterior wall projecting above the plate line of the building.

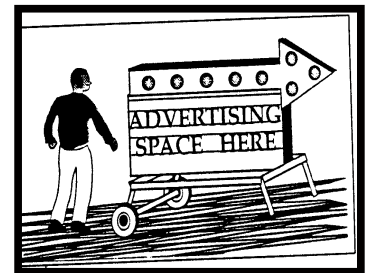
Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Permanent Sign: Any sign which is intended to be and is constructed as to be in lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear) and position, and in a permanent manner affixed to the ground, wall or building, provided the sign is listed as a permanent sign in this Article.

Plate Line: The point at which any part of the main roof structure first touches or bears upon an external wall.

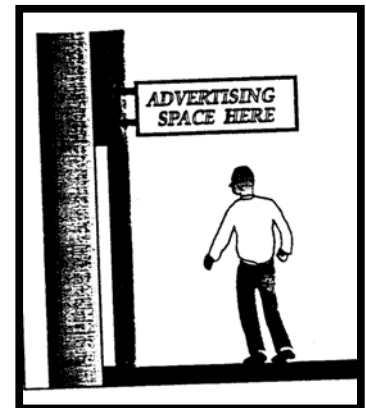
Political Sign: A temporary sign which supports candidates for office or urges action on any other matter on the ballot of primary, general and special elections.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels, signs converted to A or T-frames, menu and sandwich board signs, balloons used as signs, umbrellas used for advertising and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.



Portable Sign

Projecting Sign: Any sign affixed to a building wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.



Projecting Sign

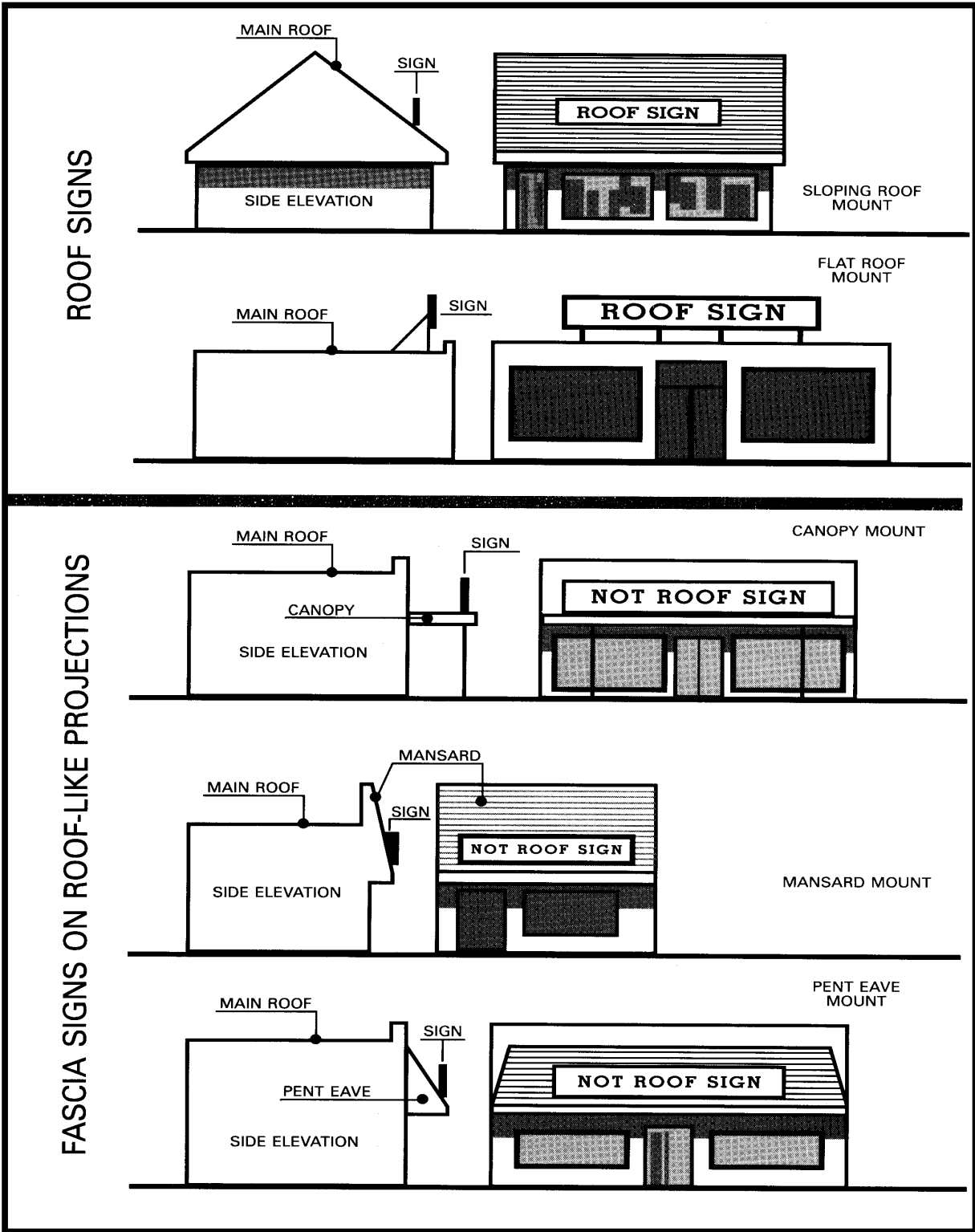
Public Property: Unless otherwise expressly provided, public property means any and all real or personal property over which the Borough or other governmental entity has or may exercise control, whether or not the government owns the property in fee, including, sidewalks, rights-of-ways and improved or unimproved land of any kind and all property appurtenant to it.

Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

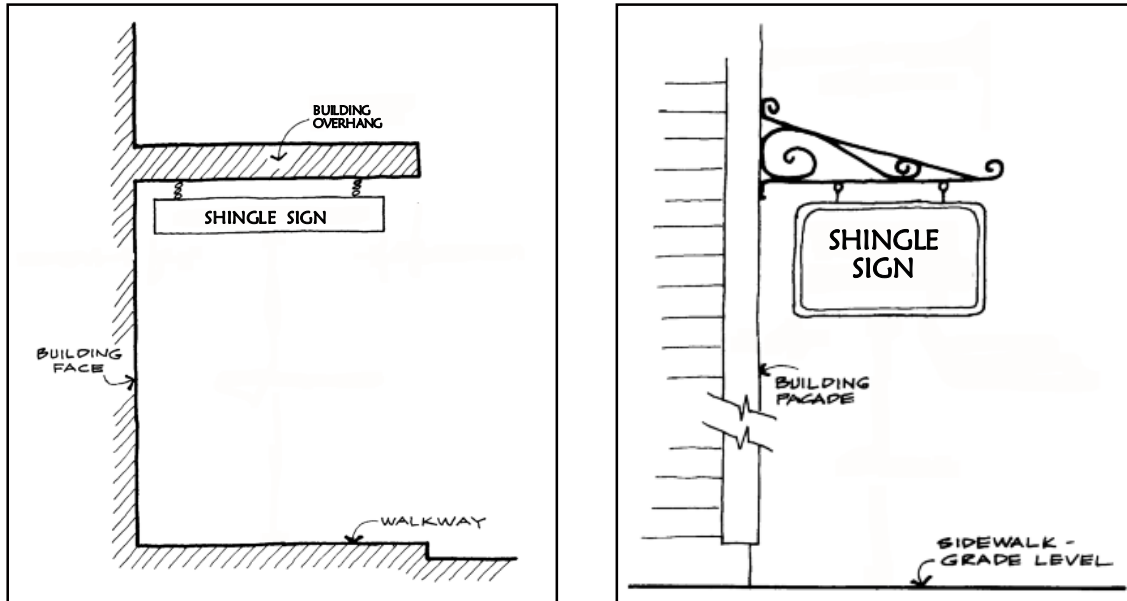
Right-of-Way: No commercial sign shall be erected so as to project beyond a property line, over a public sidewalk or over or within a public right-of-way.

Roof Line. The uppermost line of the roof of a building or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

Roof Sign: Any sign mounted on the main roof portion of a building or on the topmost edge of a parapet wall of a building and which is wholly or partially supported by such building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs. See the following illustration for example of roof signs, and comparison of differences between roof and fascia signs.



Comparison – Roof and Fascia Signs



**Shingle Sign:** A sign suspended from a roof overhang of a covered porch, walkway or horizontal plane surface which identifies the tenant of the adjoining space.

**Sign:** Any device for visual communication which is used or is intended to attract the attention of the public, when the display of the device is visible beyond the boundaries of the public or private property upon which the display is made. The term "sign" shall not include any flag or badge or insignia of the United States, Commonwealth of Pennsylvania, the County, the Borough, or official historic plaques of any governmental jurisdiction or agency.

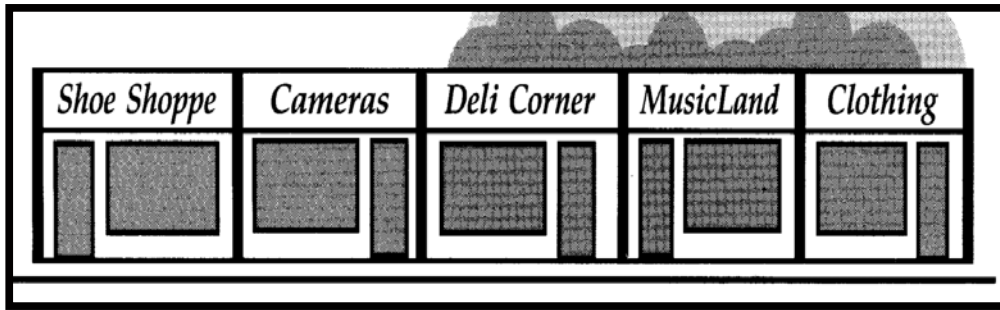
**Snipe Sign:** A sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or to other objects, the advertising matter appearing on which is not applicable to the present use of the premises upon which such sign is located.

**Special Event:** A promotional event such as, but not limited to, grand openings, bazaars, street fairs, shows, exhibitions, sporting events, runs, bicycling events, and block parties. This does not include sidewalk sales occurring on private property where merchandise normally sold indoors is transferred from indoors to outdoors for sale.

**Temporary Sign:** Any sign, banner, pennant, or valance of advertising display constructed of cloth, canvas, light fabric, cardboard, plastic, wallboard or other like materials, with or without frames; or any sign not permanently attached to the ground, wall or building.

**Traffic Directional Sign:** Signs used at driveways to improve public safety and to enhance public access to the site from public streets, which provides information to assist the operators of vehicles in the flow of traffic. Such signs may use names, logos, or symbols of buildings, businesses, activities, uses or places as a means of direction.

**Wall Sign:** Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface. (See next page for illustration.)



Wall Signs

Window Sign: Any poster, cut-out letters, painted text or graphics, or other text or visual presentation affixed to or placed behind a window pane which is intended to be read from the exterior of the building.



Sign Comparison

**703 Procedures**

The procedures included in this §703 shall apply to all signs requiring permits.

**703.1 Requirement of Permit**

Except as indicated in the following sentence, a sign permit shall be required before the erection, re-erection, construction, alteration, placing, or installation of all signs regulated by this Article. A permit shall not be required for the following signs and actions, provided however, that such signs shall be subject to any and all applicable provisions of this Article.

- A. Exempt signs as specified in §704.2.
- B. Routine maintenance or changing of the parts or copy of a sign, provided that the maintenance or change of parts or copy does not alter the surface area, height, or otherwise render the sign non-conforming.

**703.2 Permit Application**

Applications for sign permits shall be submitted to the Zoning Officer in accord with §902 and shall, at a minimum, contain or have attached thereto the information listed in this section.

- A. Name, address, and telephone number of the applicant.
- B. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
- C. Name of person, firm, corporation, or association erecting the sign.
- D. Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
- E. A scale drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
- F. An elevation of such sign indicating the overall dimensions, the square footage, and height of top and bottom of sign above grade.
- G. A scale drawing indicating the location and position of such sign in relation to nearby buildings, structures, and lot lines.
- H. Calculation of the total sign square footage permitted.
- I. Copies of any other permit required and issued for said sign, including PennDOT and the Uniform Construction Code.
- J. Additional information as may be required by the Zoning Officer.

### 703.3 Issuance Of Permits

Upon the filing of an application for a sign permit, the Zoning Officer shall examine the plans, specifications, and other submitted data, and the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of this Article and other applicable ordinances and if the appropriate permit fee has been paid, the Zoning Officer shall issue a permit for the proposed sign.

### 703.4 Permit Fees

- A. In accord with the Borough fee schedule, the applicant shall tender a fee at the time of making application for a sign permit. Permit fees are not refundable.
- B. The owner of a legal nonconforming sign, which has been removed or brought into conformance with the terms of this Article shall not be required to pay a fee in order to obtain a permit for the conforming sign.

## 704 **General Requirements**

### 704.1 Prohibited Signs

All signs not expressly permitted or exempted under this Article from regulation are prohibited. Such prohibited signs include, but are not limited to the following:

- A. "A" Frame or Sandwich Board Signs - "A" frame or sandwich board and sidewalk, or curb signs, except as a temporary sign as provided for in §705.

- B. Light Strings, Banners, Pennants, and Balloons - Strings of lights not permanently mounted to a rigid background, except those exempt under the Section 704.2, banners, pennants, streamers, balloons, and other inflatable figures, except as a temporary sign as provided for in Section 705 of this Ordinance.
- C. Large Balloons - Balloons of greater than 25 cubic feet that are tethered to the ground or a structure for periods of over a day and that are primarily intended for advertising purposes.
- D. Animated, Moving and Flashing Signs - Signs which flash, revolve, rotate, swing, undulate, or move by any means, or otherwise attract attention through the movement or flashing of parts, including automatic, electronically controlled copy changes (except as permitted in §710), or through the impression of movement or flashing except for time and temperature indicators whose movement is either digital or analogue, and flags as permitted by this Article.
- E. Mirrors - Signs which use a mirror or similar device to attract attention by reflecting images or otherwise reflecting light.
- F. Portable and Wheeled Signs - Portable and wheeled signs, except as a temporary sign, as provided for in §705 of this Ordinance.
- G. Projecting Signs - Signs which are attached or otherwise affixed to a building and project more than fifteen (15) inches beyond the wall surface of such building to which the sign is attached or otherwise affixed thereto.
- H. Signs on Parked Vehicles - Signs placed on or affixed to vehicles, trailers and/or containers which are parked on a public right-of-way, public property or private property, so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business, organization or activity.
- I. Signs on Utility Poles or Trees - Signs which are attached or otherwise affixed to utility poles, or trees or other vegetation except for no trespassing signs.
- J. Signs Which Imitate Traffic Control Devices - Signs which imitate, interfere with, obstruct the view of, or can be confused with any authorized traffic control sign, signal, or other device.
- K. Emissions - Signs which emit any sound, odor or visible matter such as smoke.
- L. Misinformation - Signs which contain information that states that a lot may be used for a purpose not permitted under this Article.
- M. Obscene or Pornographic - Signs or displays visible from a lot line that include words or images which are obscene or pornographic.
- N. Snipe Signs - Snipe signs.

#### 704.2 Exempt Signs

The following signs are hereby exempt from the permit provisions of this Article.

- A. Civic and Religious - Civic and religious organization signs indicating only the organization insignia, name, meeting place, and time. Such signs shall not exceed two (2) square feet.

- B. Directional or Instructional Signs - On-site signs, not exceeding four feet in aggregate gross surface area, which provide direction or instruction to guide persons to facilities intended to serve the public, providing that such signs contain no advertising of any kind. Such signs include those identifying rest rooms, public telephones, public walkways, affiliation with motor clubs, acceptance of designated credit cards, and other similar signs providing direction or instruction to persons using a facility, but not including those signs accessory to parking areas. Advertising material of any kind is strictly prohibited on directional and instructional signs.
- C. Noncommercial Signs - Flags, emblems, and insignia of political, professional, religious, educational, or fraternal organizations providing that such flags, emblems, and insignia are displayed for non-commercial purpose.
- D. Governmental Signs - Governmental signs for control of traffic, emergency response, and other public or regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies indicating danger and aids to services or safety which are erected by, or at the order of a public officer or employee in the performance of the officer's or employee's duties. Such signs may be of any type, number, area, height, location, or illumination as required by law, statute, or ordinance.
- E. Holiday Decorations - Signs or other materials temporarily displayed on traditionally accepted civic, patriotic, or religious holidays related to observance of the civic, patriotic, or religious holiday.
- F. Interior Signs - Signs not affixed to a window and visible from outside and which are fully located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs located within the inner or outer lobby court or entrance of any theater and which are not displayed to be visible from outside.
- G. Memorial Signs - Memorial plaques or tablets, grave markers, statutory, or other remembrances of persons or events which are non-commercial in nature.
- H. Name and Address Plates - Wall signs, one per street frontage and not exceeding one and one-half (1.5) square feet, indicating the name of the occupant, the address of the premises, and identification of any legal business or operation which may exist at the premises.
- I. No Trespassing and Other Similar Signs - No trespassing, no hunting, no fishing, no dumping, no parking, towing and other similar signs (as set forth in Title 75 of the Pennsylvania Vehicle Code and its regulations and as set forth in Title 18 of the Pennsylvania Crimes Code and its regulations) not exceeding two (2) square feet.
- J. Parking Lot Directional and Instructional Signs
  - 1. Directional Signs - Signs designating parking area entrances and exits limited to one sign for each entrance and/or exit and not exceeding four (4) square feet. Parking lot directional signs shall not project higher than five feet in height, as measured from the established grade of the parking area to which such signs are accessory.
  - 2. Instructional Signs - Signs designating the conditions of use or identity of parking areas and not exceeding eight (8) square feet nor exceeding an aggregate surface area of sixteen (16) square feet. Parking lot instructional signs shall not project higher than ten (10) feet for wall signs and seven (7)

feet for ground signs, as measured from the established grade of the parking area(s) to which such signs are accessory.

- K. Patron Advertising Signs - Signs erected on the perimeter of an organizational sponsored youth athletic field for the sole purpose of sponsoring or contributing to the organized youth athletic sport. Signs erected for this purpose shall be one sided with a maximum of 32 square feet of aggregate surface area. Sponsors advertising on score boards may not exceed 25 percent of the surface area of the score board.
- L. Plaques - Plaques, nameplates, or memorial signs, directly attached or affixed to the exterior walls of a building, not exceeding four square feet in aggregate surface area.
- M. Public Notices - Official notices posted by public officers or employees in the performance of the officer's or employee's duties
- N. Signs on Vehicles - Signs placed on or affixed to vehicles and/or trailers where the sign is incidental to the primary use of the vehicle or trailer. However, this is not in any way intended to permit signs placed on or affixed to vehicles, trailers and/or containers, which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or other property.
- O. Symbols or Insignia - Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding four square feet in aggregate area.
- P. Vending Machine Signs - Permanent, non-flashing signs on vending machines, gasoline pumps, ice or milk containers, or other similar machines indicating only the contents of such devices, the pricing of the contents contained within, directional or instructional information as to use, and other similar information as to the use, and other similar information not exceeding an aggregate surface area of four square feet on each machine.
- Q. Warning Signs - Signs warning the public of the existence of danger, but containing no advertising material; to be removed within three days upon the subsidence of danger. Such warning signs may be of any type, number, area, height, location, or illumination as deemed necessary to warn the public of the existence of danger.
- R. Tourist Signs - Tourist orientation directional signs when erected in accord with a permit issued by PennDOT.
- S. Historic Signs - Signs which memorialize an important historic place, event or person and are specifically authorized by the Borough or a county, state or federal agency.

#### 704.3 Construction Requirements

All signs permitted by this Article shall be constructed in accord with all construction code requirements and the provisions of this §704.3.

- A. Sign Faces - All signs may be multi-faced.
- B. Computation of Sign Area

1. The area of a sign shall include all lettering, wording and accompanying designs and symbols, together with related background areas on which they are displayed and any surrounding border or frame.
2. Supporting members of a sign shall be excluded from the area calculation.
3. The area of irregular shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.
4. Where the sign consists of individual letters or symbols attached directly on a building or window the sign area shall be the smallest rectangle that includes all of the letters and symbols. Any illuminated background shall be considered part of the sign and included in the area calculation.
5. The maximum area of a sign shall apply individually to each of the two sides of a sign, provided that only one side of a sign is readable from any location.

C. Computation of Sign Height

1. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign.
2. Normal grade shall be construed to be the lower of:
  - a. existing grade prior to construction, or
  - b. the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.
3. In cases where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the district lot, whichever is lower.

D. Wind Pressure and Dead Load Requirements - All signs and other advertising structures shall comply with the wind pressure and dead load requirements of the Uniform Construction Code.

E. Construction of Supporting Members or Braces - Supporting members or braces of all signs shall be constructed of galvanized iron, properly treated wood, steel, copper, brass, or other noncorrosive incombustible material. Every means or device used for attaching any sign to a building shall be approved by the Zoning Officer.

F. Attachment of Signs to Fire Escapes - No signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through a door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department.

G. Overhead Electrical Wiring - Overhead electrical wiring is prohibited and all electric signs shall be listed by a recognized testing laboratory.

- H. Public Right-Of-Way; Setbacks - No sign may be erected or maintained in the public right-of-way unless an encroachment permit has first been obtained for the sign. No freestanding sign other than official traffic signs shall be erected or maintained less than ten feet to the edge of any public road right-of-way and not less than ten feet from side and rear property lines.
- I. Obstruction to Ingress/Egress - No sign shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, door opening, or wall opening intended as a means of ingress or egress.
- J. Obstruction to Ventilation - No sign shall be erected, constructed, or maintained so as to interfere with any opening required for ventilation.
- K. Clearance from Electrical Power Lines and Communication Lines - All signs shall be located in such a way that they maintain horizontal and vertical clearance of all electrical power lines and communication lines in accordance with the applicable provisions of the National Electrical Code. However, in no instance shall a sign be erected or constructed within eight feet of any electrical power line, conductor, or service drop, or any communication line, conductor, or service drop.
- L. Clearance from Surface and Underground Facilities - All signs and supporting structures shall maintain clearance and non-interference with all surface and underground facilities and conduits for water, sewage, gas, electricity, or communications equipment or lines. In addition, the placement of all signs and their supporting structures shall not interfere with natural or artificial drainage or surface or underground water.
- M. Obstruction to Warning or Instructional Sign - No sign shall be erected, constructed, or maintained so as to interfere with any existing warning or instructional sign.
- N. Traffic/Pedestrian Hazards - No sign shall be erected in such a way as to interfere with or to confuse traffic or pedestrians, to present any traffic or pedestrian hazard, or to obstruct the vision of motorists or pedestrians, and all signs shall comply with the clear sight triangle requirements of this Article.
- O. Protection of the Public - The temporary occupancy of a sidewalk, street, or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.
- P. Clearance - Clearance beneath overhead signs shall be at least nine feet, measured from the ground or pavement to the bottom-most part of the sign.
- Q. Wall Signs
  - 1. Wall signs shall be securely attached to the wall; and each sign shall be parallel to and in the same plane as the wall to which the sign is attached and shall not extend above or beyond the top and ends of the wall.
  - 2. The face of a wall sign shall not project more than fifteen (15) inches from the outside of the building's wall surface.
  - 3. No part of a wall sign shall extend above the roof eave, unless it is erected on a parapet wall or

fascia that extends above the roofline of a flat roof on at least three (3) sides of a building.

#### 704.4 Maintenance

- A. Maintenance - The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is erected in a clean and sanitary condition, free and clear of all obnoxious substances, rubbish, weeds, and grass. Restoration or painting which changes the name, size, or location of a sign shall require a new permit.
- B. Painting Requirement - The owner of any sign shall be required to have all parts and supports of a sign properly painted as directed by the Zoning Officer, unless they are galvanized or otherwise treated to prevent rust and deterioration.
- C. Sign Owner's Responsibility - The sign owner shall be responsible for the maintenance of the sign. If the sign ownership should transfer, the new owner shall be responsible for the maintenance of the sign.

#### 704.5 Illumination

All signs permitted by this Article may be illuminated in accord with the provisions of §506.16 and the following:

- A. Type of Illumination - Illumination may be by internal, internal/indirect or by indirect means.
- B. Flashing - Flashing signs are prohibited in accord with §704.1D. (See §710 for permitted electronic signs.)
- C. Glare - All signs shall be so designed located, shielded, and directed so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated roadways and surrounding property. No lighting from any sign shall be of such intensity to cause the distraction of drivers, create a nuisance on surrounding properties, or otherwise create a safety hazard.
- D. Floodlighting - Floodlighting of signs shall be arranged so that the source of light is not visible from any point of the lot and so that only the sign is directly illuminated.

#### 704.6 Signs on Roof

No sign attached to a building shall be placed on nor shall extend above any part of the building roof.

#### 704.7 Awning and Canopy Signs

- A. Buildings - Signs affixed to the surface of an awning or canopy on a building are permitted provided that the sign does not extend vertically or horizontally beyond the limits of such awning or canopy. In addition:
  - 1. Awning or canopy signs shall be limited to one (1) per site.
  - 2. Awning and canopy signs shall only display the business name, logo, address and name of the proprietor or property owner. Letters or numerals shall not exceed a height of twelve (12) inches and shall be located only on the front and side vertical faces, except as provided for in this section. The minimum clearance above any walkway shall not be less than eight and one-half (8.5) feet.

3. Letters and numerals shall be permitted on the sloped surface of an awning, provided that the business served by the awning sign does not use a wall sign(s), and provided further that the letters and numerals on the sloped surface of an awning shall not exceed a height of forty (40) inches and shall not exceed more than twenty-five (25) percent of the sloped surface.
  4. An awning or canopy may extend into the road right-of-way, but shall not extend beyond a point one (1) foot back from the vertical plane formed by the road curb line.
  5. No awning or canopy sign shall extend into a required side or rear setback.
  6. The maximum height of an awning or canopy shall be limited to the height of the rooftop or parapet wall of the building.
  7. A name sign not exceeding two square feet and located immediately in front of the entrance to an establishment may be suspended from an awning or canopy provided that the name sign is at least 8.5 feet above the sidewalk.
- B. Fuel Service Canopy Signs - Service island canopy signs over fuel service islands indicating the brand, manufacturer and/or logo, shall be subject to the following:
1. Service island canopy signs shall be attached to the face of the canopy and shall not extend beyond the edges of the canopy.
  2. There shall not be more than one service island canopy sign on each face of the canopy.
  3. The gross surface of a service island canopy sign shall not exceed fifty (50) percent of the surface area of the canopy face to which it is attached.

#### 704.8 Interior Window Signs

Interior window signs shall not be regulated with respect to size. All other requirements, including, but not limited to, illumination, flashing and commercial content, shall apply.

#### 704.9 Reserved

#### 704.10 Flags

Flags shall be permitted for commercial, manufacturing, industrial, public and semi-public uses, referred to as *business* in this section, subject to the following:

- A. Business Identification - The flag shall only identify the business.
- B. Flag Pole - The flag shall be suspended from a pole and the maximum height shall be thirty-six (36) feet. The flag pole shall be placed within a landscaped setting of not less than one (1) square foot for every one (1) foot of each flag pole
- C. Number and Area - Each business shall be limited to one flag with a maximum area of twenty-four (24) square feet.

- D. Illumination - Flags may be illuminated in accord with §506.16.
- E. Government Flags - The United States Flag, the Commonwealth of Pennsylvania Flag and other governmental flags are not restricted by the provisions of this section.

## 705 Temporary Signs

Temporary signs may be erected and maintained in accordance with the provisions contained in this §705.

### 705.1 General Conditions

- A. Permit Required - A permit shall be required unless a certain type of temporary sign is specifically exempted.
- B. Materials and Methods - The Zoning Officer shall impose as a condition of the issuance of a permit for temporary signs such requirements as to the material, manner of construction, and method of erection of a sign as are reasonably necessary to assure the health, safety, welfare, and convenience of the public.
- C. Illumination - Unless specifically permitted for certain signs, temporary signs shall not be illuminated in accord with this Article.
- D. Sign Types - Temporary signs shall be limited to non-projecting wall signs, attached ground signs, or portable and wheeled signs.

### 705.2 Temporary Business Banners, Flags and Signs

Temporary business banners, flags and signs (referred to as *temporary business signs*) in association with an approved use identifying a special, unique, or limited activity, service, product, or sale of limited duration shall be subject to the following:

- A. Number - There shall not be more than five temporary business signs per lot, but such signs shall not be permitted on residential lots. Decorative flags that simply include abstract colors or patterns that include no text are not regulated by this Article, provided they do not exceed five per lot or business.
- B. Area - The aggregated area of all temporary business signs shall not exceed sixty (60) square feet. No individual sign shall exceed twenty (20) square feet.
- C. Location - Temporary business signs shall be located only upon the premises upon which the special, unique, or limited activity, service product, or sale is to occur. Such signs may be located in any required setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access to a public roadway.
- D. Height - Temporary business signs shall not project higher than fifteen (15) feet.
- E. Special Conditions - Temporary business signs shall be displayed for a maximum of fifteen (15) consecutive days with a maximum of one (1) event per calendar quarter.
- F. Permit Not Required - A permit shall not be required for temporary business signs.

### 705.3 Temporary Development Signs

Temporary development signs in association with an approved use identifying the parties involved in the development to occur or occurring on the premises on which the sign is placed shall be subject to the following:

- A. Number - There shall not be more than one temporary development sign for each project or development, except that where a project or development abuts two or more streets, additional such signs, one oriented to each abutting street, shall be permitted.
- B. Maximum Area
  - 1. R-1 District - eight (8) square feet.
  - 2. Other Districts – thirty-two (32) square feet.
- C. Location - Temporary development signs shall be located only upon the premises upon which construction either is about to occur, or is occurring. Such signs may be located in any required setback area, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a public roadway.
- D. Height - Temporary development signs shall not project higher than fifteen (15) feet.
- E. Special Conditions - Temporary development signs shall be permitted only accessory to an approved zoning permit for a project or development. Temporary construction signs may be erected and maintained for a period not earlier than sixty (60) days prior to the commencement of construction of the project or development and must be removed prior to an occupancy permit being issued or if no occupancy permit is required, the sign shall be removed upon project completion.

### 705.4 Temporary Contractor or Subcontractor Signs

Temporary contractor or subcontractor signs for the sole purpose of designating the contractor(s) and subcontractor(s) engaged in the development of a property shall be subject to the following:

- A. Number - There shall be not more than one (1) temporary contractor or subcontractor sign for each contractor or subcontractor working on the premises.
- B. Maximum Area
  - 1. R-1 District - eight (8) square feet.
  - 2. Other Districts - thirty-two (32) square feet.
- C. Location - Temporary contractor or subcontractor signs shall be located only upon the premises where the contractor or subcontractor is actively working. Such signs may be located in any required setback area, but shall not extend over any lot line or within 15 feet of any point of vehicular access to a public roadway.
- D. Height - Temporary contractor or subcontractor signs shall not project higher than fifteen (15) feet.
- E. Special Conditions - Temporary contractor or subcontractor signs shall be permitted only accessory to an approved building permit for a project or development. Temporary contractor or subcontractor signs may be erected and maintained for a period not earlier than sixty (60) days prior to the commencement

of construction of the project or development and must be removed prior to an occupancy permit being issued or if no occupancy permit is required, the sign shall be removed upon project completion.

- F. Permit Not Required - A permit shall not be required for temporary contractor or subcontractor signs.

#### 705.5 Noncommercial Temporary Event Signs Including Banners

Temporary event signs announcing a campaign, drive, activity, or event of a civic, philanthropic, educational, or religious organization for non-commercial purposes shall be subject to the following:

- A. Number - There shall be not more than two (2) temporary event signs per lot.
- B. Maximum Area
1. R-1 District – sixteen (16) square feet.
  2. Other Districts – eighty (80) square feet.
- C. Timing - Temporary event signs may be erected and maintained for a period not to exceed sixty (60) days prior to the date of which the campaign, drive, activity, or event advertised is scheduled to occur and shall be removed within seven (7) days of the termination of such campaign, drive, activity, or event.

#### 705.6 Temporary Political Signs

Temporary political signs announcing political candidates seeking office, political parties, and/or political and public issues contained on a ballot shall be subject to the following:

- A. Definition - A *political sign* is a temporary sign which supports candidates for office or urges action on any other matter on the ballot of primary, general or special elections.
- B. Permit - A permit shall not be required.
- C. Clear Sight; Hazards - No sign shall violate the clear sight requirements of §502.3 or otherwise be erected in such manner as would constitute a public hazard.

#### 705.7 Temporary Real Estate Signs

Temporary real estate signs advertising the sale, lease, or rent of the premises upon which such sign is located shall be subject to the following:

- A. Number - There shall be not more than one (1) temporary real estate sign for each one thousand (1,000) feet of lot road frontage for each road on which the lot fronts.
- B. Maximum Area
1. R-1 District - six (6) square feet.
  2. Other Districts - twenty-four (24) square feet.
- C. Location - Temporary real estate signs shall be located only upon the premises for sale, lease, or rent. Such signs may be located in any required setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access to a public roadway.

- D. Height - Temporary real estate signs shall not project higher than fifteen (15) feet.
- E. Special Conditions - Temporary real estate signs shall be placed only when the premises is actively being marketed and shall be removed within seven (7) days of the sale or lease of the premises upon which the sign is located.
- F. Permit Not Required - A permit shall not be required for temporary real estate signs.

## 706 Residential Uses

The following signs are permitted in all districts accessory to a permitted residential use.

### 706.1 Residential Building Name and Address Signs

Name and address signs of buildings containing six or more residential units indicating only the name of the building, the name of the development in which it is located, the management thereof, and/or address of the premises shall be subject to the following:

- A. Type - Building name and address signs may be either wall signs or ground signs.
- B. Number - There shall not be more than one (1) name and address sign for each building except that where a building abuts two or more streets, one additional sign oriented to each abutting street shall be permitted.
- C. Area - Building name and address signs shall not exceed four (4) square feet.
- D. Location - Building name and address signs shall not be located closer than one-half the minimum setback required for the zoning district in which the sign is to be erected or within 15 feet of any point of vehicular access to a public roadway. The location and arrangement of all building name and address signs shall be subject to the review and approval of the Zoning Officer.
- E. Height - Building name and address signs shall not project higher than fifteen (15) feet for wall signs and five (5) feet for ground signs.

### 706.2 Residential Development Road Entrance Signs

Residential development road entrance signs for developments with two or more buildings with a total of five or more dwelling units indicating only the name of the development, including single-family, two-family, and multi-family developments and mobile home parks, the management or developer thereof, and/or the address or location of the development shall be subject to the following:

- A. Type - The residential development road entrance signs shall be ground signs.
- B. Number - There shall not be more than two (2) residential development road entrance signs for each point of vehicular access to a development.
- C. Area - Residential development road entrance signs shall not exceed thirty-two (32) square feet.
- D. Location - Residential development road entrance signs may be located in any required setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Officer.

- E. Height - Residential development road entrance signs shall not project higher than eight (8) feet.
- F. Sign Faces - Residential development road entrance signs may be double-faced only when one (1) such sign is used at a road entrance.

**707 Nonresidential Uses in R-1 Districts** (See §503.3I for home occupation signs.)

Principal nonresidential uses located in R-1 are permitted to have one (1) free standing and one (1) wall sign in accord with the following regulations:

707.1 Area and Height

- A. The maximum area and height of freestanding signs shall be twelve (12) square feet and eight (8) feet respectively.
- B. The maximum area of wall signs shall be twelve (12) square feet. Window signs may be used in the place of wall signs with the same maximum square footage. (See also §704.3Q.)

707.2 Number

- A. The maximum number of freestanding signs shall be one (1) per lot. On a corner lot the sign shall be placed on the street of highest classification.
- B. The maximum number of wall signs shall be one (1) per principal building.

**708 C-1, I-1, D-1 and RD Districts**

For all commercial, manufacturing, industrial, public and semi-public uses (referred to as *business* in this section) in C-1, I-1, D-1 and RD Districts the following signs are permitted and then only if accessory to a permitted use, and such signs shall be subject to the requirements of this §708 and any other applicable provisions contained in this Article:

708.1 Individual Business Identification Signs

The following provisions shall apply where an individual business is located on the lot:

- A. Total Square Footage Permitted - Total sign square footage permitted shall be determined by multiplying the length of lineal building front foot by a factor of one and one-half (1.5) square feet, up to a maximum of one hundred twenty (120) square feet. The length of lineal building front foot is defined as the length of the side of the building adjacent and parallel to any public street. If building lineal front foot permits the maximum square footage, the total permitted square footage may be incorporated into a single wall sign, disallowing any other signs on site.
- B. Total Number Permitted - The total number of signs permitted shall not exceed two except as follows:
  - 1. A site totaling over three hundred (300) feet of lot frontage may have an additional wall sign not exceeding thirty-two (32) square feet in area.
  - 2. Retail fuel sales signs are exempt from the total sign square footage limitation, but shall comply with §708.5.

3. Only one (1) freestanding or monument sign is permitted per lot, except on corner lots where one (1) may be permitted on each street frontage of arterial or higher classification.
- C. Permitted Signs by Type - The following signs are permitted provided all regulations are met and the total square footage permitted on the site is not exceeded. For the purposes of this section, mixed-use sites include buildings and centers with a combination of retail and office uses or a combination of retail, office and industrial uses.
1. Freestanding Signs
    - a. The maximum area, per side, for a freestanding sign shall be one (1) square foot times the lineal building front foot with a maximum of fifty (50) square feet.
    - b. The maximum height of a freestanding sign shall be eighteen (18) feet and shall be a minimum of eight and one-half (8.5) feet above grade.
  2. Monument Signs - Monument signs are permitted as follows:
    - a. The maximum size of a monument sign shall be seventy-five (75) square feet.
    - b. Signs may be double faced:
      - (1) When the angle between sign faces measures forty-five (45) degrees or less, the total sign area shall be computed by measuring the square footage of a single face.
      - (2) When the angle between sign faces measures more than forty-five (45) degrees, the total sign area shall be computed by adding the square footage of each face.
    - c. The maximum height of monument signs shall be six (6) feet for horizontally oriented signs and twelve (12) feet for vertically oriented signs.
  3. Wall Signs - The area of a wall sign shall not exceed eight tenths (0.8) square feet times the lineal building front foot for office buildings and one and one-half (1.5) square feet for other uses, with a maximum one hundred twenty-five (125) square feet.

#### 708.2 Shopping Center, Mall and Multiple Occupant Business Identification Signs

The following provisions shall apply to developments in which two (2) or more businesses (commercial, manufacturing, industrial, public or semi-public uses) are housed in one (1) or more principal structures.

- A. Main Identification Sign - Main identification signs, as approved under a Master Sign Program, shall meet the following requirements:
1. Number and Area - The maximum number and area of main identification signs shall be one freestanding sign per arterial street of no more than one hundred (100) square feet, or one (1) monument sign per arterial street of no more than one hundred fifty (150) square feet, or one (1) wall sign facing each arterial street of no more than one hundred twenty-five (125) square feet.
  2. Content - Such signs shall not contain the names of tenants of the building or center, except any tenant, occupying one-third or more of the gross floor area of any building or center may be

identified on such main identification sign, with a maximum of two (2) such tenants identified.

3. Height – The main identification signs shall not exceed eighteen (18) feet in height. Freestanding signs shall be a minimum of eight and one-half (8.5) feet above grade.

B. Individual Occupant Wall Signs (See §708.7 for shingle signs.)

1. Number - There shall be not more than one (1) wall sign for each principal business occupant except that where a principal occupant abuts two (2) or more streets, one (1) additional such sign oriented to each abutting street shall be permitted.
2. Area - The surface area of a wall sign shall not exceed eighteen (18) square feet.
3. Location - A wall sign may be located on the outermost wall of any principal building. The location and arrangement of all wall signs shall be subject to the review and approval of the Zoning Officer.
4. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed.

708.3 Business Subdivision Road Entrance Signs

Business subdivision road entrance signs for developments with two or more commercial, manufacturing, industrial, public and semi-public buildings (referred to as *business* in this section) indicating only the name of the development shall be subject to the following:

- A. Type - The business subdivision road entrance signs shall be ground signs.
- B. Number - There shall not be more than two (2) business subdivision road entrance signs for each point of vehicular access to a development.
- C. Area - Business subdivision road entrance signs shall not exceed thirty-two (32) square feet.
- D. Location - Business subdivision road entrance signs may be located in any required setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Officer.
- E. Height - Business subdivision road entrance signs shall not project higher than five (5) feet.
- F. Sign Faces - Business subdivision road entrance signs may be double-faced only when one (1) such sign is used at a road entrance.

708.4 Automatic Teller Machine (ATM) Signs

ATM signs shall be permitted in association with an approved commercial use subject to the following:

- A. Location - Such sign shall be located on the face of the machine and may only identify the individual business name, logo, time, and principal services offered at the ATM.
- B. Area - The area of any such sign shall not exceed ten (10) square feet. The bezel and architectural border of an ATM sign shall not be included in the sign area unless they contain sign characters, logos, or

other sign graphics. The area of any ATM signs not visible beyond the boundaries of the property shall not be deducted from the sum total area permitted for the use. Wording, symbols, and graphics which instruct persons on the use of the ATM shall not be considered part of the sign area unless they are visible beyond the boundaries of the property and attract the attention of the public.

- C. Permit Not Required - A permit shall not be required for automatic teller machine signs.

**708.5 Retail Fuel Sales**

Retail fuel sales establishments shall in addition to the other permitted signs be permitted one (1) sign with up to four (4) fuel prices attached to the business identification sign. The height of the letters/numerals shall not exceed the following and the sign shall be no larger than necessary to encompass the letters/numerals, but in no case shall exceed the width of the business sign. The prices shall be stationary but may be electronically controlled in accord with §710.3.

# of Products Advertised	1 or 2	3	4
Maximum Letter Height	24 inches	15 inches	12 inches

**708.6 Changeable Panel Signs**

One (1) changeable panel sign per lot may be incorporated into a permitted freestanding sign, monument sign or wall sign to identify special, unique, limited activities, services, products, or sale of limited duration occurring on the premises on which the changeable panel sign is located. The changeable panel sign shall be counted in the sign area of the sign in which it is incorporated.

**708.7 Shingle Signs**

In addition to the other signs permitted by this Ordinance, each establishment with a separate entrance to the outside shall be permitted a shingle sign in accord with this §708.7.

- A. A shingle sign shall not exceed six square feet.
- B. Shingle signs shall be limited to two sign faces installed perpendicular to the building facade.
- C. No portion of a shingle sign shall be less than eight feet above any pedestrian walkway or the grade below the sign.
- D. No portion of a shingle sign shall project above the top of an eave or parapet.
- E. Shingle signs suspended from the underside of a building overhang shall be centered under the overhang and shall not project beyond the overhang.
- F. A shingle sign shall maintain a ten-foot separation from another shingle sign.
- G. Shingle signs shall be located at the business entrance.
- H. Single signs shall not be more than six inches or less than one inch thick.

**709 Off-Premises Advertising Signs and Billboards**

An off-premises sign or billboard (referred to as *off-premises sign*) shall be permitted only in the RD District in accord with the following requirements:

**709.1 Maximum Individual Sign Area**

The maximum sign area shall be two hundred (200) square feet.

**709.2 Location**

- A. Lot Lines and Street Rights-of-Way - An off-premises sign shall be set back a minimum of twenty-five (25) feet from all lot lines and street rights-of-way.
- B. Residential Use or R-1 - No off-premises sign greater than ten (10) square feet shall be located within two hundred (200) feet of any residential use or R-1 District.

**709.3 Spacing; Number**

- A. Spacing - Off-premises signs shall be separated from each other by at least one thousand five hundred (1,500) feet, including such signs on either side of a street and including nonconforming off-premises signs and existing off-premises signs in other municipalities.
- B. Number - No lot shall include more than one (1) off-premises sign.

**709.4 Maximum Height**

The maximum sign height shall be:

- A. Signs up to sixty (60) square feet - twenty-five (25) feet.
- B. Signs over sixty (60) square feet (billboards) - eighteen (18) feet.

**709.4 Attached**

No off-premises sign or sign face shall be attached in any way to any other off-premises sign or share a support structure except that a sign may be double-faced with each face having the maximum area permitted in §709.1, provided the angle between the faces does not exceed forty-five (45) degrees. Off-premises signs shall not be stacked on top of one another.

**709.5 Lighting and Glare**

Lighting and glare shall conform to the standards in §506.16.

**710 Electronic Message Signs**

In addition to all other applicable regulations, the following regulations shall apply to all electronic message signs. In the case of conflict, the more restrictive standard shall apply.

**710.1 Location, Number Size and Height**

- A. Location - Electronic message signs shall be located only on parcels in the C-1 District or as an off-premises/billboard sign in the RD District per §709.
- B. Number - Each development parcel shall be limited to one (one) electronic message sign which is used in lieu of another permitted sign. In the case of a shopping center, mall or multiple occupant business comprised of several parcels, not more than one (1) electronic message sign shall be permitted for the entire development.

- C. Height - The electronic message sign shall not exceed the permitted height of the sign it is used in lieu of.

710.2 Nonconforming Sign Replacement

Any nonconforming sign which is converted to an electronic message sign shall be made conforming to the requirements of this Article.

710.3 Message Display

- A. Hold Time - Any portion of the message shall have a minimum duration (hold time) of five (5) seconds and shall be a static display. Messages shall completely change to the next message within one (1) second.
- B. Motion - The images and messages displayed shall be complete in themselves without continuation in content to the next image or message or to any other sign. The image shall be static, with no animation, streaming video, flashing, scrolling, fading, or other illusions of motion. Time and temperature signs are exempt from this requirement.
- C. Malfunction - All signs shall be equipped with a properly functioning default mechanism that will stop the sign in one position and lock the luminance level to the nighttime setting should a malfunction occur.
- D. Projection - Images or messages projected onto buildings or other objects shall be prohibited.
- E. Luminance

Luminance - A measure of the brightness of a surface which is emitting or reflecting light. The unit of measurement is candelas per square meter or nits (1 nit = 1 cd/m<sup>2</sup>).  
Nit - A unit of measure of Luminance.

1. No sign may display light of such intensity or brilliance to cause glare, hazard or impair the vision of the motorist, or interfere with the effectiveness of an official traffic sign, device or signal.
2. Signs shall have a maximum luminance of five thousand (5,000) nits during daylight hours. During the nighttime signs and billboards shall be limited to a maximum luminance of one hundred fifty (150) nits.
3. All signs shall be equipped with both a dimmer control and a photocell that automatically adjusts the display's luminance according to natural ambient light conditions. The sign shall also be equipped with an automatic malfunction shut off switch.
4. Signs shall comply with light trespass regulations set forth in §506.16.
5. Surface luminance measurements shall be made directly with a calibrated luminance meter, following the instrument manufacturer's directions. Readings shall be taken from the area from which the sign will be visible, usually the road, and which is closest to being directly in front of the sign where the luminosity output is most focused. This reading shall be the measurement of an all-white image display to evaluate the worst-case scenario. With an all-white display, a maximum of

two hundred (200) nits shall be permitted during nighttime.

6. Prior to issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the sign luminance has been factory pre-set to not exceed five thousand (5,000) nits and that the intensity has been protected from end-user manipulation by password-protected software.

## 711 Nonconforming Signs

### 711.1 Legal, Nonconforming Signs

Any sign lawfully existing or under construction on the effective date of this Article, which does not conform to one (1) or more of the provisions of this Article, may be continued in operation and maintained as a legal nonconforming use.

### 711.2 Requirements

The maintenance, repair, alteration, and restoration of nonconforming signs shall be governed by the applicable provisions of Article VIII and the following:

- A. Area - The total area of any nonconforming sign shall not be increased.
- B. Conversion to Electronic Message Sign
  1. Any nonconforming sign which is converted to an electronic message sign shall be made conforming to the requirements of this Article.
  2. A sign which is nonconforming as to zoning district location shall not be converted to an electronic message sign.

## 712 Removal of Certain Signs

### 712.1 Abandoned Signs

- A. Removal - Any sign, whether existing on or erected after the effective date of this Ordinance, which advertises a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located, shall be presumed to be abandoned and shall be removed within eighteen (18) months from the cessation of such business or sale of such product by the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.
- B. Enforcement - Enforcement of a violation of §712.1A shall be in accord with §916.

### 712.2 Nuisance Signs

- A. Violation - The maintenance of any sign which is unsafe or insecure, or is a public nuisance, shall be considered a violation of this Article.
- B. Enforcement - Enforcement of a violation identified in §712.2A shall be in accord with §916.
- C. Immediate Peril - Notwithstanding, the foregoing provisions, the Zoning Officer is authorized to cause any sign to be removed summarily and without notice, at the expense of the owner, agent, or person

having the beneficial interest in the building or premises on which such sign is located, whenever the Zoning Officer determines that such sign is an immediate peril to persons or property.

712.3 Illegal Signs

If the Zoning Officer shall find that any sign is displayed in violation of this Ordinance, he shall proceed with an enforcement action in accord with §916.

## ARTICLE VIII NONCONFORMITIES

### 800 Purpose, Applicability, Registration, and Continuation and Change

#### 800.1 Purpose

It is the purpose of this Article VIII to:

- A. Recognize that if, prior to the adoption of the original Borough Zoning Ordinance, as amended, reenacted and replaced, property was used for a then lawful purpose or in a then lawful manner which the Zoning Ordinance would render thereafter prohibited and nonconforming, such property is generally held to have acquired a vested right to continue such nonconforming use or nonconforming structure. Nevertheless, this does not preclude the Borough from regulating the change, alteration, reconstruction, reestablishment, extension, destruction and abandonment of nonconforming uses in accord with the Pennsylvania Municipalities Planning Code and general case law.
- B. Limit the injurious impact of nonconforming lots, structures and uses on other adjacent properties within a particular district and the community as a whole, while recognizing that the change, alteration, reconstruction, reestablishment, or extension of nonconforming lots, structures and uses may not be contrary to the public interest or the general purpose of this Zoning Ordinance, when failure to allow such change, alteration, reconstruction, reestablishment, or extension would itself lead to neighborhood or district deterioration.
- C. Prescribe those standards which are to be applied by the Borough in determining the reasonableness of a proposal to change, alter, reconstruct, reestablish, or extend a nonconforming use.

#### 800.2 Applicability

The provisions and protections of this Article VIII shall apply only to those nonconforming lots, structures and uses which legally pre-existed the applicable provisions of this Ordinance, as amended, or which are recognized by §802 or §803. Any lot, structure or use created, constructed or established after the effective date of the original Zoning Ordinance, as amended, reenacted and replaced, which does not conform to the applicable requirements shall be considered an illegal lot, structure or use subject to the penalties prescribed by this Ordinance, and the said lot, structure or use shall not be entitled to any of the protections afforded to legal, pre-existing nonconforming lots, structures or uses.

#### 800.3 Registration

It shall be the responsibility of the party asserting a nonconformity to provide the evidence, including photographs, that the nonconformity is legal. A property owner may request a written certificate of nonconformity from the Zoning Officer after providing sufficient evidence. The Zoning Officer may submit any application for a Certificate of Nonconformance to the Planning Commission for the Commission's review and recommendation with regard to the evidence of nonconformity.

#### 800.4 Continuation and Change

A lawful nonconforming lot, structure or use as defined by this Ordinance may be continued and may be sold and be continued by new owners subject to the other provisions of this Ordinance. Any expansion, alteration, extension or change in nonconformity shall only proceed in compliance with this Article VIII.

**801 Definitions****801.1 Nonconforming Lot**

A lot the area or dimension of which was lawful prior to the effective date of this Ordinance, as amended, but which fails to conform to the requirements of the zoning district in which it is located by reasons of the adoption or amendment of this Ordinance.

**801.2 Nonconforming Structure**

A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions of this Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment or prior to the application of this Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

**801.3 Nonconforming Structure, Alteration**

As applied to a nonconforming structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**801.4 Nonconforming Structure, Restoration**

The rebuilding or reinitiating of a nonconforming structure damaged or destroyed by casualty to the exact or less nonconforming condition which existed prior to the casualty.

**801.5 Nonconforming Use**

A use, whether of land or of structure, which does not comply with the applicable use provisions of this Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment, or prior to the application of this Ordinance or amendment to its location by reason of annexation.

**801.6 Nonconforming Use, Change**

The conversion of a nonconforming use to a different use classification as enumerated in the Schedules of Uses.

**801.7 Nonconforming Use, Expansion**

The extension of a nonconforming use throughout the structure which the said use partially occupies, or the extension of a nonconforming use onto property not already occupied by the said use.

**801.8 Nonconforming Use, Reestablishment**

The reopening or reinstatement of a nonconforming use which has been discontinued by the owner of the said use, such reopening or reinstatement effected prior to the abandonment of the nonconforming use as determined under the provisions of this Ordinance.

**802 Nonconformities Under Development**

For the purposes of this Article VIII, a building, structure or use, legally permitted, planned and substantially under construction in compliance with existing Ordinances prior to the effective date of this Ordinance, or any amendment hereto, and completed within a one-year period after the effective date of this Ordinance or amendment hereto, shall be considered nonconforming.

**803 Nonconformities By Variance**

A building, structure or use allowed by variance in a district where it is non-conforming with any regulations of this Ordinance, as amended, reenacted and replaced, shall be considered nonconforming for the purposes of

this Ordinance.

**804 Normal Maintenance and Repair Activities**

Normal maintenance and repair, such as painting, replacement of siding, and similar activities is allowed, as well as those interior renovations which do not structurally alter the building or area or result in increased use of the building or area, or a change of nonconformity, or otherwise create more incompatibility with the permitted use provisions of this Ordinance. Such maintenance and repair activities shall, however, comply with all other applicable standards and permit requirements of this Ordinance.

**805 Changes**

805.1 Special Exceptions

All changes of nonconforming uses shall be considered special exceptions subject to the specific procedures and review criteria contained in this Ordinance and the review factors in §908.4. A nonconforming use may only be changed to a use of equal or less nonconformity as determined by Zoning Hearing Board.

- A. General Standard - The general standard shall be that no change of a nonconforming use shall be permitted if such change will result in the establishment of a use which is materially different from the existing use in terms of negative effects on the community and the long term application of the Zoning Ordinance to eliminate incompatible uses from specific zoning districts.
- B. Classification Change - A nonconforming use of a building or land that has been changed to a more restricted classification shall not thereafter be changed to a use of a less restricted classification.

805.2 Conforming Changes and Conversions

- A. Change - A change in a nonconforming use to a conforming use shall not be considered a special exception unless the proposed use is classified as a special exception in the District in §405 of this Ordinance. A change of a nonconforming use to a conforming use shall be considered an abandonment of the nonconforming use which shall not thereafter revert to a nonconforming use.
- B. Conversion - The conversion of a nonconforming use to a nonconforming use of like classification shall not be considered a special exception. For example, a nonconforming retail establishment selling groceries proposed for conversion to a shoe store would not be considered a change in nonconforming use.

805.3 Other Standards

All changes to nonconforming uses shall also be subject to all other applicable standards in this Ordinance.

**806 Expansion**

806.1 Special Exceptions

All expansions of nonconforming uses into more area of a structure or onto more area of property shall be considered special exceptions subject to the specific procedures and review criteria contained in this Ordinance, and the review factors in §908.4.

806.2 Expansion Limited to Same Parcel; New Structures Prohibited

Expansions of a nonconforming use shall be limited to the same parcel of property on which the nonconforming use is situated as said parcel existed on the effective date of this Ordinance, as amended. For any nonconforming uses not involving a structure, no new structures shall be permitted as part of an expansion.

**806.3 Expansion Limitation**

An expansion of land or structure used for the nonconforming use shall be limited to a total increase not to exceed twenty-five (25) percent of land and twenty-five (25) percent of structure beyond what existed on the effective date of this Ordinance, as amended. All such expansions of a nonconforming use may be permitted in successive increments for a total up to the increase permitted; and each increment shall be a separate application. Applications for successive increments shall only be entertained by the Zoning Hearing Board upon the completion of the previously approved expansion.

**806.4 Compliance with Standards**

In addition to complying with the requirements of this §806, an expansion of a nonconforming use shall comply with all setback, height, lot coverage, parking and other standards of this Ordinance.

**806.5 Displacement of Conforming Use**

A nonconforming use shall not be extended to displace a conforming use.

**807 Restoration****807.1 Conditions of Reconstruction**

Any lawful nonconforming building, structure or use which has been damaged or destroyed by fire, explosion, windstorm or other external cause may be restored in the same location, provided that:

- A. The application for a zoning permit is submitted within one (1) year of the date of the casualty.
- B. The nonconformity is not increased and no new nonconformity is created except for an expansion of a nonconforming use in compliance with §806.
- C. It was not voluntarily demolished. (See §807.5.)

**807.2 Procedure - Permits**

All applicable permits for the restoration shall be required. Such reconstruction shall be considered a special exception if the reconstruction involves a change or extension of use as regulated by §805 and §806 of this Ordinance, respectively.

**807.3 Time Extension**

The Zoning Officer may for good cause grant a one-time extension of not more than one (1) year for the restoration. Said extension shall only be considered upon written application for same submitted by the property owner.

**807.4 Reconstruction Prohibited**

Any structure for which a permit application for restoration has not been submitted within the required one-year period shall be deemed abandoned and any subsequent use of the land or structure shall be for conforming purposes only and said use shall in all respects conform to the applicable provisions of this Zoning Ordinance.

**807.5 Demolition**

If a nonconforming structure or use is voluntarily demolished to an extent which exceeds fifty (50) percent of the cost to replace the entire structure or use in accord with the most current construction, the restoration shall comply with current setback, lot coverage, height and other requirements of this Ordinance.

**808 Abandonment and Reestablishment of Nonconformities**

A nonconforming use shall be deemed to have been abandoned and shall not thereafter be reinstated when:

- A. It is changed to a conforming use; or
- B. It has been voluntarily discontinued for a period of eighteen (18) months.

**809 Alterations of Nonconforming Structures**

The alteration of nonconforming structures shall be permitted only in accord with this §809 and other applicable standards in this Ordinance.

809.1 Permit

An alteration of a nonconforming structure shall require the applicable zoning permit. Such alteration shall be considered a special exception if the alteration involves a change or expansion of a nonconforming use as regulated by §805 and §806 of this Ordinance, respectively.

809.2 Compliance with Standards

An alteration of a nonconforming structure shall comply with all setback, height, lot coverage, parking and other standards of this Ordinance and shall not result in any increased nonconformity except for an expansion of a nonconforming use in compliance with §806.

809.3 Nonconforming Setbacks

A single-family detached dwelling which is nonconforming as to a setback requirement may be extended along the nonconforming setback line a distance not to exceed fifty (50) percent of the length of the nonconforming part of the structure as it existed at the effective date of this Ordinance. However, the height of any such residential or commercial extension shall not exceed the lesser of the existing height of the nonconforming structure or the applicable district maximum height.

809.4 Increase in Area or Bulk Nonconformity

Except as provided in §809.3 of this Ordinance, in the case where a proposed alteration of a nonconforming structure will result in an increased nonconformity of setback, height, lot coverage or other area or bulk standard, a variance shall be required from the Zoning Hearing Board.

**810 Review Factors**

In addition to other applicable requirements of this ordinance, the Zoning Hearing Board shall consider any nonconformity special exception application in terms of the effect on the following factors:

810.1 Nuisance Considerations

- A. Traffic generation.
- B. Noise, dust, fumes, gases, odor, glare, vibration, fire and explosion hazards and other nuisances.
- C. Amount and nature of outdoor storage.
- D. Hours of operation.
- E. Compatibility with the character of the surrounding neighborhood.
- F. Potential of the expansion to reduce existing congestion and alleviate parking shortages by improved site design, addition of parking and improved loading areas.

810.2 Specific Considerations

- A. Storage of Materials - There shall be no increase in the amount of materials, supplies and/or products

that are stored outside a non-conforming facility, as on a lot in a non-conforming use, excepting those types of uses outlined in Subsection B below.

- B. Screening - Where the non-conforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a sawmill, farm machinery sales operation or similar operation), the use may only be expanded if a solid fence of wood and/or buffer, not less than six (6) feet in height, is present on all sides of the immediate area in use. Stored material shall not exceed the height of the screening material and nine (9) feet at the maximum. Setbacks and buffers shall be provided in accord with §506.1.
- C. Setbacks - Except as provided in §809.3 of this Ordinance, no addition, change or expansion of a non-conforming use shall further violate setback and/or height regulations of the district in which it is located.
- D. Parking and Traffic - In no case will a change, addition or expansion of a non-conforming use be allowed which would result in the diversion of traffic, or relocation of a driveway on the site to any point nearer a residential property, or result in violation of any of the parking and unloading requirements of this Ordinance. The Zoning Hearing Board may require vegetative screening of the parking area from nearby residential areas in accord with §506.1.

**811 Use of Nonconforming Lots of Record**

811.1 Uses Allowed

In all districts, a lawful nonconforming lot of record may be used for any allowed use in the District of location provided:

- A. The front setback for the District is maintained and no side or rear setback is reduced to less than ten (10) feet.
- B. All other applicable standards in this Ordinance are satisfied.

811.2 Combination Required

If a proposed use straddles adjoining nonconforming lots, the lots shall be combined into a single parcel in accord with the requirements of the County Subdivision and Land Development Ordinance.

**ARTICLE IX  
ADMINISTRATION**

**900 Applicability**

900.1 Conformance

Any activity regulated by this Ordinance shall only occur or be undertaken and be continued in conformance with the requirements of this Ordinance.

900.2 Authorization

This Ordinance regulates all matters and activities authorized by Article VI of the Pennsylvania MPC (hereinafter referred to as MPC).

900.3 Regulated Activities

The following activities and any other activity or matter regulated by this Zoning Ordinance shall only be undertaken after the required permit or approval has been obtained in full compliance with this Ordinance:

- A. Erection, construction, movement, placement or extension of a structure, building or regulated sign;
- B. Change in the type of use or expansion of the use of a structure or area of land; and/or,
- C. Creation of a lot or alteration of lot lines.

900.4 Repairs and Maintenance

Ordinary repairs, structural strengthening, facade improvements and maintenance to existing structures that do not infringe upon a required setback may be made without a zoning permit provide such activity does not involve:

- A. A change in use;
- B. An expansion, construction or placement of a structure;
- C. An increase in the number of dwelling units or boarding house units; and/or
- D. Any other activity regulated by this Ordinance.

**901 General Procedure for Permits**

901.1 Use Permitted by Right or Accessory Use

Within ninety (90) days of receiving a proper and complete application for a use permitted by right or an accessory use, the Zoning Officer shall either:

- A. Issue the permit under this Ordinance; or,
- B. Refuse the permit, indicating at least one applicable reason, in writing, to the applicant or his/her representative.

901.2 Other Approvals or Reviews

Certain activities require approval of the Zoning Hearing Board and/or of the Borough Council, and/or the recommendations of the Planning Commission. In such case, the Zoning Officer shall not issue a Zoning Permit until such required review or approval occurs.

901.3 Appeal

See §905.2 which describes processes to appeal actions of the Zoning Officer to the Zoning Hearing Board.

901.4 Timing

After a zoning permit has been received by the applicant, the applicant may undertake the action permitted by the permit under this Ordinance provided the work complies with other Borough Ordinances. However, it is recommended that applicants wait thirty (30) days to begin construction if there is a possibility of an appeal by another party to have the permit revoked. Any commencement of construction or a use within this thirty (30) day appeal period shall be at the risk of the applicant. (See Certificate of Use in §902.7.)

**902 Permits and Certificates**

902.1 Applicability

See §900.

902.2 Types of Uses

- A. Uses Permitted by Right and Accessory Uses - If a use is listed as a principal permitted use or an accessory use by this Ordinance, the Zoning Officer shall issue a permit in response to a complete application documenting compliance with this Ordinance.
- B. Special Exception Use or Application Requiring a Variance - A permit under this Ordinance for a use requiring a Special Exception or Variance shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board.
- C. Conditional Use - A permit under this Ordinance for a Conditional Use shall be issued by the Zoning Officer only upon the written order of the Borough Council.

902.3 Applications

- A. Applications - Any request for action by the Zoning Hearing Board, application for a conditional use, or for a permit under this Ordinance shall be made, in writing, on a form provided by the Borough and in accord with the procedures established by the Borough. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to the Borough employee responsible for processing such application. The applicant is responsible to ensure that a responsible Borough official notes the date of the official receipt on the application.
- B. Number of Copies - Unless waived by the Zoning Officer, five (5) copies of a site plan shall be submitted if an application requires action by the Zoning Hearing Board or Borough Council; and, two (2) copies shall be submitted if action by the Zoning Hearing Board or Borough Council is not required.
- C. Information Required - In the case of an application involving the construction of any new structure or any addition to an existing structure, all of the information required in this §902.3 shall be provided by the applicant. However, the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, may determine, as part of the review process, that certain information is not required for a particular application, and upon such determination, the specified information need not be provided by the applicant.

In the case of an application which does not involve the construction of any new structure or any

addition to an existing structure, a narrative providing details of the project shall be provided as required by this subsection. However, a plot plan, as required by Subsection 6 which follows, shall not generally be required unless the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, deems such plot plan necessary to evaluate and make a decision on the application. The Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, shall determine, as part of the review process, the type of information and level of detail of the plot plan if such plot plan is required.

In any case, the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, may require any other additional information or any level of detail deemed necessary to determine compliance with this Ordinance or to identify any impacts of the proposed use.

1. Names and address of the applicant, or appellant; and, the name and address of the owner of the affected property.
2. A description of the existing and proposed use(s) of the property, including numbers of dwelling units, minimum square feet of proposed dwelling units and number of proposed business establishments, if any.
3. A description of any proposed nonresidential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards, or other significant public health and safety hazards.
4. If a principal nonresidential use is proposed within close proximity to dwellings, a description of hours of operation and proposed methods of storing garbage outdoors on-site.
5. A listing of any specific sections of this Ordinances being appealed, with the reasons for any appeal.
6. A plot plan legible in every detail and drawn to scale, but not necessarily showing precise dimensions, which includes the following information:
  - a. Name of the development.
  - b. Name and address of land owner and/or land developer. (If a corporation, list names of officers.)
  - c. Location map.
  - d. North arrow, true or magnetic.
  - e. Graphic scale.
  - f. Written scale.
  - g. Date plot plan was completed.
  - h. Names of adjacent property owners and tax map numbers, including those across adjacent roads.
  - i. Proposed and existing street and lot layout, including street names and right-of-way widths.
  - j. Existing and proposed man-made and/or natural features:
    - (1) Water courses, lakes and wetlands (with names).
    - (2) Rock outcrops, ledges and stone fields.
    - (3) Buildings, structures, signs and setbacks required by this Zoning Ordinance.
    - (4) Approximate location of tree masses.
    - (5) Utility lines, wells and sewage system(s).

- (6) Entrances, exits, access roads and parking areas, including the number of spaces.
  - (7) Drainage and storm water management facilities.
  - (8) Plans for any required buffer plantings.
  - (9) Any and all other significant features.
7. Location of permanent and seasonal high water table areas and 100 year flood zones.
  8. Tract boundaries accurately labeled.
  9. The total acreage of the tract and extent of the areas of the site to be disturbed and percentage lot coverage when the project is completed.
  10. Location and type of rights-of-way or other existing restrictive covenants which might affect the subdivision and/or development.
  11. A statement of the type of water supply and sewage disposal proposed.
  12. The present Zoning District and major applicable lot requirements.
- D. Other Laws - The Zoning Officer may withhold issuance of a permit under this Ordinance if there is clear knowledge by the Zoning Officer that such a use would violate another Borough, State or Federal law or regulation.
- E. Ownership - No person other than a landowner or their specifically authorized agent or a tenant or lessee with written permission of the landowner shall submit a zoning application.
- F. Advisory Reviews - The Zoning Officer may submit a copy of any plan and application to any appropriate agencies and/or individuals (such as the Planning Commission, the County Planning Commission, the County Conservation District or Borough Engineer) for review and comment.
- G. Subdivision Approval - Applications for uses which also necessitate approvals under the Subdivision and Land Development Ordinance shall be processed in the manner provided for plat approval under that Ordinance. Such applications shall also contain all information or data normally required for a submission under that Ordinance. A zoning permit shall not be issued until the proposed use has been granted a Preliminary Approval under that Ordinance. However, no building or property shall be occupied or used until final subdivision approval has been granted and a Certificate of Use has been properly issued pursuant to §902.7 of this Ordinance.

#### 902.4 Issuance of Permit

No owner, contractor, worker or other person shall perform building or construction activity of any kind regulated by this Ordinance unless a valid zoning permit has been issued and posted for such work.

- A. Number of Copies - At least two (2) copies of any permit required under this Ordinance shall be made.
- B. Distribution - One (1) copy of any such permit shall be retained in Borough files; and, one (1) copy shall be retained by the applicant. A copy of any such permit shall be shown by the applicant to the Zoning Officer upon the Zoning Officer's request.
- C. Action - The Zoning Officer shall issue or deny a permit for a principal permitted use within a maximum of ninety (90) days after a complete, duly filed application and fees are submitted.

### 902.5 Revocation of Permits

If a zoning permit is revoked, the person holding the permit shall immediately surrender such permit and all copies to the Zoning Officer and any activity authorized by the permit shall cease. The Zoning Officer shall revoke a permit or approval issued under the provisions of this Ordinance in case of:

- A. False Information - Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based: (The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties); or,
- B. Violation of Conditions - Violation of any condition lawfully imposed upon a special exception, variance or conditional use; or,
- C. Unauthorized Activity - Any work being accomplished or land or structures being used in such a way that does not comply with this Ordinance or an approved site plan or approved permit application; or,
- D. Other - Any other just cause set forth in this Ordinance.

### 902.6 Changes to Approved Plans

- A. Approval Required - After the issuance of a permit and/or approval under this Ordinance, an approved application shall not be changed without the written consent of the Borough.
- B. Conditional Use or Special Exception - Changes to an approval by the Zoning Hearing Board as a special exception use or by the Borough Council as a conditional use shall require re-approval of the changes by such bodies if the Zoning Officer determines that such changes affect matters that were within the scope of approval of such body. Such approval by the Zoning Hearing Board or the Borough Council is not required for clearly minor technical adjustments or matters that are solely corrections of information that do not affect any of the significant features of the site plan or the intensity of the use, as determined by the Zoning Officer.
- C. Distribution - A copy of such adjustment or correction shall be provided, in writing, to the Chairperson of the Planning Commission, the President of the Borough Council or the Chairperson of the Zoning Hearing Board, as appropriate, if the change concerns a plan approved by such bodies.

### 902.7 Certificate of Use

- A. Requirement - A Certificate of Use shall be required from the Borough upon a change of use or completion of work authorized by a permit or approval under this Ordinance. It shall be unlawful to use and/or occupy a structure, building and/or land or portions thereof until such Certificate has been issued. A new Certificate of Use shall be required if a change in use of the property is proposed; and then such Certificate shall be issued only after all required approvals are obtained.
- B. Application - An application for a Certificate of Use shall be made on an official Borough form. If the use is in conformance with Borough ordinances and approvals, such Certificate shall be issued, in duplicate, within ten (10) business days of a properly submitted and duly filed application. A minimum of one (1) copy shall be retained in Borough records.
- C. Inspection - The Zoning Officer shall inspect such structure or land related to an application for a Certificate of Use. If the Zoning Officer determines, to the best of his/her current knowledge, that such

work conforms with this Ordinance and applicable Borough codes, approvals and permits, then such Certificate of Use shall be issued.

- D. Availability - The applicant shall show a valid Certificate of Use to the Zoning Officer upon the Officer's request.

**902.8 Expiration of Permits and Approvals**

- A. Zoning Permits - When authorized by the issuance of a zoning permit, the permitted building construction shall be completed and/or the permitted use shall be established as a functional and constructive activity within twelve (12) months of issuance of the permit unless a written extension is granted by the Zoning Officer for good cause. Otherwise, the zoning permit shall be considered to have automatically expired at the end of such twelve (12) month period.
- B. Variance Approval - See §907.4.
- C. Conditional Use Approval or Special Exception Approval - See §908.5.

**903 Fees**

**903.1 Application Fees**

As authorized by §617.3(e) and §908(1.1) of the MPC, the Borough Council shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure, for zoning permits, conditional use permits, Zoning Hearing Board proceedings and other matters pertaining to this Ordinance. Permits, certificates, conditional use permits, special exception permits and variances shall be issued only after all fees have been paid in full; and, the Zoning Hearing Board shall take no action on appeals until all fees have been paid in full.

**903.2 Stenographer Fees**

The appearance fee for a stenographer shall be shared equally by the applicant and the Borough as required by §908(7) of the MPC. The cost of the original transcript shall be paid by the Borough if the transcript is ordered by the Borough or shall be paid by the person appealing from the decision of the Borough if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

**904 Zoning Officer**

**904.1 Appointment**

The Zoning Officer shall be appointed by the Borough Council in accord with §614 of the MPC. The Zoning Officer(s) shall not hold any elective office within the Borough, but may hold other appointed offices not in conflict with the MPC.

**904.2 Duties and Powers**

The Zoning Officer shall:

- A. Administration - Administer this Ordinance.
- B. Information - Provide information to applicants regarding required procedures.
- C. Applications - Receive and examine all applications required under the terms of this Ordinance, and issue or refuse permits in accord with this Ordinance.

- D. Complaints - Receive written complaints of violation of this Ordinance, and issue a written notice of violation to any person violating any provision of this Ordinance.
- E. Records - Keep records of applications, permits, certificates, written decisions and interpretations issued, of variances and special exceptions granted by the Zoning Hearing Board, of conditional uses approved by the Borough Council, of complaints received, of inspections made, of reports rendered, and of notices or orders issued.
- F. Inspections - Make all required inspections and perform all other duties in accord with this Ordinance.
- G. Limit of Power - Not have the power to permit any activity which does not conform to this Ordinance, or all other Ordinances of the Borough known to the Zoning Officer.

**905 Zoning Hearing Board**

905.1 Membership and Qualifications

- A. Membership - The Borough Council hereby creates a Zoning Hearing Board consisting of three (3) members, appointed by the Borough Council, pursuant to Article IX of the MPC, and which shall conduct all proceedings as set forth in Article IX of the MPC. At the date of adoption of this Ordinance, any member of the existing Zoning Hearing Board, previously appointed by the Borough Council, shall continue in office for the remainder of his or her term.
- B. Recommended Qualifications - Each Zoning Hearing Board member ought to.
  - 1. Become familiar with the MPC and the Zoning Ordinance and Subdivision and Land Development Ordinance.
  - 2. Attend at least one (1) seminar and/or workshop pertaining to municipal planning and/or zoning within each calendar year.
- C. Vacancies - The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of a term.
- D. Removal of Members - See §905 of the MPC.
- E. Organization.
  - 1. Officers - The Board shall elect officers from its own membership who shall serve annual terms and may succeed themselves.
  - 2. Quorum - For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Board, except that the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided by §908 of the MPC. The quorum may be met by alternate members, serving as permitted by §906(b) of the MPC.
  - 3. Rules - The Board may make, alter, and rescind rules and forms for its procedure, consistent with all applicable Borough ordinances and laws of the Commonwealth of Pennsylvania.

### 905.2 Jurisdiction

In accord with §909.1(a) of the MPC, the Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Substantive Validity Challenges - Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §609.1 (Landowner Curative Amendments) and §916.1(a) (2) (Validity of Ordinances) of the MPC.
- B. Zoning Officer Appeals - Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- C. Variances - Applications for variances from the terms of this Ordinance pursuant to §910.2 of the MPC.
- D. Special Exceptions - Applications for special exceptions under this Ordinance pursuant to §912.1 of the MPC and the requirements of this Ordinance.
- E. Preliminary Opinion Appeal - Appeals from the Zoning Officer's determination under §916.2 (Preliminary Opinion) of the MPC.
- F. E & S and Stormwater Appeals - Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development applications.

### 906 **Zoning Hearing Board -- Hearings and Decisions**

The Zoning Hearing Board shall conduct hearings and make decisions in accord with §908 of the MPC.

### 907 **Variances**

The Zoning Hearing Board shall hear duly filed requests for variances.

#### 907.1 Standards

The Board may grant a variance only in accord with the requirements of §910.2 of the MPC provided that **all** of the following findings are made where relevant in a given case. The applicant shall have the burden of proof to show compliance with such standards.

- A. Unique Physical Circumstances or Conditions - That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or District in which the property is located.
- B. Necessary for Reasonable Use - That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- C. Self-Creation - That such unnecessary hardship has not been created by the appellant.

- D. Neighborhood; Adjacent Property; Public Welfare - That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- E. Minimum Variance - That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

#### 907.2 Reserved

#### 907.3 Variance Conditions

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the MPC and this Ordinance, and to protect the public health, safety, and welfare.

#### 907.4 Limitation of Approval

Any variance granted by the Zoning Hearing Board shall expire five (5) years from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to submit another application for the same. The Zoning Hearing Board may grant an extension of the time limitations for good cause.

### **908 Conditional Uses and Special Exceptions**

#### 908.1 Applications

Applications for conditional uses and special exceptions shall, at a minimum, include the information required in §908.6. In addition, the Planning Commission, Borough Council, or the Zoning Hearing Board shall require any other information deemed necessary.

#### 908.2 Conditional Uses

Uses specified as conditional uses shall be permitted only after review and approval by the Borough Council pursuant to the express standards as provided for specific conditional uses in this Ordinance, in §908.4, and any other applicable standards in this Ordinance.

- A. Expansions/Additions - Expansions or additions to uses classified as conditional uses shall also be considered conditional uses. The addition of an accessory structure shall not be considered a conditional use.
- B. Procedure
  - 1. Submission - The applicant shall submit five (5) complete sets of any required plans and information to the Zoning Officer. The Zoning Officer shall refuse to accept an application which does not provide all information required by this Ordinance. The sixty (60)-day time period for the Borough Council to conduct a public hearing shall not commence until the application is deemed complete by the Zoning Officer.
  - 2. Distribution - The Zoning Officer shall distribute copies of the application to the Planning Commission and the Borough Council. A minimum of one (1) copy shall be retained in the Borough files. The applicable Volunteer Fire Company shall be given an opportunity for a review, if deemed

appropriate by the Planning Commission.

3. Zoning Officer Review - The Zoning Officer shall report, in writing or in person, to the Planning Commission or the Borough Council stating whether the application complies with this Ordinance. The Zoning Officer may recommend a review by the Borough Engineer.
4. Planning Commission Review
  - a. The Planning Commission shall be provided with an opportunity to review any proposed conditional use. The Commission, at its option, may provide a written advisory review.
  - b. If such review is not received by the Borough Council within thirty (30) days of such application being sent to the Planning Commission, then the Borough Council may make its decision without having received comments from the Planning Commission.
5. Borough Council Action - The Borough Council shall conduct hearings and make decisions in accordance with §908 and §913.2 of the MPC. In granting a conditional use, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it determines are necessary to implement the purposes of the MPC and this Ordinance, and to protect the public health, safety, and welfare.
6. Notice - In addition to the notice and posting requirements of the MPC, notice of all conditional use hearings shall be mailed to the owners of all properties contiguous to the parcel which is the subject of the hearing not less than fourteen (14) calendar days prior to the hearing. Such notice shall be by U.S. Mail to the last known address of the contiguous owners as listed in County tax assessment records.

#### 908.3 Special Exceptions

Uses specified as special exceptions shall be permitted only after review and approval by the Zoning Hearing Board pursuant to the express standards and criteria as provided for specific special exceptions in this Ordinance and in §908.4 of this Ordinance.

- A. Expansions/Additions - Expansions or additions to uses classified as special exceptions shall also be considered special exceptions. The addition of an accessory structure shall not be considered a special exception.
- B. Procedure
  1. Submission - The applicant shall submit five (5) complete sets of any required plans and information to the Zoning Officer. The Zoning Officer shall refuse to accept an application which does not provide all information required by this Ordinance. The sixty (60)-day time period for the Zoning Hearing Board to conduct a public hearing shall not commence until the application is deemed complete by the Zoning Officer.
  2. Distribution - The Zoning Officer shall distribute copies of the application to the Planning Commission and the Zoning Hearing Board. A minimum of one (1) copy shall be retained in the Borough files. The applicable Volunteer Fire Company shall be given an opportunity for a review, if deemed appropriate by the Planning Commission.
  3. Zoning Officer Review - The Zoning Officer shall report, in writing or in person, to the Planning

Commission or the Zoning Hearing Board stating whether the application complies with this Ordinance. The Zoning Officer may recommend a review by the Borough Engineer.

4. Planning Commission Review of Special Exception Uses

- a. The Planning Commission shall be provided with an opportunity to review any proposed special exception use. The Planning Commission, at its option, may provide a written advisory review.
- b. If such review is not received by the Zoning Hearing Board within thirty (30) days of such application being sent to the Planning Commission, then the Zoning Hearing Board may make a decision without having received comments from the Planning Commission.

5. Zoning Hearing Board Action on Special Exception Uses

- a. The Board shall hear and decide a request for a special exception use under the procedures in §906 of this ordinance and §908 of the MPC.
- b. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it determines are necessary to implement the purposes of the MPC and this Ordinance, and to protect the public health, safety, and welfare.

908.4 Standards and Criteria

The standards and criteria applied to conditional uses and special exceptions are intended to ensure that the proposed use will be in harmony with the purposes, goals, objectives and standards of this Ordinance and other ordinances of the Borough. In addition to the applicable general provisions of this Ordinance and to the standards and criteria provided in this Ordinance for specific conditional uses and specific special exceptions, the following standards and criteria shall be applied in the review of applications for conditional uses and special exceptions:

- A. Comprehensive Plan; Ordinances - The proposed use shall be consistent with the purposes, goals, objectives and standards of the Comprehensive Plan, this Ordinance, and all other ordinances of the Borough.
- B. Location - The proposed use shall also be evaluated as to the degree to which the proposed location may be particularly suitable or unsuitable for the proposed use in terms of the physical characteristics of the site.
- C. Adverse Effects - The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, adjacent property values, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of this Ordinance, or any other plan, program, map or ordinance of the Borough or other government agency having jurisdiction to guide growth and development.
- D. Public Improvements - The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities, and services of the Borough, whether such services are provided by the Borough or some other entity. The applicant shall be wholly responsible for providing such improvements, facilities, utilities, and services as may be required to adequately serve the proposed use

when the same are not available or are inadequate to serve the proposed use in the proposed location. As part of the application and as a condition of approval of the proposed use, the applicant shall be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with this and other Ordinances of the Borough. The permit approval shall be so conditioned.

E. Additional Factors - The following additional factors shall be considered:

1. Location, arrangement, size, design and general site compatibility of buildings, lighting, and signs.
2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Adequacy and arrangement of pedestrian traffic, access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
5. Adequacy of storm water and drainage facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
9. Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

F. Conditions of Approval - In instances where the supplemental standards contained herein do not adequately protect the general health, safety, and welfare of parties affected, all conditions and safeguards deemed necessary by the Borough Council or Zoning Hearing Board to protect the general health, safety, and welfare as well as to implement the purposes of this Ordinance and the MPC shall be imposed as conditions of approval in accord with §912.1 or §913.2 of the MPC, as the case may be. Conditions which may be imposed can include, but not be limited to, provisions for additional parking, traffic control, landscaping, setbacks, special measures addressing sales period activities, environmental controls and other measures which mitigate any potential adverse impact the use may have on adjoining uses.

#### 908.5 Limitation of Approval

Any conditional use approval granted by the Borough Council and any special exception approval granted by the Zoning Hearing Board shall expire five (5) years from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to submit another application for the same. The Borough Council or Zoning Hearing Board, as the case may be, may grant an extension of the time limitations for good cause.

**908.6 Information Required**

The applicant shall supply the information required by §902.3C of this Ordinance and evidence regarding compliance with the express standards and criteria contained herein; and, data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the public health, safety, and welfare; and, the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

**909 Reserved**

**910 Mediation**

Parties to proceedings authorized by this Ordinance and the MPC may use the Mediation Option as authorized by and in accord with §908.1 of said Code.

**911 Time Limits for Appeals**

The time limitations for appeals shall be as follows:

**911.1 Zoning Hearing Board -- County Court**

No person shall be allowed to file any appeal with the Zoning Hearing Board later than thirty (30) days after the officially issued decision of the Zoning Officer, or appeal to the County Court of Common Pleas later than thirty (30) days after the officially issued decision of the Borough Council or the Zoning Hearing Board, except as may be provided under §914.1 of the MPC.

**911.2 Temporary Permits**

This thirty (30) day time limit for appeal shall not apply to the revocation of a permit issued by the Zoning Officer under §902.5.

**911.3 Subdivision or Land Development Approval**

The failure of an aggrieved person, other than the landowner, to appeal an adverse decision directly related to a preliminary subdivision or land development plan shall preclude an appeal from a final plan approval, except in the case where the final submission substantially deviates from the approved preliminary plan.

**912 Appeals to Court and Other Administrative Proceedings**

Appeals to Court and other administrative proceedings shall be governed by Article X-A and Article IX of the PA Municipalities Planning Code, respectively.

**913 Public Utility Corporation Exemptions**

In accord with §619 of the MPC this ordinance shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

**914 Reserved**

**915 Amendments**

The Borough Council may amend this Ordinance by complying with the requirements set forth in Article VI of the

MPC. A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in §609.1 and §916.1 of the MPC.

## 916 Violations

### 916.1 Compliance

Failure to comply with any provision of this Ordinance; failure to secure or comply with a decision of the Borough Council or Zoning Hearing Board; or the failure to secure a permit, when required, prior to or (when ordered) after the erection, construction, extension, or addition to a building or prior to or after the use or change of use of land; or failure to secure a Certificate of Use, shall be violations of this Ordinance.

### 916.2 Complaints

Whenever a violation of this Ordinance occurs any person may file a complaint in regard thereto. All such complaints may be filed in writing with the Zoning Officer who shall record receipt of the said complaint and investigate and report thereon. In addition, any person may attend a public meeting of Borough Council and make a verbal complaint or submit the complaint in writing.

### 916.3 Enforcement Notice

When written notice of a violation of any of the provisions of this Ordinance is served by the Zoning Officer, personally or by certified mail, in the manner prescribed by §616.1 of the MPC and set forth in this §916.3, such violation shall be discontinued or corrected as set forth in said notice.

- A. Violation - If it appears to the Borough that a violation of this Ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in §916.3B.
- B. Notice Recipient(s) - The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested, in writing, by the owner of record.
- C. Notice Content - An enforcement notice shall state at least the following:
  1. The name of the owner of record and any other person against whom the Borough intends to take action.
  2. The location of the property in violation.
  3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
  4. The date before which the steps for compliance shall be commenced and the date before which the steps shall be completed.
  5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance.
  6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

- D. Appeal - In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough shall have the responsibility of presenting its evidence first.
- E. Filing Fee - Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Borough if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

## 917 Penalties and Remedies

### 917.1 Causes of Action

In case any building, structure, landscaping, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any provisions of this Ordinance the following actions may be taken:

#### A. Borough Action

1. The Borough Council or, with the approval of the Borough Council, an officer of the Borough, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping, or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.
2. The Borough Council or, with the approval of the Borough Council, an officer of the Borough, may bring an action for money damages and/or injunctive relief.

#### B. Aggrieved Owner or Tenant

1. Any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping, or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.
2. Such action under this Ordinance shall be limited to injunctive relief with any enforcement action reserved to the Borough pursuant to §917.2C.
3. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.

### 917.2 Enforcement Remedies

#### A. Penalties

1. Any person, partnership or corporation who or which has violated or permitted the violation of any of the provisions of this Zoning Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred (\$500) dollars (state law) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof.

2. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge.
  3. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure.
  4. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth (5<sup>th</sup>) day following the date of the determination of a violation by the Magisterial District Judge and thereafter each day that a violation continues shall constitute a separate violation.
- B. Order of Stay - The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Borough Exclusive Right of Enforcement - Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough, the right to commence any action for enforcement pursuant to this section.

#### **918 Liability**

Neither the approval nor the granting of any review, issuance of permit or approval related to construction, activity within the flood plain, site plan review, subdivision or land development approval, erosion control, storm water runoff, activity on steep slopes, or any other review or permit of this Ordinance, by an officer, employee, consultant or agency of the Borough, shall constitute a representation, guarantee or warranty of any kind by the Borough, or its employees, officials, 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 public body, official, consultant nor employee for any damage that may result pursuant thereto. If the Zoning Officer mistakenly issues a permit under this Ordinance, the Borough shall not be liable for any later lawful withdrawal of such permit for valid cause shown.

**ARTICLE X  
ADOPTION**

This Ordinance ordained and enacted this 18<sup>th</sup> Day of April 2019, by the Borough Council of the Borough of New Milford, Susquehanna County, Pennsylvania, to be effective immediately.

BOROUGH OF NEW MILFORD

By: \_\_\_\_\_  
Council President

ATTEST:

\_\_\_\_\_  
Borough Secretary

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2019

By: \_\_\_\_\_  
Mayor