# BOROUGH OF TUNKHANNOCK

WYOMING COUNTY, PENNSYLVANIA

# ZONING ORDINANCE

ADOPTED

SEPTEMBER 7, 2017

## HOW TO USE THIS ORDINANCE

All articles in the Zoning Ordinance are important. However, some are more important to the property owner, some are more important to the Zoning Officer; some are more important to the Zoning Hearing Board, and some are more important to the Planning Commission and Borough Council. Those most important to each user are discussed below.

### Property Owner

A property owner who wants to know what is required under the Zoning Ordinance should first refer to the Zoning Map in order to determine the district (or "zone") in which the property is located. (See Article 4.) Once that determination is made, the basic regulations for that district must be identified. (Article 5.) These district regulations tell the property owner the purpose served by the creation of the district, which purpose is related to the Community Development Objectives (Article 2); the uses allowed in the district; the dimensional requirements for lots, yard areas, and building height and coverage in the district; and supplementary regulations dealing with such concerns as parking, signs, and swimming pools, which apply to most, if not all, the zoning districts in the Borough.

#### Permitted Uses

The majority of property owners will want to know the principal uses permitted in the district and the dimensional regulations that apply. Article 5, District Regulations, will tell the owner nearly everything required. However, since the Supplementary Regulations apply to most, if not all, districts, parts of Article 7 may also apply. The property owner is then prepared to contact the Zoning Officer for an application for a Zoning Permit. When the complete application is submitted and the Zoning Officer confirms the proposed activity complies with the Zoning Ordinance, a permit will be issued. When the work is completed on the property, the Zoning Officer will inspect the work for compliance with Ordinance requirements before issuing a Certificate of Zoning Compliance.

#### Accessory Uses

Accessory Uses are subordinate to and located on the same lot as the primary use of a lot. Accessory Uses are administered the same as Principal Permitted Uses.

#### Special Exception Uses

In certain instances a property owner may find that the use proposed is listed as a "special exception use" in the district. This means that although the use is allowed in the district, its particular character requires special regulation. The special requirements for the use are described in Article 6, Special Exception Uses.

The Zoning Officer is not empowered to issue a permit for a "special exception use" until the proposed use is authorized by the Zoning Hearing Board. If the proposed use is listed as a "special exception use", the Zoning Officer will inform the property owner that an application to the Zoning Hearing Board to hear and decide the case is required.

The Zoning Hearing Board will hold a public hearing in order to make a decision as to whether the use proposed by the property owner meets the criteria for a "special exception use" and all other applicable requirements of the Zoning Ordinance. The Planning Commission is given the opportunity to review the application and provide comments to the Zoning Hearing Board. If the proposed use complies with the Zoning Ordinance standards, the Zoning Hearing Board must approve the application. The Board may also attach reasonable conditions of approval to protect the public health, safety and welfare. If the proposed use does not comply with the standards the Zoning Hearing Board must deny it. If the use is approved, the Zoning Officer will issue a permit; if disapproved, the applicant can appeal the case to the County Court. The decision of the Zoning Hearing Board will be given to the property owner in writing.

#### Conditional Uses

A Conditional Use is similar to a Special Exception Use in terms of applying the Zoning Ordinance Standards and attaching conditions. The Borough Council conducts the hearing and makes the decision. Appeals are also taken to the County Court.

### Zoning Officer

The responsibilities of the Zoning Officer are addressed in Article 8, Administration and Enforcement. As the one who enforces the Ordinance, the Zoning Officer, more than any other person or agency, should be thoroughly conversant

with all articles of the Zoning Ordinance so applicants are directed to appropriate actions (appeals to the Zoning Hearing Board, for example). Zoning Officer responsibilities include: providing applications, granting or denying permits for "permitted uses", citing violators, and issuing "certificates of nonconformance", posting properties for which hearings are scheduled, and keeping records of permits and all amendments to the Zoning Ordinance and Zoning Map.

**Zoning Hearing Board**

The Zoning Hearing Board should be especially knowledgeable with regard to Article 9, Zoning Hearing Board and Other Administrative Proceedings, and Article 6, Special Exception Uses.

The Zoning Hearing Board performs a "quasi-judicial" function; that is, it hears and makes judgments on zoning issues that come before it. The Board's hearing procedures are extremely important in making decisions, because procedures leading to a decision, as well as the substance of the decision itself, can be appealed to County Court. Therefore, the Zoning Hearing Board should always conduct its hearings with its own legal counsel and make a stenographic record of the proceedings.

The issues that come before the Zoning Hearing Board are quite varied, but the most common cases involve appeals from a Zoning Officer denial, and requests for special exception uses and variances. The Board should thoroughly familiarize itself with the very stringent conditions under which variances can be granted and with the requirements of each special exception use permitted by the Ordinance.

**Planning Commission and Borough Council**

The Planning Commission is given the opportunity to review applications for Special Exception Uses and Conditional Uses, and provide comments to the Zoning Hearing Board and Borough Council, respectively.

The Borough Council has no direct role in administering the Zoning Ordinance other than deciding applications for conditional uses. Hearings are conducted in a manner similar to Zoning hearing Board hearings.

The most important role of the Planning Commission and Borough Council is establishing and amending the policies and regulations contained in the Zoning Ordinance. The Planning Commission, at the direction of Council, prepares the Zoning Ordinance and recommends its adoption to Council. At Council's request it also prepares and reviews amendments for adoption by Council. Although the Planning Commission, and any landowner can request an amendment to the Zoning Ordinance text or map, only Borough Council can officially adopt the amendment after review by both the Borough Planning Commission and the County Planning Commission. (See Article 11, Amendments.)

# 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.

**PRINCIPAL PERMITTED and ACCESSORY USES**

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Zoning Officer issues or denies permit based on ordinance standards

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Appeal to Zoning Hearing Board

**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.

**CONDITIONAL USES**

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Planning Commission shall be given the opportunity to review the application

↓

Required public hearing by Borough Council (hearing must be held within 60 days of Applicant's request; subsequent hearings within 45 days of prior hearing; hearing shall be completed within 100 days of completion of Applicant's case in chief)

↓

Borough Council action to approve, approve with conditions*, or deny (45 days after last hearing)

↓

Notify applicant of decision and any conditions in writing* (delivered to applicant personally or mailed not later than the day following its date)

↓

Appeal to Court of Common Pleas

**SPECIAL EXCEPTIONS**

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Planning Commission may be given the opportunity to review the application per zoning ordinance

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Required public hearing by Zoning Hearing Board (hearing must be held within 60 days of Applicant's request; subsequent hearings within 45 days of prior hearing; hearing shall be completed within 100 days of completion of Applicant's case in chief)

↓

Zoning Hearing Board action to approve, approve with conditions*, or deny (written decision within 45 days of last hearing)

↓

Notify applicant of decision and any conditions in writing* (delivered to applicant personally or mailed not later than the day following its date)

↓

Appeal to Court of Common Pleas

*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.

**VARIANCES**

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Zoning Hearing Board may request Planning Commission to review the application

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Zoning Hearing Board reviews application for compliance with variance requirements

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Required public hearing by Zoning Hearing Board (hearing must be held within 60 days of Applicant's request; subsequent hearings within 45 days of prior hearing; hearing shall be completed within 100 days of completion of Applicant's case in chief)

↓

Zoning Hearing Board action to approve, approve with conditions*, or deny (written decision within 45 days of last hearing)

↓

Notify applicant of decision and any conditions in writing* (delivered to applicant personally or mailed not later than the day following its date)

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Appeal to Court of Common Pleas

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ORDINANCE NO. 2017-01
THE TUNKHANNOCK BOROUGH ZONING ORDINANCE

## ORDAINING CLAUSE

BE IT HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Tunkhannock, County of Wyoming, by authority of and pursuant to the provisions of the "Pennsylvania Municipalities Planning Code", (Act 247 of 1968) and any amendments and supplements thereto, as follows:

## ARTICLE 1
## GENERAL PROVISIONS

### 101 Title

An Ordinance 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 areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures; the density of population and intensity of use; the protection and preservation of natural resources and agricultural land and activities; and providing for the administration of such Ordinance.

### 102 Short Title

This Ordinance shall be known and may be cited as the "Tunkhannock Borough Zoning Ordinance".

### 103 Purpose

This Ordinance is enacted for the following purposes:

1. To promote, protect and facilitate one or more of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development, proper density of population; emergency management preparedness and operations, airports, and national defense facilities, the provision of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements, as well as the preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains;

2. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers;

3. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use;

4. 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 multiple-family dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that the zoning ordinance shall not be deemed invalid for the failure to provide for any of other specific dwelling types and nonresidential uses; and

5. 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 Interpretation and Conflict

1. Interpretation: In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare of the residents of the Borough.

2. Conflict with Public and Private Provisions

   a. Public Provisions: 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 pro visions of this Ordinance. Where this Ordinance imposes a greater restriction up on 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. Private Provisions: 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. 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 and such private provisions are not inconsistent with the requirements of this Ordinance, then such private provisions shall be operative and supplemental to these requirements.

105 Validity

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in the Zoning Ordinance is, for any reason , declared to be illegal, unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect or impair the validity of the Zoning Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction , sentence, clause, phrase, word or remaining portion of the Zoning Ordinance.

The Borough Council of Tunkhannock Borough, Wyoming County, Pennsylvania, hereby declares that it would have adopted the Zoning Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more of the sections, subsections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases, or words may be declared illegal, unconstitutional or invalid.

106 Repealer

Any resolution, ordinance, or part of any resolution or ordinance inconsistent herewith and any amendments thereof are hereby expressly repealed.

107 Adoption and Effective Date

This Ordinance Ordained and Enacted this 7th Day of September 2017, by the Borough Council of the Borough of Tunkhannock, Wyoming County, Pennsylvania, to be effective immediately.

Robert K. Robertson
President of Council

Norman R. Ball
Mayor

ATTEST:

September 7, 2017

I, Dawn Welch, do hereby certify that the foregoing is a true copy of an Ordinance adopted by the Borough Council of Tunkhannock Borough, Wyoming County, Pennsylvania, September 7, 2017.

Dawn Welch
Borough Secretary

# ARTICLE 2
# COMMUNITY DEVELOPMENT OBJECTIVES

## 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, but are not limited to, the following:

1. 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.

2. 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.

3. To maintain and improve public improvements, such as streets, street lighting, curbs, and sidewalks to safely and efficiently carry vehicular and pedestrian traffic.

4. To maintain public utilities of excellent quality for all residents of the Borough.

5. To strive to provide adequate emergency services, such as fire, police, and ambulance, with ready access to main arteries without disturbing residential areas.

6. 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.

7. 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.

    a. Maintain the high quality of residential neighborhoods.

    b. Encourage the improvement of substandard dwellings.

    c. Promote single-family houses as the norm for the Borough

    d. Discourage conversions from single-family to multi-family dwellings and encourage conversions from multi-family back to single-family.

    e. Provide opportunity for the Borough's *fair share* of multi-family dwelling development.

    f. Encourage the development of housing for the elderly and handicapped.

8. To expand local business and strengthen the economy by encouraging well-planned 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.

    a. Retain the downtown commercial area along Routes 6 and 29.

b. Improve and further develop the downtown area for commercial purposes.

c. Work toward the improvement of the downtown area with the aim to place all utility lines underground, upgrade curbs and sidewalks, and to provide adequate off-street parking areas.

d. Encourage the revitalization of downtown buildings and businesses to enhance the area as a place to do business and shop.

e. Limit commercial development beyond the downtown area to one highway commercial area.

f. Direct industrial development to appropriate areas of the Borough and region where infrastructure is adequate.

g. Limit commercial and industrial intrusions into adjacent areas and use performance standards to minimize negative effects.

9. To ensure adequate parking, both on-street and off-street, in all parts of the Borough, in residential areas as well as in downtown.

10. To encourage the identification, labeling, registration and preservation of historical structures and sites.

11. To promote the planting of trees and shrubbery and the removal and replacement of old and diseased trees.

12. To strive for coordination between policies, plans, and programs in the community through cooperation among governing officials, community interest groups, and the general populace.

13. To update and revise planning goals and objectives, and the operational tools necessary for implementation, in light of new data and changing conditions.

## 202 Comprehensive Plan Goals and Objectives

In addition to the General Community Development Objectives set forth in §201, this Zoning Ordinance is intended to implement the goals and objectives contained in the Borough Comprehensive Plan.

# ARTICLE 3
# DEFINITIONS

## 301 Application and Interpretation

For the purpose of this Ordinance, the following words, terms and phrases have the meaning herein indicated. 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, 4th edition, 2015, ISBN: 978-1-4128-5504) or if not defined therein, they shall have their ordinarily accepted meanings or such as the context may imply.

Unless otherwise expressly stated, the following shall, for the purposes of this Ordinance, have the meaning herein indicated:

1. Words used in the present tense include the future tense.

2. The word "person" includes a profit or non-profit corporation, company, partnership, or individual.

3. The words "used" or "occupied" as applied to any land or building include the words "intended", "arranged", or "designed" to be used or occupied.

4. The word "building" includes "structure".

5. The word "lot" includes "plot" or "parcel".

6. The word "shall" is always mandatory.

## 302 Definition of Terms

For the purposes of this Ordinance the following words, terms, and phrases have the meaning herein indicated.

Abandon: To desert, surrender, forsake, or cede. To relinquish or give up with intent of never again resuming one's right or interest. To give up or cease to use. To give up absolutely; to forsake entirely; to renounce utterly; to relinquish all connection with or concern in; to desert. It includes the intention, and also the external act by which it is carried into effect.

Abandoned or Junked Vehicle: Any unregistered, unlicensed or abandoned automobile, truck, trailer, motorcycle, bus, farm machinery, or other motor vehicle which are 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.); said classification consisting of any self-propelled vehicle, but not a reproduction thereof, owned and operated as an exhibition piece or collector's item, provided that such vehicle shall have noted on its registration record the fact that it is such a special-purpose vehicle, or any self-propelled vehicle manufactured more than 25 years prior to the current year, which is used for participation in club activities, exhibits, tours, parades, occasional transportation and similar uses, but is not used for general daily transportation.

Abused Person Shelter: A non-profit residential use in which rooms are provided to serve as a temporary safe and supportive environment for persons who, because of actual or threatened physical or mental abuse, are forced to leave their previous living arrangement. Such facilities shall be designed to provide in-house living for persons only until a safe, permanent living arrangement can be obtained.

Abutting: Having a common border with or being separated from such common border by an alley or easement.

Access: A means of vehicular approach or entry to or exit from property.

Accessory Structure or Use: A structure or use customarily incidental and subordinate to the principal structure or use and located on the same lot with such principal structure or use

Adult-Oriented Establishment: The term includes, without limitation, the following establishments when operated for profit, whether direct or indirect:

1. Adult bookstores.

2. Adult motion picture theaters.

3. Adult mini-motion picture theaters.

4. Any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures or where an entertainer provides adult entertainment to a member of the public, a patron or a member.

5. An adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

Additional definitions associated with adult-oriented establishments include the following:

1. Adult Bookstore: An establishment having a substantial or significant portion of its stock and trade in, or an establishment which as one of its principal business purposes, offers for sale, books, films, video cassettes or magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas and, in conjunction therewith, has facilities for the presentation of adult entertainment for observation by patrons.

2. Adult Entertainment:

    a. An exhibition of any adult-oriented motion pictures, meaning those distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

    b. A live performance, display or dance of any type which has as a significant or substantial portion of the performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomiming, modeling or any other personal services offered customers.

3. Adult Mini-Motion Picture Theater: An enclosed building with a capacity of less than 50 persons which has a principal business purpose of exhibiting, presenting or selling material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

4. Adult Motion Picture Theater: An enclosed building with a capacity of 50 or more persons which has a principal business purpose of exhibiting, presenting or selling material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

5. Booths, Cubicles, Rooms, Studios, Compartments Or Stalls: Does not mean enclosures which are private offices used by the owner, manager or persons employed on the premises for attending to the tasks of their employment, and which are not held out to the public for the purpose of viewing motion pictures or other entertainment for a fee, and which are not open to any persons other than employees.

6. Employee: Any and all persons, including independent contractors, who work in or at or render any service directly related to the operation of an adult-oriented establishment.

7. Entertainer: A person who provides entertainment within an adult-oriented establishment, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

8. Inspector: An employee of a municipality's public health department authorized and designated by the director of the department, an employee of a municipality's department of inspections and permits authorized and designated by the director of the department, an employee of a municipality's police department authorized by the commanding officer of the police department or other persons designated by the governing body of a municipality to inspect premises regulated under this Ordinance to cooperate in taking the required actions authorized by this Ordinance where violations are found on a premises and to request correction of unsatisfactory conditions found on a premise.

9. Minor: A person under 18 years of age.

10. Operator: A person, partnership or corporation operating, conducting or maintaining an adult-oriented establishment.

11. Sexual Activities: The term does not include any of the following:

    a. Medical publications or films or bona fide educational publications or films.

    b. Any art or photography publications which devote at least 25% of the lineage of each issue to articles and advertisements dealing with subjects of art or photography.

    c. Any news periodical which reports or describes current events and which from time to time publishes photographs of nude or seminude persons in connection with the dissemination of the news.

    d. Any publications or films which describe and report different cultures and which from time to time publish or show photographs or depictions of nude or seminude persons when describing cultures in which nudity or semi-nudity is indigenous to the populations.

12. Specified Anatomical Areas:

    a. Less than completely and opaquely covered human genitals or pubic region, buttocks 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 opaquely covered.

13. Specified Sexual Activities: The term includes any of the following:

    a. Human genitals in a state of sexual stimulation or arousal.

    b. Acts of human masturbation, sexual intercourse or sodomy.

    c. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

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 sawmills, tanneries, dairies and food canning and freezing operations. Considered *industry* for regulation by this Ordinance.

Agriculture Related Entertainment: An activity which is conducted for a limited seasonal period, accessory to and directly related to a principal agricultural use, and which may include activities such as hay rides, haunted houses, field mazes, antique auto and equipment displays, non-mechanical rides (carnival type), petting zoos, food vendors, and craft displays.

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

Alteration: As applied to a building or structure, means 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.

Alteration, Structural: Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

Amendment: A change in the regulations or district boundaries or classifications of property established by this Ordinance and according to procedures provided by law and exercised by the Borough Council.

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 (5) such devices 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 Hospital: A building used for the treatment, housing, or boarding incidental to the hospital use of small domestic animals such as dogs, cats, rabbits, and birds or fowl by a veterinarian and no outdoor kennels or pens are on the premises.

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.

Appeal: A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this Ordinance as expressly authorized by the provisions of Article 10.

Archery Range, Indoor: Any fully enclosed building used for shooting of arrows or crossbow bolts for recreational or training purposes. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week. Considered a *recreational facility, commercial* for the purposes of this Ordinance.

Archery Range, Outdoor Commercial: Any area not within a fully enclosed building used for the shooting of arrows or crossbow bolts for recreational or training purposes, including but not limited to, target shooting ranges, and target shooting courses. Any such commercial operation, any such area operated by any private non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week.

Area, Building: (See Building Area.)

Area, Lot: (See Lot Area.)

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.

Attic: That part of a building which is immediately below, and wholly or partly within, the roof framing.

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.

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: A story partly underground but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes, other than a game or recreation room.

Bed and Breakfast: See *tourist home.*

Board or Zoning Hearing Board: The Zoning Hearing Board of the Borough of Tunkhannock.

Boarding House: (See Rooming or Boarding House.)

Borough: Refers to the Borough of Tunkhannock, Wyoming County, Pennsylvania.

Borough Facilities and Uses: Any building, structure, service or use under the jurisdiction of Tunkhannock Borough, Wyoming 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 *industry* for the purposes of this Ordinance. (See also *micro-brewery*.)

Buffer: A strip of land that: separates one use from another use or feature, and is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways. It is used to provide separation between incompatible uses to effect a visual barrier, reduce noise, block physical passage between uses, and reduce noise, dust and litter. The separation may be effected by fencing, dense vegetative planting, the provision of additional setback distances, berms or a combination thereof; and, in general, widths of buffers are increased as the density or opaqueness of the barrier decreases. A buffer yard may be a part of the minimum setback distance but land within an existing street right-of-way shall not be used to meet a buffer yard requirement.

Building: Any structure having a roof supported by walls and intended for shelter, housing, or enclosure of persons, animals, or property.

Building, Accessory: (See Accessory Structure or Use.)

Building Area: The total area taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps.

Building Height: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

Building Line: A line formed by the intersection of a horizontal plane at the average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered or projected section of a building, the vertical plane will coincide with the most projected surface unless otherwise excepted. All yard requirements are measured to the building line.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Bulk Fuel Storage Facility: Any facility where fuel, including, but not limited, to gasoline, 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.

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.

Car/Truck Wash: Any building or premises or portions thereof used for washing automobiles or trucks for commercial purposes.

Carport: An open space for the storage of one or more vehicles in the same manner as a private garage which may be covered by a roof supported by columns or posts except that one or more walls may be the walls of the main building to which the carport is an accessory building or extension.

Cellar: A story partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

Cemetery: A place for the interment of deceased pets or human beings, by cremation or 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 Zoning Compliance: The certificate (sometimes called "occupancy permit") issued by the Zoning Officer after he/she has inspected any structure, building, sign and/or land or portion thereof for which a zoning permit was issued in order to determine compliance with the terms of the permit and the zoning ordinance before the structure, building, sign, and/or land or portion thereof can be lawfully used and/or occupied.

Church or Other 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 housing for active clergy, meeting and activity rooms, and recreation facilities.

Clear Sight Triangle: An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the "corner" so as not to interfere with traffic visibility across the corner.

Club/Lodge, Private: An area of land or building used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that are limited to bona fide members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business. The club shall involve a meaningful and substantial membership system, as opposed to a token system. This use shall not include a target range for outdoor shooting, boarding house, a tavern, a restaurant or an auditorium unless that particular use is permitted in that District and the requirements of that use are met.

Cluster Housing Developments: A group of single, double, or multiple-unit dwellings, in any combination, occupying smaller lot areas in order to increase the amount of open space held in common.

Commercial: Any use of land involving an occupation, employment, or enterprise that is carried on for profit by the owner, lessee or licensee, excluding home occupations and home-based-businesses.

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.

1. Industrial, scientific and medical equipment as regulated by the Federal Communications Commission in 47 CFR 18.

2. Military and government radar antennas and associated communication towers used for navigational purposes as regulated by 47 CFR 87.

3. Amateur (ham) and citizen band transmitting and receiving antennas and associated communication towers as regulated by 47 CFR 97 and 47 CFR 95.

4. Radio transceivers normally hand-held or installed in a vehicle, such as an automobile, truck, trailer or water craft.

5. 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.

6. Privately owned antennas for receiving commercial television or radio serving a dwelling.

7. 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.

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

Comprehensive Plan: A Comprehensive Plan (overall program) consisting of maps, charts, and textual matter, and indicating the recommendations of the Planning Commission for the continuing development of the Borough. The Comprehensive Plan includes, but is not limited to, the following basic elements: a statement of objectives; a plan for land use; a plan for the movement of people and goods; a plan for community facilities and utilities; and a map or statement indicating the relationship of the municipality and its proposed development to adjacent municipalities and areas.

Concrete Batch Plant: A facility in which materials (cement, aggregates, water, admixtures) are combined by a central mixer to produce concrete for transportation to and use at another site, and shall include customary accessory uses, including offices, maintenance and storage garages, material storage facilities, equipment and truck storage areas, scales, conveyors, water storage and heating facilities, stormwater management, sediment basins, concrete recycling/reclamation equipment and other uses customarily necessary to produce, sell and transport mixed concrete. Considered *industry* for regulation by this Ordinance.

Conditional Use: Any uses in certain zones or districts where the conditions described for permitting each type of use have been enumerated in the Zoning Ordinance and where permission for such use can only be given by the Borough Council after review and recommendation by the Borough Planning Commission and a public hearing after proper legal notice.

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 one-story, retail store containing less than 5,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a *supermarket*). It may also include the sale of gasoline but shall not include the repair or service of vehicles.

Council: The Tunkhannock Borough Council.

County Planning Commission: The Planning Commission of Wyoming County.

Country Club: A recreational property owned and managed by a non-profit membership organization or commercial business and including recreational facilities, restaurant and meeting rooms. Property owner associations and/or the property they maintain shall not be considered, however, as country clubs, nor shall other residential or commercial properties operated for profit.

Coverage: That portion or percentage of the plot or lot area covered by the building area of all buildings.

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, trees 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.

Day Care, Adult: A use providing supervised care and assistance to persons not in good physical health, or who are suffering from dementia or are developmentally handicapped and/or are physically handicapped and who need such daily assistance because of such condition. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.

Day Care, Child: A use involving the supervised care of children under age 16 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs

that are supplementary to State-required education, including a nursery school. The following three types of day care are permitted without regulation by Ordinance: 1) care of children by their own relatives, 2) care of children within a place or worship during regularly scheduled weekly religious services and 3) care of 1 to 3 children within any dwelling unit, in addition to children who are relatives of care giver. (See also the definition of *day care, adult*.)

1. (Child) Day Care, as an Accessory Use - A type of *day care* use that provides care for six (6) or fewer children at one time who are not relatives of the care giver.

2. (Child) Day Care Center, as a Principal Use - A type of *day care* use that provides care for seven (7) or more children at any one time who are not relatives of the primary operator.

Decision: Final adjudication of any board or other body granted jurisdiction under any land use 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 the Court of Common Pleas of Wyoming County.

Deck: An uncovered platform in excess of four (4) feet by (5) feet or twenty (20) square feet in area at a front, side, or rear door.

Density: A measure of the number of dwelling units which occupy, or may occupy, an area of land.

Density, Gross: The maximum density that shall be permitted in any zoning district. It is calculated by dividing the total number of dwelling units by the total site area. This density is illustrative only; net density is controlling.

Density, Net: The maximum density permitted on the buildable portion of the site. Net density is calculated by dividing the total number of dwelling units by the Net Buildable Site Area. This density controls actual site capacity. (See Net Buildable Site Area.)

Detention Facility: A 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 and reformatories.

Determination: Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

1. the governing body;

2. the zoning hearing board; or

3. the planning agency, only if and to the extent the planning agency is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

Developer: Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development. (See also Subdivider and Land Development.)

Development: (See Land Development.)

District or Zone: A portion of the area of Tunkhannock Borough, as shown on the Zoning Map, containing a uniform class of uses of structures or land, and to which regulations described in the Zoning Ordinance text apply.

Dwelling: A building designed with one or more dwelling units with each unit occupied by one family, but not including a tourist home, motel, or hotel.

Dwelling Types

1. Dwelling, Single-Family: A dwelling unit accommodating one family and having two (2) side yards. This definition includes mobile homes on a permanent foundation. (See also Mobile Home.)

2. Dwelling, Mobile Home (See Mobile Home.)

3. Dwelling, Two-Family (Duplexes and Flats): Two dwelling units accommodating one (1) family in each unit which are attached side-by-side through the use of a party wall and having one (1) side yard adjacent to each dwelling unit (duplex), or which are attached one (1) over the other and having two (2) side yards for the lower dwelling (flat).

4. Dwelling, Multiple-Family

    a. Apartment House: Three or more dwelling units accommodating one family in each unit which are located one over the other and which, when more than three units are utilized, are attached side-by-side through the use of common party walls, and which have side yards adjacent to each first-story end unit. Each dwelling unit is accessible by a common stairwell.

    b. Townhouse (Row House): Three or more dwelling units accommodating one family in each unit which are attached side-by-side through the use of common party walls and which have side yards adjacent to each end unit. Each dwelling unit is two (2) to two and one-half (2 1/2) stories in height. Each dwelling unit is accessible by it's own separate entrance.

Dwelling, Residential Conversion Unit: See *Residential Conversion Unit*.

Dwelling Unit (Housing Unit): Rooms in a dwelling structure, including a kitchen, sleeping facilities, and a separate bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one (1) family, but not including a *short-term rental unit* as defined in this Article 3.

Earth Disturbance Activity: Any construction or other activity which disturbs the surface of the land including but not limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

Easement: A limited right of use granted in private land for public or semi-public purposes.

Emergency Services Station: A building for the housing of fire, emergency medical or police personnel and equipment and for related activities and which may, as an accessory use, include housing for emergency personnel while on-call and social halls. Considered a *semi-public building or use* for regulation by this Ordinance.

Essential Services for Public Utilities: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, communication, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

Excavation: Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface. It shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point of higher elevation of the final grade. The material used to make fill.

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. Considered a *service establishment* for regulation by this Ordinance.

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.

1. The term includes safety fuse, squibs, detonating cord and igniters.

2. The term does not include the following:

    a. 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).

    b. 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 non-profit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

1. 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;

2. Three (3) unrelated people;

3. Two (2) unrelated people and any children related to either of them;

4. Not more than the number of residents of a *group home* meeting the requirements of §603.4.

5. Not more than eight (8) people who are granted a special exception as a single nonprofit housekeeping unit (a *functional family*) pursuant to §603.11.

The definition of a *family* does not include:
1. Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;
2. Any group of individuals whose association is temporary or seasonal in nature; and
3. Any group of individuals who are in a group living arrangement as a result of criminal offenses.

Farmer's Market: The seasonal selling or offering for sale at retail of vegetables or produce, flowers, orchard products and similar non-animal agricultural products and home-made, handcrafted items, conducted at in a pre-designated area, where the vendors are individuals who have raised the vegetables or produce or made the handcrafted items, or have taken the same on consignment for retail sale.

Fence: A man-made barrier placed or arranged as a line of demarcation, an enclosure or a visual barrier and which is constructed of wood, chain-link, metal, fiberglass, vinyl or aluminum and/or plastic inserts. Man-made barriers constructed principally of masonry, concrete, cinder block or similar mostly solid materials shall be considered a wall. 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.

Firewood Cutting and Sales: The importing of trees or firewood from any property to any another property for cutting or sale for use as firewood. This may include the storage of the cut trees and firewood, and customers on the site to purchase firewood, but no other retail sales. This shall not include the cutting by a property owner of trees growing on his property for sale as firewood. Considered *industry* for regulation by this Ordinance.

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 a 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. Considered a "retail business" 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 Plain: A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river, or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

Floor Area: For the purpose of applying the requirements for off- street parking and loading, "floor area", in the case of offices, merchandising and service types of uses, shall mean the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons, clients, or patients as measured by the outside dimensions of the building or portion thereof.

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.

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:

1. Embalming and the performance of other services used in preparation of the dead for burial.
2. The performance of autopsies and other surgical procedures.
3. The storage of caskets, funeral urns, and other related funeral supplies.
4. The storage of funeral vehicles.

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.

Garages, Private: Any accessory building or part of a principal building used for the storage of motor vehicles owned or used by the owner or tenant of the premises and having no public shop or service in connection therewith.

Garden Center, Retail: A retail establishment engaged in the sale of ornamental trees, shrubs and plants and supplies for gardening and landscaping. Considered a *retail business* for the purposes of this Ordinance.

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. Considered a *recreational facility, commercial* for the purposes of this Ordinance.

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 *recreational facility, commercial* for the purposes of 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 *recreational facility, commercial* for the purposes of 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.

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

1. Involves the care of the maximum number of persons permitted by the *group home* standards of §603.4, and meets all other standards of such section.

2. Involves persons functioning as a common household.

3. 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.

4. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

5. Excludes transitional living facilities as defined in this Article 3.

*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.

Halfway House: See *transitional living facility*.

Health Facility: An establishment primarily engaged in providing services for human health maintenance including medical clinics, hospital facilities, nursing homes and adult care facilities, and personal care homes or centers, whether publicly or privately operated.

Hearing: An administrative proceeding conducted by a board pursuant to Section 902.

Heliport: An area used for the take-off and landing of helicopters, together with any related support facilities such as for maintenance, refueling and storage, including any such area accessory to a principal use. This Ordinance is not intended to regulate the non-routine emergency landing and take-off of aircraft to pick-up seriously injured or ill persons.

1. Public Heliport - A heliport that does not meet the definition of a *private heliport*. Public heliports shall be considered *airports* for regulation by this Ordinance.

2. Private Heliport - A heliport limited to a maximum total of 15 flights or take-offs in any 7-day period (in addition to flights necessary for emergency medical purposes) and that is not available for use by the general public. This is also know as a helistop.

Home Gardening: The cultivation of herbs, fruits, flowers, or vegetables on a piece of ground adjoining the dwelling, excluding the keeping of livestock.

Home Nurseries and Greenhouses: The cultivating of plants either outdoors or in glass-enclosed structures on the same lot as a dwelling and not for sale commercially.

Home Occupation: A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building, or a structure accessory thereto, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building.

Home Occupation, No Impact: See§701.4.

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

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

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities. Considered a *health facility* for the purposes of this Ordinance.

Hotel: (See *motel or hotel*.)

Impervious Surface: Those surfaces which do not absorb water are impervious. They consist of all buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt.

Industrial: See *industry*.

Industrial Wastewater Treatment Facility: A facility not located on the same lot where the wastewater is generated which is used for treating and removing any harmful chemicals, compounds (including the flow back water and solutions used in the process of hydraulic fracturing for natural gas) nutrients, organics, solids, radionuclides or other materials prior to being transported off-site for reuse or discharged into a stream or into the soil. Such a facility typically includes a multi-bay truck loading/unloading station, skim ponds for oil/water separation, water clarifiers, sludge dewatering facilities, reverse osmosis units, evaporators, chemical feed equipment, pumps and other appurtenances.

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-incidental storage of hazardous materials or the generation of hazardous waste products, or other environmentally hazardous processes.

Junk: Junk shall include all scrap metals and alloys and bones, rags, cloth, rubber, rope, tinfoil, bottles, machinery, tools, appliances, fixtures, utensils, lumber, boxes, crates, pipe or pipe fittings, vehicles tires and all other

manufactured goods that are so worn, deteriorated, or obsolete as to make them unusable in their existing condition, and therefore subject to being dismantled. This definition is to be constructed as including two (2) or more abandoned or unlicensed vehicles.

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 outside storage or deposit on a lot of two (2) or more abandoned or junked vehicles shall also be considered a junk yards.

Kennel or Pound: Any establishment housing dogs, cats, or other household pets and where breeding, boarding, training, or selling of animals is conducted as a business. This definition shall also include any animal hospital with outdoor animal runs, but shall not include a business involving only the grooming of animals or a retail pet shop.

Land Development: Any of the following activities:

1. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

    a. 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

    b. 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.

2. A subdivision of land.

3. Development excluding the following:

    a. 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;

    b. the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; or

    c. the addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subclause, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides.

    This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

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.

Land Use Ordinance: Any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI and VII of the Pennsylvania Municipalities Planning Code (Act 247 of 1968) as amended.

Laundromat: An establishment providing washing, drying, or dry cleaning machines on the premises for rental use to the general public.

Livestock: Farm animals such as cattle, horses, sheep, hogs, or goats.

Loading Space or Loading Area: A space, accessible from a street or way, in a building or on a lot, for the temporary

use of vehicles, while loading or unloading people, merchandise or materials. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lodge: The meeting hall of a social or fraternal organization.

Lot: Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area and width required by this Ordinance for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a zoning permit for a building on such land.

Lot Area: The total horizontal area of the lot lying within the lot lines, provided that no area of land lying within any street line shall be deemed a portion of any lot area. The area of any lot abutting a street shall be measured to the street right-of-way line only. The area of any lot shall include the area of any easement.

Lot, Corner: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.

Lot, Depth: The mean horizontal distance between the front and rear lot line. Measurement shall be from the street or highway right-of-way line to the opposite rear line.

Lot, Frontage: That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Lot, Interior: A lot other than a corner or through lot.

Lot Line: Any boundary line of a lot.

Lot Line, Front: The lot line along the lot frontage.

Lot of Record: Any lot which individually, or as part of a subdivision, has been recorded in the Office of the County Recorder of Deeds.

Lot, Through: An interior lot having frontage on two parallel or approximately parallel streets or roads.

Lot Width: The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

Manufacturing: Facilities involving generally unobtrusive processes not resulting in the storage of hazardous materials or the generation of hazardous waste products that require special permits or special handling, or other environmentally regulated processes. Uses producing products predominately from previously prepared materials, finished products and parts, including, but not limited to, research, engineering or testing laboratories, assembly from components, fabrication of products, textile and clothing manufacturing, printing, binding and publishing plants, furniture or other wood products production and the like, but excluding basic industrial processing.

Massage: The performance of manipulative exercises using the hands and/or a mechanical or bathing device on a person(s)'s skin other than the face or neck by another person(s) for a certain monetary compensation, and which does not involve persons who are related to each other by blood, adoption, marriage or official guardianship.

Massage Facility, Therapeutic: A *service establishment* that meets all of the following criteria:

1. Massages are conducted (see definition); and,

2. The person conducting the massage is licensed by the state as a health care professional or a therapeutic massage therapist, or is certified by a recognized therapeutic massage organization that requires substantial

professional training.

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.

Medical Clinic: An establishment where patients are seen for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not kept overnight.

Medical Marijuana Dispensary: A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the Commonwealth to dispense medical marijuana. Considered a *retail business* for regulation by this Ordinance.

Medical Marijuana Grower/Processor: A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the Commonwealth to grow and process medical marijuana. Considered a *manufacturing* for regulation by this Ordinance.

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 with or without charge.

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 Depot: Any site, facility or operation with the primary use being the transfer of minerals from a railroad car or vehicle to another railroad car or vehicle for distribution, and/or the primary use being storage of minerals for distribution. This shall not include a *bulk fuel storage facility* or the storage or transfer of minerals incidental to another approved use.

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

1. The extraction of minerals by a landowner for the landowner's noncommercial use from land owned or leased by the landowner.

2. 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.

3. The handling, processing or storage of slag on the premises of a manufacturer as a part of the manufacturing process.

4. 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:

    a. Extraction, handling, processing or storing are conducted concurrently with construction.

    b. The area mined is limited to the area necessary to construction.

    c. 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. *Mineral processing* is considered *industry* for the purposes of regulation by this Ordinance. This shall not include activities typically part of a *pipeline compressor station, metering station or operation/maintenance facility*.

Minor: Under legal age; not yet a legal adult.

Mobile Food Service Operation: The preparation/cooking, serving and/or sale of food conducted from a portable stand, vehicle or trailer. Examples are food trucks and hotdog stands/carts.

Mobile Home: A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more 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.

Mobile Home Lot: A parcel of land in a mobile home park, 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.

Mobile Sales Operation: Sales from a portable stand, vehicle or trailer. Examples are flower and produce stands/carts.

Model Home or Apartment: A dwelling unit used initially for display purposes which typifies the type of unit that will be constructed in a subdivision or in a multiple-family dwelling structure.

Motel or Hotel: A building or group of buildings used, or intended to be used, for the lodging of more than ten (10) persons for compensation.

MPC or PA MPC: The Pennsylvania Municipalities Planning Code, as amended.

Municipality: Tunkhannock Borough, Wyoming County, Pennsylvania.

Natural Gas Processing Plant: See *pipeline compressor station, metering station or operation/maintenance facilities*.

Net Buildable Site Area: The area of a site remaining after area used for streets, easements, flood plains, swamps, steep slopes, recreation land or required open space are deducted from the total area.

Nightclub: An establishment that stays open late at night and provides food, drink, and entertainment.

Nonconformities: See Article 12.

Non-Conforming Lot: A lot the area or dimension of which was lawful prior to the adoption or amendment of the zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

Non-Conforming Structure: A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such non-conforming structures include, but are not limited to, non-conforming signs.

Non-Conforming Use: A use, whether of land or of structure, which does not comply with the applicable use provision in the zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior

to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

Non-Profit: Something owned, operated, and supported by private individuals or a corporation, without seeking profit, for the use or benefit of the general public or for some part of the general public.

Nursery (Plants): An enterprise which conducts the retail sale and wholesale of plants grown on the site, as well as accessory items such as clay pots, potting soil, fertilizers, etc., directly related to their care and maintenance.

Nursing or Convalescent Home: Any commercial premises providing sleeping rooms where patients are lodged and furnished with meals and long-term care.

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.

Oil or Gas Well: A type of 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. Considered *mineral extraction* for regulation by this Ordinance.

Outdoor Advertising Sign: An advertisement used outdoors, including painted walls or rock faces, of a product or service unrelated to the use of the land or structure on which it is located, but not including official notices or directional road signs of a governmental body.

PA MPC or MPC: The Pennsylvania Municipalities Planning Code, as amended.

Parcel: (See Lot.)

Parking, Off-Street: A reasonably level space, available for parking one (1) motor vehicle, and having dimensions of ten (10) feet in width and twenty (20 ) feet in depth, or two hundred (200) square feet, exclusive of passageways, driveways, or other means of circulation or access.

Patios: A courtyard with or without railings and without a roof, adjacent to or near a dwelling but not a part of the dwelling structure, and intended to be used as an area for seating, dining, or recreation outdoors.

Pavilion: A tent or tent-like covering or an open-sided structure with a roof, located in a yard, but not attached to a dwelling, and intended to be used as an area for seating, dining, or recreation outdoors.

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

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, dehydrate, 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 also includes utility transfer stations which are owned, operated and maintained by the local natural gas utility and mark the point at which it assumes official control of the gas. 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.

Planning Commission: The Planning Commission of Tunkhannock Borough, Wyoming County, Pennsylvania.

Porch: A platform in excess of four (4) feet by five (5) feet or twenty (20) square feet with or without railings, but with a roof, projecting out from the main wall of the dwelling and intended to be used as an entrance to the dwelling or as an area for seating, dining, or recreation outdoors.

Poultry: Domestic fowls, such as chickens, turkeys, ducks or geese.

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.

Principal Building: (See Building, Principal.)

Principal Use: (See Use, Principal.)

Private: Something owned, operated, and supported by private individuals or a corporation, rather than by government, and not available for public use.

Public: Something owned, operated, and supported by a governmental entity for the use or benefit of the general public.

Public Buildings 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, health facilities and other uses listed in the District Regulations in Article 5.

Public Hearing: A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance.

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

Public Notice: Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality. 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 thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Public Utilities: (See Essential Services for Public Utilities.)

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 pleasure, testing or competition; or any course where animals are raced for competition.

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.

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; corrugated paper; and electronics such as TVs, telephones, computers, faxes and printers. Recyclables shall not include, except as specifically authorized by the Borough in accord with this

Ordinance, 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 recyclable materials. Considered *industry* for regulation by this ordinance. A recycling facility does not include 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 as defined or authorized under this Ordinance shall be considered a junkyard or solid waste facility as regulated by this Ordinance.

Residential Conversion Unit: The conversion or alteration of an interior space of an existing building without extending its sides or increasing its height in order to create a new residential dwelling unit.

Restaurant, Drive-In: An establishment that sells ready-to-consume food or drink where at least a portion of patrons are served while the patrons remain in their motor vehicles.

Restaurant, Standard: An establishment that sells ready-to-consume food or drink and that routinely involves the consumption of at least a portion of such food on the premises. A standard restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary or substantial portion of the total trade, the requirements of a *tavern* must be met.

Retail Business: An establishment in a fully enclosed building 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 twenty-thousand (20,000) gallons. Any such establishment where the storage of fuel on the site exceeds a combined total of twenty-thousand (20,000) gallons shall be considered a *bulk fuel storage facility*.

Rooming or Boarding House: Any dwelling in which more than three (3) persons, either individually or as families, are housed or lodged for hire with or without meals in the home of the resident owner. A rooming house or a furnished-room house shall be deemed a boarding house.

Sanitary Sewage Disposal System, Community: A sanitary sewage collection system in which sewage is carried from individual lots by a system of pipes to a central treatment and disposal plant, the total system being publicly or privately owned.

Sanitary Sewage Disposal System, On-Lot: A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into any waters of the Commonwealth or by means of conveyance to another site for final disposal.

Satellite Dish Antenna or Satellite Antenna: A ground-based reflector, usually parabolic in shape, that receives electronic signals from a satellite. This term shall also include any pedestal or attached structure.

School, Public or Private Primary or Secondary: An educational institution primarily for persons between the ages of five (5) and nineteen (19) that primarily provides State-required or largely State-funded educational programs. This term shall not include *trade schools* (such as privately operated schools of trade, vocation or business.)

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 fencing, topography, berms, natural and planted vegetation or other means approved by the Borough.

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: Something owned, operated, and supported by private individuals or a corporation, on a non-profit basis, for the use or benefit of the general public or for some part of the general public.

Semi-Public Building 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.

Service Establishment: An establishment primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

Setback Line: The line within a property defining the required minimum distance between any building to be erected and the adjacent property line. The front yard setback shall be measured at right angles from the front street right-of-way line which abuts the property upon which said building is located and shall be parallel to said right-of-way line.

Shopping Center or Mall: A group of commercial establishments 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 and protection from the elements.

Shooting Preserve: Any area of land which is used for hunting of animals where a fee or other consideration is charged.

Shooting Range, Indoor: Any fully enclosed building used for the discharge of any firearm for recreational or training purposes. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members shall be considered an indoor shooting range for the purposes of this Ordinance. Considered a *recreational facility, commercial* for the purposes of 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, including but not limited to, shooting preserves, target shooting ranges, skeet and trap shooting ranges and courses, and sporting clay shooting operations. Any such commercial operation, any such area operated by any private non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members shall be considered an outdoor shooting range for the purposes of this Ordinance.

Short Term Rental Unit: Any single-family dwelling unit, two-family dwelling unit, or multi-family dwelling unit which is rented for transient use usually for periods of thirty (30) consecutive days or less, typically, but not exclusively, for use by tourists or nonresident individuals temporarily employed in the area.

Sign: An advertisement displayed outside a building, pertaining to a product, service or name, related directly to the permitted activity carried on and use of the lot on which it is placed, including painted walls and structures. This definition does not include flags or pennants. (See also Outdoor Advertisement.)

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. This shall not include a custom butcher shop that does not involve killing of animals (which is a retail sales use.)

Social Hall: A room or building used for friendly or convivial gatherings.

Solar Collector, Accessory: 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.

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: Any uses considered to have special requirements in certain zones or districts where the conditions described for permitting each such use have been enumerated in the Zoning Ordinance and where permission for such use can only be given by the Zoning Hearing Board.

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.

Staging Areas for Equipment/Materials: Any area where equipment, vehicles, supplies and/or other material are assembled or stored for the support of another operation or use located at a different site.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

Story, Half: A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story.

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, flag stone, 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: Any natural channel of conveyance of surface water having a defined bed and banks with perennial, intermittent or seasonal flow. This shall not include any channel or ditch designed and constructed solely to carry

storm water.

Street: Includes street, avenue, boulevard, road, highway, expressway, parkway, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private. The strip of land including the entire right-of- way, not just the cartway, and classified as follows:

1. Arterial Road: A road whose function is to provide for the movement of high volumes of through traffic and both limited access and direct access to abutting properties, subject to necessary control of entrances, exits, and curb use. The right-of-way is in excess of sixty (60) feet wide.

2. Collector Street: A road or street which provides for the movement of large volumes of traffic between arterials and local streets and direct access to abutting property. The right-of-way is usually between fifty (50) and sixty (60) feet wide.

3. Local Access Street: A street or road whose function is to provide for local traffic movement and direct access to abutting properties. The right-of-way is usually fifty (50) feet or less in width.

Street Right-of-Way Line: The line dividing a lot from the full street right-of-way, not just the cartway. The word street shall be defined as above.

Structural Alteration: (See Alteration, Structural.)

Structure: Structure means a combination of materials that form a construction that is safe and stable and includes, among other things, buildings, stadiums, platforms, radio towers, sheds, carports, storage bins, fences, docks, and display signs.

Structure, Accessory: (See Accessory Structure or Use,)

Subdivider: (See Developer.)

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 (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted. (See also Land Development.)

Subdivision and Land Development Ordinance: The Subdivision and Land Development Ordinance applicable to the Borough of Tunkhannock.

Swimming Pool

1. Private: Any private swimming pool permanently attached to or temporarily erected on or in the ground, not located within a completely enclosed building, and containing, or normally capable of containing, water to a depth at any point greater than one and one-half (1 1/2) feet. Farm ponds, lakes and streams are not included, provided that swimming is not the primary purpose for their construction or use. (See also Private.)

2. Community or Club (Public or Semi-Public): Any public or semi-public swimming pool shall be construed to mean any outdoor pool constructed by a unit of government for use by residents of the Borough or region and their guests or by an association of property owners or by a private club solely for the use and enjoyment of members of the association or club and their families and guests. (See also Public and Semi-Public.)

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

1. 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.

2. 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.

3. The cutting or tearing of human skin for the purpose of creating a permanent mark or design on the skin.

4. The use of heat, cold, or any chemical compound to imprint permanent markings on human skin by any means other than tattooing.

Temporary Use: (See Use, Temporary.)

Terrace: A raised level or platform of earth, supported on one or more faces by a wall, a bank of turf, or the like, or a series of such raised levels or platforms arranged one above the other on a slope.

Theater: 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 entertainment establishment."

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. Considered a *recreational facility, commercial* for the purposes of this Ordinance.

Tourist Home (Bed and Breakfast): A private house operated by the resident owner or manager for the commercial purpose of providing bedrooms and meals to paying guests who are short-term (no longer than one week) visitors in the community.

Trade/Technical 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 sixteen (16).

Trailer

1. Pick-Up Coach: A structure designed primarily to be mounted on a pick-up truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation use.

2. Motor Home: A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

3. Trailer or Mobile Home: (See Mobile Home.)

4. Travel Trailer: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation use, permanently identified "travel trailer" by the manufacturer on the trailer and, when factory-equipped for the road, having a body width not exceeding eight (8) feet, or being of any weight, provided its body length does not exceed thirty-four (34) feet.

5. Utility Trailer: Any smaller trailer usually drawn by a passenger automobile and used for the occasional transport of personal effects.

Transient Use: Occupancy of a dwelling unit by two (2) or more families or groups for less than thirty (30) consecutive days at separate times over the course of a year; not including unrelated individuals who may be temporarily staying at the location as guests of the principal occupant for no type of compensation.

Transitional Living Facility: A building for individuals after release from an institution (as for mental disorder, drug

addiction, or criminal activity) that is designed for temporary living to facilitate their readjustment to private life.

Truck Terminal: An area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation. Truck terminals are basically transshipment facilities and often 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 a truck terminal.

Use: The specific purpose for which land or a structure or building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

Use, Accessory: (See Accessory Structure or Use.)

Use, Principal: The main use of a lot.

Use, Temporary: The use of land or the structure or building located on a lot for a limited time as regulated by this Ordinance.

Variance: The permission granted by the Zoning Hearing Board, following a public hearing that has been properly advertised as required by the provisions of this Ordinance for an adjustment to the application to a specific piece of property of some regulation which, if strictly adhered to, would result in an unnecessary hardship, and where the permission granted would not be contrary to the public interest, and would maintain the spirit and original intent of the Ordinance.

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; 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 Retail business for the purposes of this Ordinance.

Vehicle or 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.

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 fifty (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.

Veterinary Clinic: See *animal hospital.*

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.”

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 Withdrawal Facility: A facility that typically contains a submerged suction line, pumps, water main, multiple hydrants, truck loading and staging area, and water storage tanks, and which withdraws surface water or groundwater on a temporary basis that is intended to be transported by vehicle for use at another site.

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.

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 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.

Winery: An establishment with facilities for fermenting and bottling wine which does not meet the definition of a *winery, farm*. Considered *industry* for regulation by this Ordinance.

Winery, Farm: An establishment located on a farm with a producing vineyard, orchard, or similar growing area and producing wine on the premises from grapes or other fruit grown primarily on the premises. It may include tasting of wine produced on the premises; retail sales of wine related items and gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements; and a *restaurant* or *restaurant, outdoor* not involving any drive-in stand or use.

Wood Chipping Operation: The importing of trees or other wood from any property to any another property for producing wood chips. This may include the storage of the cut trees and wood chips, and customers on the site to purchase wood chips, but no other retail sales. This shall not include the cutting by a property owner of trees growing on his property for wood chip production or the temporary production of wood chips accessory to a timber harvest. Considered *agricultural products processing* for regulation by this Ordinance.

Yard: An unoccupied space open to the sky, on the same lot with a building or structure, but not intended to mean "court", which is completely enclosed by walls.

Yard, Front: An open, unoccupied space on the same lot with a main building, extending the full width of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front lines of the building and the street right-of-way line. Covered porches, unless otherwise excepted by Section 703, shall be considered as part of the main building and shall not project into a required front yard.

Yard, Rear: An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the building. A principal building shall not extend into the required rear yard.

Yard, Side: An open, unoccupied space on the same lot with the building, situated between the building and the side of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line. A principal building shall not extend into the required side yards.

Yard/Garage Sale: Any offering for sale to the public of used and accumulated normal household and other personal property conducted on a temporary, intermittent basis as an accessory use to a residential dwelling conducted in accord with the Borough Sale of Personal Property Ordinance.

Zoning: The designation of specified districts or zones within the municipality, reserving them for certain classes of uses, together with limitations on lot area and size, height of structures, and other stipulated requirements.

Zoning Hearing Board: (See Board or Zoning Hearing Board.)

Zoning Map: The officially adopted Zoning Map of Tunkhannock Borough, Wyoming County, Pennsylvania, containing zoning districts, together with all amendments subsequently adopted.

Zoning Officer: The Zoning Officer or his authorized representative appointed by the Council of Tunkhannock Borough, Wyoming County, Pennsylvania, to enforce this Ordinance.

Zoning Ordinance: The Zoning Ordinance of Tunkhannock Borough, as amended.

Zoning Permit: The written authorization issued by the Zoning Officer for the use of land, buildings or other structures.

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

# ARTICLE 4
# ESTABLISHMENT OF DISTRICTS

## 401 Names of Districts

For the purposes of this Ordinance, the Borough of Tunkhannock is divided into the following districts:

R-1 Residential
C-1 Commercial - Downtown
C-2 Commercial - Highway
I-1 Industrial
S-1 Special

## 401.1 Airport Overlay District

The Airport Overlay District is hereby created to include all of the land lying beneath the approach surfaces, primary surfaces, transitional surfaces, horizontal surfaces and conical surfaces as applied to airports as defined and regulated by Article 14 of this Ordinance. In addition to all other applicable standards of this Zoning Ordinance the requirements of Article 14 shall apply in the Airport Overlay District.

## 402 Zoning Map

The boundaries of the above districts are delineated on a map entitled "Zoning Map of the Borough of Tunkhannock", which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Ordinance, together with all future notations, references, and amendments.

## 403 Interpretation of Boundaries

If uncertainty exists as to the boundary of any district shown on the Zoning Map, the Zoning Officer shall determine the location of such boundary according to the guidelines set forth below.

## 404 District Boundaries

If uncertainty exists as to the boundary of any district shown on the Zoning Map, the Zoning Officer shall determine the location of such boundary according to the guidelines set forth below.

1. District boundary lines are intended to follow or parallel the center line of streets, streams, and railroads; and lot or property lines as they exist on a recorded deed or plan in the County Recorder of Deeds Office at the time of adoption of this Ordinance, unless such district boundary lines are fixed by dimensions as shown on the Zoning Map.

2. Where a district boundary is not fixed by dimensions and where it approximately follows lot lines and where it does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

3. In unsubdivided land or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the Zoning Map or by survey of a registered surveyor hired and paid for by the property owner questioning or contesting the boundary location.

## 405 State-Owned Property

Wherever State-owned property is included in one or more districts, it shall be subject to the provisions of this Ordinance only insofar as permitted by the Constitution and laws of the Commonwealth of Pennsylvania.

## 406 Federally-Owned Property

Wherever Federally-owned property is included in one or more districts, it shall be subject to the provisions of this Ordinance only insofar as permitted by the Constitution and laws of the United States Government.

## 407 Exemptions

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.

408 Uses Not Specified in District Regulations

1. Not Specified in an Individual Zoning District: Any use not specifically listed as a principal permitted use, a special exception use or a conditional use in a particular zoning distract shall not be permitted in that district unless it is not listed in any district and is authorized in accord with §408.2.

2. Not Specified in Any Zoning District: This section addresses, by special exception, a proposed use which is not specifically listed as a principal permitted use, a special exception use or a conditional use in any zoning district established under this Ordinance.

    a. Jurisdiction: Whenever 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.

    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:

        i. The use is similar to and compatible with the uses listed for the subject zoning district by the District Regulations.

        ii. The use in no way conflicts with the intent of the zoning district and the general purpose and intent of this Zoning Ordinance.

        iii. The use is not permitted in any other zoning district.

3. 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.

4. Conditions: The Zoning Hearing Board may attach reasonable conditions and safeguards to any special exception approval granted for a use not specified in the District 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.

# ARTICLE 5
# DISTRICT REGULATIONS

## 501 R-1 Residential District

(Uses not specifically listed in this Section shall not be permitted in the R-1 District except as approved in accord with Section 408.2.)

1. Purpose: To provide areas adequate to accommodate single-family housing needs. To limit unnecessary intrusions of incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing.

2. Principal Permitted Uses
   - Borough facilities and uses
   - Forestry enterprises
   - Group homes
   - Public and semi-public parks, playgrounds and open space
   - Single-family detached dwellings including mobile homes meeting all single-family dwelling standards

3. Accessory Uses
   - Accessory uses and buildings customary to approved uses
   - Day care, child as an accessory use
   - Essential services for public utilities
   - Home gardening, nurseries and greenhouses
   - Home occupations, no impact
   - Private garages, carports, sheds
   - Private swimming pools
   - Required parking areas
   - Satellite dish antennas or satellite antennas
   - Solar collector, accessory
   - Wind turbine generator, accessory
   - Yard/garage sales

4. Special Exception Uses (See Article 6.)
   - Home occupations
   - Nursing, assisted living and convalescent homes
   - Public libraries
   - Schools, public or private, primary or secondary
   - Tourist homes (bed and breakfast establishments)

5. Conditional Uses
   - none

6. Dimensional Regulations

   Minimum Lot Area ..... 8,800 square feet
   Minimum Lot Width ..... 80 feet
   Minimum Lot Depth ..... 110 feet
   Minimum Yards
   - front yard ..... 25 feet measured from front line

- side yards .....9 feet measured from each side line
- rear yard ..... 30 feet measured from rear line

Minimum Yards for Unattached Accessory Buildings
- front yard.....55 feet measured from front line
- side yards .....9 feet measured from each side line
- rear yard ..... 9 feet measured from rear line

Maximum Building Coverage .....25% of the lot area
Maximum Total Impervious Coverage.....40% of the lot area
Maximum Building Height..... 30 feet
Maximum Unattached Accessory Building Height ..... 15 feet

7. Supplementary regulations: See Article 7.

8. Subdivisions and Land Developments: Any subdivision or activity meeting the definition of "subdivision" or "land development" in Article 3 shall also be subject to the Subdivision and Land Development Ordinance applicable to the Borough.

502 C-1 Commercial Downtown District

(Uses not specifically listed in this Section shall not be permitted in the C-1 District except as approved in accord with Section 408.2.)

1. Purpose: To provide for the type of commercial facilities and services for the downtown retail marketing function of the entire Borough and surrounding trade area, and to encourage the development of an intensive self-contained shopping area catering to free circulation of pedestrians.

2. Principal Permitted Uses
   - Abused person shelters
   - Art studios
   - Borough facilities and uses
   - Churches and similar places of worship
   - Club/lodges, private
   - Community centers
   - Day care centers, adult and child
   - Dwellings over or attached to a nonresidential building permitted in the District
   - Forestry enterprises
   - Funeral homes
   - Group homes
   - Group homes, institutional
   - Hotels
   - Laundromats
   - Medical clinics
   - Meeting, assembly, or banquet halls
   - Motels
   - Nightclubs
   - Nursing, assisted living and convalescent homes
   - Offices and office buildings
   - Public and semi-public parks, playgrounds and open space

- Public libraries
- Radio and television studios
- Restaurants, standard
- Retail businesses
- Service establishments
- Single-family detached dwellings including mobile homes meeting all single-family dwelling standards
- Theaters
- Transitional living facilities
- Two-family dwellings (duplexes and flats)

3. Accessory Uses
   - Accessory uses and buildings customary to approved uses
   - Day care, child as an accessory use
   - Essential services provided for public utilities
   - Home gardening, nurseries and greenhouses
   - Home occupations, no impact
   - Private garages, carports, sheds
   - Private swimming pools
   - Required parking areas
   - Satellite dish antennas or satellite antennas
   - Solar collector, accessory
   - Wind turbine generator, accessory
   - Yard/garage sales

4. Special Exception Uses (See Article 6.)
   - Amusement arcades
   - Apartment houses
   - Home occupations
   - Public and semi-public buildings and uses
   - Rooming and boarding houses
   - Schools, public or private, primary or secondary
   - Temporary uses
   - Tourist homes (bed and breakfast establishments)
   - Townhouses

5. Conditional Uses (See Article 6a.)
   - Homeless shelters
   - Short-term rental units

6. Dimensional Regulations

   Minimum Lot Area ..... 5,000 square feet
   Minimum Lot Width ..... 50 feet
   Minimum Lot Depth ..... 100 feet
   Minimum Yards for Lots Fronting on Tioga Street and Bridge Street
   - front yard ..... 0 feet measured from front line
   - side yards ..... 0 feet measured from each side line
   - rear yard ..... 20 feet measured from rear line

Minimum Yards for Other Lots
- front yard.....10 feet measured from front line
- side yards .....0 feet measured from each side line
- rear yard ..... 20 feet measured from rear line

Minimum Yards for Unattached Accessory Buildings
- front yard.....55 feet measured from front line
- side yards .....9 feet measured from each side line
- rear yard ..... 9 feet measured from rear line

Maximum Building Coverage ..... 100% of the lot area
Maximum Total Impervious Coverage..... 100% of the lot area
Maximum Building Height..... 36 feet
Maximum Unattached Accessory Building Height ..... 15 feet

7. Supplementary regulations: See Article 7.

8. Subdivisions and Land Developments: Any subdivision or activity meeting the definition of "subdivision" or "land development" in Article 3 shall also be subject to the Subdivision and Land Development Ordinance applicable to the Borough.

9. Buffer Areas: Where the C-1 District abuts any Residential District, a landscaped strip of not less than twenty (20) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, except on comer lots where a clear sight triangle as defined in Article 3 shall be maintained.

503 C-2 Commercial Highway District

(Uses not specifically listed in this Section shall not be permitted in the C-2 District except as approved in accord with Section 408.2.)

1. Purpose: To accommodate the needs of highway travelers who may require automotive service, food, and lodging and the needs of the local residents pertaining to automotive sales and services and to other uses commonly found along highways.

2. Principal Permitted Uses
- Abused person shelters
- Amusement arcades
- Animal hospitals
- Art studios
- Auction houses
- Banks
- Borough facilities and uses
- Bus, limousine or taxi terminals
- Car and truck washes
- Churches and similar places of worship
- Club/lodges, private
- Community centers
- Contractor offices and shops
- Convenience stores

- Crematories
- Day care centers, adult and child
- Dwellings over or attached to a nonresidential building permitted in the District
- Forestry enterprises
- Funeral homes
- Group homes
- Group homes, institutional
- Health facilities
- Hotels
- Laundromats
- Laundry and dry cleaning shops (pick-up)
- Medical clinics
- Meeting, assembly, or banquet halls
- Motels
- Nightclubs
- Nursing, assisted living and convalescent homes
- Offices and office buildings
- Public and semi-public parks, playgrounds and open space
- Public libraries
- Public and semi-public buildings and uses
- Radio and television studios
- Recreation facilities, commercial
- Restaurants, standard
- Retail businesses
- Rooming and boarding houses
- School, public or private, primary or secondary
- Self-storage facilities
- Service establishments
- Single-family detached dwellings including mobile homes meeting all single-family dwelling standards
- Theaters
- Trade/technical schools
- Transitional living facilities
- Two-family dwellings (duplexes and flats)
- Vehicle and equipment rental, repair or sales operations
- Warehouses
- Wholesale businesses

3. Accessory Uses
   - Accessory uses and buildings customary to approved uses
   - Day care, child as an accessory use
   - Essential services provided for public utilities
   - Home gardening, nurseries and greenhouses
   - Home occupations, no impact
   - Private garages, carports, sheds
   - Private swimming pools
   - Required parking areas
   - Satellite dish antennas or satellite antennas

- Solar collector, accessory
- Wind turbine generator, accessory
- Yard/garage sales

4. Special Exception Uses (See Article 6.)
   - Amusement parks
   - Apartment houses
   - Flea markets, outdoor
   - Home occupations
   - Kennels or pounds
   - Restaurants, drive-in
   - Shopping centers or malls
   - Storage yards for forest products and minerals
   - Temporary uses
   - Tourist homes (bed and breakfast establishments)
   - Townhouses
   - Truck terminals

5. Conditional Uses (See Article 6a.)
   - Adult oriented establishments
   - Gaming establishments
   - Homeless shelters
   - Industrial wastewater treatment facilities
   - Mobile food service or mobile sales operations

6. Dimensional Regulations

| | |
|---|---|
| Minimum Lot Area | 10,000 square feet |
| Minimum Lot Width | 100 feet |
| Minimum Lot Depth | 100 feet |
| Minimum Yards | |
| - front yard | 25 feet measured from front line |
| - side yards | 10 feet measured from each side line |
| - rear yard | 10 feet measured from rear line |
| Minimum Yards for Unattached Accessory Buildings | |
| - front yard | 50 feet measured from front line |
| - side yards | 10 feet measured from each side line |
| - rear yard | 10 feet measured from rear line |
| Maximum Building Coverage | 60% of the lot area |
| Maximum Total Impervious Coverage | 75% of the lot area |
| Maximum Building Height | 40 feet |
| Maximum Unattached Accessory Building Height | 15 feet |

7. Supplementary regulations: See Article 7.

8. Subdivisions and Land Developments: Any subdivision or activity meeting the definition of "subdivision" or "land development" in Article 3 shall also be subject to the Subdivision and Land Development Ordinance applicable to the Borough.

9. Buffer Areas: Where the C-2 District abuts any Residential District, a landscaped strip of not less than twenty (20) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, except on comer lots where a clear sight triangle as defined in Article 3 shall be maintained.

504 I-1 Industrial District

(Uses not specifically listed in this Section shall not be permitted in the I-1 District except as approved in accord with Section 408.2.)

1. Purpose: To provide for wholesale, warehousing, contractor yards used primarily for storage, and small-product fabrication operations conducted in enclosed buildings. All such activities are intended to produce minimum annoyance to nearby residential and commercial districts.

2. Principal Permitted Uses
   - Abused person shelters
   - Amusement arcades
   - Animal hospitals
   - Art studios
   - Auction houses
   - Banks
   - Borough facilities and uses
   - Bus, limousine or taxi terminals
   - Car and truck washes
   - Churches and similar places of worship
   - Club/lodges, private
   - Community centers
   - Contractor yards
   - Convenience stores
   - Crematories
   - Day care centers, adult and child
   - Dwellings over or attached to a nonresidential building permitted in the District
   - Forestry enterprises
   - Funeral homes
   - Group homes
   - Group homes, institutional
   - Health facilities
   - Hotels
   - Laboratories for researching, testing, and experimenting
   - Laundromats
   - Laundry and dry cleaning shops (pick-up)
   - Laundry, dry cleaning and dyeing plants
   - Manufacturing
   - Meeting, assembly, or banquet halls
   - Medical clinics
   - Motels
   - Nightclubs

- Nursing, assisted living and convalescent homes
- Offices and office buildings
- Printing, publishing and binding plants
- Public parks and open space
- Public and semi-public buildings and uses
- Radio and television studios
- Recreation facilities, commercial
- Restaurants, standard
- Retail businesses
- Rooming and boarding houses
- Self-storage facilities
- Service establishments
- Single-family detached dwellings including mobile homes meeting all single-family dwelling standards
- Theaters
- Trade/technical schools
- Transitional living facilities
- Two-family dwellings (duplexes and flats)
- Vehicle and equipment rental, repair or sales operations
- Warehouses
- Wholesale businesses

3. Accessory Uses
   - Accessory uses and buildings customary to approved uses
   - Day care, child as an accessory use
   - Essential services provided for public utilities
   - Home gardening, nurseries and greenhouses
   - Home occupations, no impact
   - Private garages, carports, sheds
   - Private swimming pools
   - Required parking areas
   - Satellite dish antennas or satellite antennas
   - Solar collector, accessory
   - Wind turbine generator, accessory
   - Yard/garage sales

4. Special Exception Uses (See Article 6.)
   - Amusement parks
   - Animal shelters
   - Apartment Houses
   - Flea markets, outdoor
   - Home occupations
   - Industry
   - Kennels or pounds
   - Shopping centers or malls
   - Temporary uses
   - Tourist homes (bed and breakfast establishments)
   - Townhouses

- Truck terminals

5. Conditional Uses (See Article 6a.)
   - Bulk fuel storage (1,000 gallons or more)
   - Detention facilities
   - Explosive plants or storage facilities
   - Fireworks plants or storage facilities
   - Homeless shelters
   - Industrial wastewater treatment facility
   - Junkyards
   - Mineral depots
   - Mineral processing
   - Retail home heating fuel distributors
   - Solid waste facilities
   - Staging areas for equipment/materials
   - Tattoo, body piercing, scarifying or branding parlors

6. Dimensional Regulations

| | |
|---|---|
| Minimum Lot Area | 15,000 square feet |
| Minimum Lot Width | 100 feet |
| Minimum Lot Depth | 150 feet |
| Minimum Yards | |
| - front yard | 25 feet measured from front line |
| - side yards | 15 feet measured from each side line |
| - rear yard | 20 feet measured from rear line |
| Minimum Yards for Unattached Accessory Buildings | |
| - front yard | 25feet measured from front line |
| - side yards | 15 feet measured from each side line |
| - rear yard | 20 feet measured from rear line |
| Maximum Building Coverage | 60% of the lot area |
| Maximum Total Impervious Coverage | 75% of the lot area |
| Maximum Building Height | 36 feet |
| Maximum Unattached Accessory Building Height | 15 feet |

7. Supplementary regulations: See Article 7.

8. Subdivisions and Land Developments: Any subdivision or activity meeting the definition of "subdivision" or "land development" in Article 3 shall also be subject to the Subdivision and Land Development Ordinance applicable to the Borough.

9. Buffer Areas: Where the I-1District abuts any Residential District, a landscaped strip of not less than twenty (20) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, except on comer lots where a clear sight triangle as defined in Article 3 shall be maintained.

505 S-1 Special District

(Uses not specifically listed in this Section shall not be permitted in the S-1 District except as approved in accord with Section 408.2.)

1. Purpose: To preserve steep terrain and land areas along streams and wetlands by providing for low density development.

2. Principal Permitted Uses
   - Borough facilities and uses
   - Cemeteries
   - Crop production
   - Forestry enterprises
   - Group homes
   - Group homes, institutional
   - Nurseries and greenhouses
   - Public and semi-public parks, playgrounds and open space
   - School, public or private, primary or secondary
   - Single-family detached dwellings including mobile homes meeting all single-family dwelling standards
   - Two-family dwellings (duplexes and flats)

3. Accessory Uses
   - Accessory uses and buildings customary to approved uses
   - Day care, child as an accessory use
   - Essential services provided for public utilities
   - Home gardening, nurseries and greenhouses
   - Home occupations, no impact
   - Private garages, carports, sheds
   - Private swimming pools
   - Required parking areas
   - Satellite dish antennas or satellite antennas
   - Solar collector, accessory
   - Wind turbine generator, accessory
   - Yard/garage sales

4. Special Exception Uses (See Article 6.)
   - Agriculture related entertainment
   - Archery ranges, outdoor commercial
   - Campgrounds and recreational vehicle parks
   - Churches and similar places of worship
   - Commercial communications devices
   - Country clubs
   - Home occupations
   - Kennels or pounds
   - Menageries
   - Shooting preserves
   - Shooting ranges, outdoor commercial

- Temporary uses
- Wineries, farm
- Zoos

5. Conditional Uses (See Article 6a.)
   - Airports
   - Cluster housing development
   - Heliports
   - Mineral extraction
   - Pipeline compressor stations, metering stations or operation/maintenance facilities
   - Power plants
   - Oil or gas wells
   - Race tracks
   - Solar power generation, commercial
   - Water withdrawal facilities
   - Wind energy facilities

6. Dimensional Regulations

| | |
|---|---|
| Minimum Lot Area | 40,000 square feet |
| Minimum Lot Width | 200 feet |
| Minimum Lot Depth | 200 feet |
| Minimum Yards | |
| - front yard | 40 feet measured from front line |
| - side yards | 15 feet measured from each side line |
| - rear yard | 30 feet measured from rear line |
| Minimum Yards for Unattached Accessory Buildings | |
| - front yard | 75feet measured from front line |
| - side yards | 10 feet measured from each side line |
| - rear yard | 10 feet measured from rear line |
| Maximum Building Coverage | 20% of the lot area |
| Maximum Total Impervious Coverage | 30% of the lot area |
| Maximum Building Height | 36 feet |
| Maximum Unattached Accessory Building Height | 15 feet |

7. Supplementary regulations: See Article 7.

8. Subdivisions and Land Developments: Any subdivision or activity meeting the definition of "subdivision" or "land development" in Article 3 shall also be subject to the Subdivision and Land Development Ordinance applicable to the Borough.

9. Buffer Areas: Where the I-1District abuts any Residential District, a landscaped strip of not less than twenty (20) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, except on comer lots where a clear sight triangle as defined in Article 3 shall be maintained.

Table 1
SCHEDULE OF DISTRICT DIMENSIONAL REGULATIONS

| | R-1 | C-1 | C-2 | I-1 | S-1 |
|---|---|---|---|---|---|
| Minimum Lot Area | 8,800 sq ft | 5,000 sq ft | 10,000 sq ft | 15,000 sq ft | 40,000 sq ft |
| Minimum Lot Width | 80 ft | 50 ft | 100 ft | 100 ft | 200 ft |
| Minimum Lot Depth | 110 ft | 100 ft | 100 ft | 150 ft | 200 ft |
| Minimum Yards | | | | | |
| Front | 25 ft | 10 ft* | 25 ft | 25 ft | 40 ft |
| Side (each side) | 9 ft | 0 ft | 10 ft | 15 ft | 15 ft |
| Rear | 30 ft | 20 ft | 10 ft | 20 ft | 30 ft |
| Minimum Yards for Unattached Accessory Buildings | | | | | |
| Front | 55 ft | 55 ft | 50 ft | 25 ft | 75 ft |
| Side (each side) | 9 ft | 9 ft | 10 ft | 15 ft | 10 ft |
| Rear | 9 ft | 9 ft | 10 ft | 20 ft | 10 ft |
| Maximum Building Coverage | 25 % | 100 % | 60 % | 60 % | 20 % |
| Maximum Total Impervious Coverage | 40 % | 100 % | 75 % | 75 % | 30 % |
| Maximum Building Height | 30 ft | 36 ft | 40 ft | 36 ft | 36 ft |
| Maximum Unattached Accessory Building Height | 15 ft | 15 ft | 15 ft | 15 ft | 15 ft |

*The minimum front yard for lots fronting on Tioga Street and Bridge Street in the C-1 District is zero (0).

# ARTICLE 6
# SPECIAL EXCEPTION USES

## 601 Purpose

The purpose of special exception use regulations is to provide additional standards for controlling the unique or special characteristics of certain uses which otherwise conform to uses permitted in their respective districts.

## 602 General Provisions

Hearings and decisions for granting or denying special exception use permits shall be made by the Zoning Hearing Board as provided for in §908 and §912.1 of the Pennsylvania Municipalities Planning Code, Article 9 and this §602.

1. Expansions: Expansions or additions to uses classified as special exception uses shall also be considered special exception uses. The addition of an accessory structure shall not be considered a special exception use.

2. Decisions: Decisions of the Board shall be made pursuant to standards and criteria expressed in this Article, to regulations for the respective districts in which the uses are located, and to all other requirements of this Ordinance. The Board shall grant an approval for a special exception use only if it finds adequate evidence that the proposed use meets both the general and specific requirements for such use.

3. 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 the time limit within which the Board must issue its decision then the Zoning Hearing Board may make a decision without having received comments from the Planning Commission.

4. Effect of Ordinance Changes on Application: See §917 of the Pennsylvania Municipalities Planning Code.

5. Site Plan: A plan for the proposed development of a site for a special exception use shall be submitted with the application for a special exception. Such plan shall show the location of all buildings, open space, parking areas, traffic access and circulation, landscaping and any other information required for determining the conformance of the special exception use with the regulations for that use.

6. General Standards: Decisions for granting all special exception uses shall be guided by the following general standards

    a. The proposed use shall not jeopardize the community development objectives of Article 2 and the Comprehensive Plan.

    b. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use.

    c. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.

    d. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size of the site relative to the proposed operation, and the nature and intensity of the operation involved.

    e. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious with the character and height of buildings, walls, and fences so that property is not impaired.

    f. The proposed use shall not be more objectionable in its operations in terms of noise, fumes, vibrations,

smoke, fly ash, or flashing lights than would be the operations of any permitted use in the district.

g. Additional Factors

i. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

ii. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

iii. Location, arrangement, appearance and sufficiency of off-street parking and loading.

iv. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

v. Adequacy of storm water control facilities.

vi. Adequacy of water supply and sewage disposal facilities.

vii. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the proposed site and adjoining lands, including the maximum retention of existing vegetation.

viii. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

ix. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

7. Conditions of Approval: Any other reasonable conditions and safeguards, in addition to those expressed in this Ordinance, may be implemented by the Board if the Board deems it necessary for implementing the purposes of the Pennsylvania Municipalities Planning Code and this Ordinance or to protect the public health, safety and welfare.

603 Specific Provisions

Uses permitted by special exception in this Ordinance include the following for which additional regulations are prescribed.

1. Animal Shelters, Kennels and Pounds: Animal shelters, kennels and pounds shall be within a completely enclosed, sound-proof building with no objectionable odors produced outside the building. The property shall be at least 40,000 square feet in area, and required yards shall be fifty (50) feet from all property lines.

2. Cemeteries: A structure, grave or place of permanent burial shall be set back from the property line of the tract at least thirty (30) feet. The cemetery shall have a fence, wall, or shrubbery at least three (3) feet in height along its boundaries. Interior roads shall be at least twenty (20) feet wide and well-maintained with either gravel or paving. The cemetery shall also comply with parking with parking regulations in Article 7.

3. Churches and Similar Places of Religious Worship: The property shall be a least one (1) acre in area and front on an arterial or collector street. A parking area shall accommodate all parking spaces as required by Off-Street Parking and Loading regulations (See Article 7), as well as circulation and access areas. Access driveways shall be no more than twenty-five (25) feet in width, and, in the case of a corner lot, access driveways shall be at least sixty (60) feet from the right-of-way line. Where the property abuts existing residences on the side or rear property lines, a solid wall, a substantial, attractive, tight fence, or evergreen hedges a minimum of five (5) feet in height and maintained in good condition shall be provided. The evergreens should be of such height at the time of planting that they will attain a height of five (5) feet within three (3) years. Minimum side and rear yards shall be fifty (50) feet.

4. Reserved

5. Day Care Centers: Day Care Centers shall be permitted under the following conditions:

   a. Such facility must hold an approved Pennsylvania Department of Public Welfare (DPW) registration certificate of license, as appropriate, and meet all current DPW regulations including those standards governing adequate indoor space, accessible outdoor play and any applicable state or local building and fire safety codes.

   b. The requisite outdoor play area shall be surrounded by a safety fence. Said fence shall not be less than five (5) feet in height, and it shall be maintained in good condition. Said fence shall be so constructed of substantial material and as not to have openings, holes, or gaps larger than two (2) inches. All gates or door opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any building which forms a part of the enclosure need not be so equipped.

   c. Hours: Outside play shall be limited to the hours between 8:00 a.m. and 7:00 p.m. local time.

   d. Sign: Any sign shall comply with standards governing signs.

   e. Play area setback: No portion of the outside play area shall be less than fifty (50) feet from an R-1 zoned lot.

   f. Lot size: The minimum size or lot area shall be determined by the following table:

| Client Capacity | Minimum Lot Size |
|---|---|
| 6-10 | 8,000 Sq. Ft. |
| 11-15 | 10,000 Sq. Ft. |
| 16-20 | 15,000 Sq. Ft. |
| 21-25 | 20,000 Sq. Ft. |
| 26-30 | 25,000 Sq. Ft. |
| 31-40 | 35,000 Sq. Ft |
| 41-50 | 40,000 Sq. Ft. |
| 51 and above | 40,500 Sq. Ft. plus 500 Sq. Ft. each additional person |

6. Dwellings Directly Related to Certain Businesses: Single-family detached dwellings shall be permitted on the same lot as the following business establishments: medical and dental clinics, mortuary and undertaking establishments, nursing and convalescent homes, and motels, provided that such dwellings are occupied by the owner or manager of such business establishment. Such dwellings shall be designed as living quarters, having adequate natural light and kitchen and bathroom facilities, such dwellings shall have the required residence parking spaces in addition to commercial spaces.

7. Dwellings Over or Attached to Business Establishments: Dwellings over or attached to business establishments shall be permitted, provided they are designed as living quarters having at least 500 square feet of floor area per dwelling unit and having adequate natural light and kitchen and bathroom facilities. Such dwellings shall also have private access and the required residence parking spaces in addition to commercial parking spaces.

8. Home Occupations: A home occupation shall be the incidental use of a dwelling unit or of a building or other structure accessory to a dwelling unit and shall be conducted by a person or persons residing in the dwelling unit and not more than one (1) non-resident employee working on the premises. Not more than thirty percent (30%) of the gross floor area of the house (not including cellar, attic, or garage) shall be used for calculating the area to be used for the home occupation, although the home occupation may be located in either the house or an accessory structure. One (1) sign not exceeding four (4) square feet for each exposed face shall be

permitted.

The exterior appearance of the structure or premises shall be maintained in its residential character with the home occupation conducted entirely within the enclosed structure and with no goods publicly displayed on the premises other than a permitted sign as provided for in Article 7. The home occupation shall not involve display windows, the storage or sale of articles, except those incidental to the service, frequent truck deliveries, or the production of offensive noise, smoke, vibration, dust, odors, heat, or glare. Outdoor storage of materials or products is also prohibited. Off-street parking requirements for both the dwelling and home occupation uses shall be met in accordance with Article 7.

Home occupations may include an office or studio of a physician, dentist, artist photographer, architect, engineer, accountant, surveyor, lawyer, realtor, insurance salesperson, or member of some similar recognized profession. This list is not all-inclusive but is intended to serve as a guideline.

Home occupations shall also include beauty and barber shops, dress-making and tailoring shops, appliance repair and lawn mower repair, and tutoring and music instruction but shall not include animal hospitals, commercial kennels, funeral homes, clothing stores, restaurants, dance studios; business schools, automotive or vehicle repair service or any other use not meeting all of the standards of this Section and Ordinance. This list is not all-inclusive but is intended to serve as a guideline.

9. Model Homes: The exterior appearance of a model home and its premises shall be maintained and operated consistent with the residential character of the neighborhood. Landscaping shall be provided consistent with that of the neighborhood within six (6) months from the date the structure is first used as a model home. The home shall be used only as a model display of homes available for sale or rent and not as a realtor's office or for the storage of construction equipment and materials. Off-street parking for the eventual residents temporarily allowed for patron use and one (1) space for each employee shall be provided in accordance with Article 7. No construction or delivery trucks shall be allowed on the premises. Only signs allowed by provisions of Article 7 shall be permitted.

   This special exception use shall be temporary, being valid for thirty (30) months after the excepted use is approved by the Zoning Hearing Board. At the expiration of the permit the premises shall either revert to use as a dwelling or continue as a special exception use upon application to and approval by the Board. In making its decision the Board shall consider the effects of the previous permit on the neighborhood, the construction activity remaining in the development, and adherence to the terms of the previous permit.

10. Apartment Houses: An apartment house shall be located on a tract having a minimum area of 20,000 square feet. The minimum lot frontage shall be 100 feet and yard setbacks shall be 20 feet each side, 20 feet front, and 20 feet rear. The maximum land area covered by buildings shall be 25%, and the maximum total impervious surface cover shall be 40%. Maximum building height shall not exceed the standard for the district. All living quarters shall have at least the floor area per dwelling unit required by §702,3.

11. Functional Families: This §603.11 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.

    a. 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 §602 and, among others, the following considerations:

        i. 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.

ii. Whether the household has stability akin to a permanent family. The criteria used to make this determination may 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.

iii. Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

b. 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.

12. Nursing and Convalescent Home: The minimum tract area shall be 40,000 square feet. The tract shall front on an arterial or collector street. Where the tract abuts residences on the side or rear property lines, a substantial, attractive, tight fence five (5) feet in height shall be placed no farther than one (1) foot from the property line, and a landscaped buffer area having a depth of not less than ten (10) feet shall be provided within the property line. The fence, shrubs, and buffer shall be maintained in good condition. A parking area accommodating all spaces required by Article 7 shall be located beyond the buffer area. Access drives shall be no more than twenty-five (25) feet wide at the street line, and, in the case of a corner lot, access driveways shall be at least sixty (60) feet from the intersection of the two streets, as measured from the right-of-way line.

13. Reserved

14. 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, radio and television transmission or receiving towers and other commercial antennae and associated facilities.

a. Purposes

i. 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.

ii. To minimize the adverse visual effects of communication devices and support structures through proper design, siting and vegetative screening.

iii. To avoid potential damage to adjacent properties from communication device support structure failure and falling ice, through engineering and proper siting of support structures.

iv. 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:

i. 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 special exception use approval shall not be required. Any subsequent installations above the initial fifteen-foot height increase shall be a special exception use. The applicant shall provide the following information:

1. 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.

2. 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.

3. Evidence of recorded 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.

ii. New Structures and CCD Exceeding 15 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 in the District Regulations and shall require special exception use approval in accord with this Section.

iii. 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.

iv. CCD as a Second Principal Use: A CCD shall be permitted on a property with an existing use subject to the following land development standards:

1. The CCD facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.

2. The minimum lot area, minimum 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.

3. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.

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

c. Standards: No building permit shall be issued for a new CCD support structure until the applicant provides documentation that a service provider or other user has contracted for the use of the support structure. The following shall apply:

i. 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 shall provide information on the general location of other towers/sites planned for the region.

ii. Collocation; 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 five-mile radius of the site proposed, asked for permission to install the CCD on those structures, and was denied. 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:

1. The proposed equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.

2. 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.

3. 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.

4. 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.

5. A commercially reasonable agreement could not be reached with the owners of such structures.

iii. CCD Height: The applicant shall demonstrate that the CCD does not exceed 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 *shakable* (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. CD 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.

iv. 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 setbacks in this Subsection iv shall apply.

1. Separate Parcel: If the parcel on which the CCD and support structure is located is a separate and distinct parcel, the distance between the base of the support structure and any adjoining property line shall not be less than the height of the CCD structure plus twenty (20) feet. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet.

2. Lease, License or Easement: If the land on which the CCD and support structure is located 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. In any case, the distance between the base of the support structure and any adjoining property line (not lease, license or easement line) shall not be less than the height of the CCD structure.

v. 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 or emergency communications 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.

vi. 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.

vii. 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.

viii. Collocation; 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.

ix. 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.

x. Access: The Applicant shall provide and maintain access to the CCD and support structure 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.

xi. Color and Lighting; FAA and PA DOT 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 PA DOT Bureau of Aviation, and the CCD and support structure shall comply with all FAA and PA DOT requirements.

xii. 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.

xiii. 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.

xiv. 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 require a financial guarantee for the removal of the structure, such guarantee in an amount deemed adequate by the Borough and in a form approved by the Borough Solicitor.

xv. Fire Suppression System: The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the CCD.

xvi. 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 to determine compliance with this 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.

xvii. Review Fees: The Applicant shall pay all professional costs incurred by the Borough for review of structural, radio frequency and other technical aspects of the proposal, and shall deposit with the Borough an amount deemed adequate by the Borough to cover the anticipated costs. Should the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

15. Rooming and Boarding Houses: The rooming or boarding house shall have no more than four (4) rooms of the residence used for rooming or boarding with not more than two (2) people per room. All yard areas for the district in which the property is located shall be maintained, and parking shall be provided as required by Article 7. In outward appearance the boarding or rooming house shall be consistent with the character of other residences in the immediate area.

16. Temporary Structures and Buildings Including Trailers: The proposed temporary use and the reasons for

requesting the use of a temporary structure or building shall be supplied by the applicant for such use. The Zoning Hearing Board shall make a determination as to the acceptability of this information and shall set a date for the termination of the temporary use one (1) year from the date the special exception use was granted. An extension of not more than one (1) additional year shall be considered at any one time, provided the applicant can show a need for the extension to the satisfaction of the Board.

17. Tourist Homes (Bed and Breakfast Establishments): Bed and breakfast establishments shall comply with the following standards in addition to all other applicable standards in this Ordinance.

    a. The establishment shall provide guests with short-tem (no longer than one week) stays only.

    b. The owner or manager of the bed and breakfast must reside on the premises.

    c. The establishment shall provide no more than four (4) bedrooms for guest accommodations.

    d. Off-street parking shall be provided as required in Article 7 of the Ordinance.

    e. The serving of meals shall be only to guests and not to the public generally, such as a restaurant.

    f. One (1) sign shall be permitted on each street frontage to identify the establishment not to exceed twelve (12) square feet for each exposed surface.

18. Townhouses (Row houses): Townhouses shall be located on a tract of at least 16,000 square feet and having a minimum lot frontage of 196 feet. The yard setbacks shall be 20 feet for the front and rear and 10 feet for each side of the building as measured from the property lines. The maximum land area covered by buildings shall be 25%, and the maximum total impervious surface coverage shall be 40%. Maximum building height shall be thirty-six (36) feet.

19. Archery Ranges - Outdoor Commercial: This §602.19 is intended to provide minimum standards to regulate commercial outdoor archery 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 archery ranges shall be situated not less than two hundred (200) feet from any property line and not less than three hundred (300) feet from any principal residential or commercial structure existing on the effective date of this §606.19. 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 and stray arrows and prevent any projectile from leaving the site. The Borough may require such additional safety features deemed necessary to meet the intent of this §606.19. Such features may include, but shall not be limited to, increased setbacks, earthen berms and setbacks, range orientation, and a limitation of hours of operation.

    c. Hours of Operation: No arrow shall be discharged outdoors between the hours of dusk and dawn. However, the Borough may establish more restrictive time limits as a condition of approval.

    d. Fence: Security fencing may be required by the Borough of such extent and design to restrict accidental access to any range.

    e. Posting: The perimeter around any outdoor range shall be posted with warning signs to adequately inform anyone entering the area.

f. NFAA Guidelines, State and Federal Regulations: The applicant shall provide evidence of compliance with any applicable National Field Archery Association guidelines and state and federal regulations.

20. Kennels, Pounds and Animal Shelters: The following standards shall apply to kennels, pounds and animal shelters:

a. Setbacks: Any structure, outdoor kennels, or animal exercise areas used for the keeping of animals shall not be less than fifty (50) feet from any property line and any road right-of-way.

b. Parking: Adequate off-street parking shall be provided pursuant to this chapter with one (1) space for each nonresident employee and one (1) space per four (4) animals kept on the premises.

c. 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 (6) 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.

d. 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 setbacks in §602.20a until disposed of and proof of such disposal shall be provided to the Borough upon request.

e. Nuisances: The kennel shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property.

21. Zoos and Menageries: Zoos and menageries shall comply with the following requirements:

a. All animals shall be kept a minimum of one hundred (100) feet from property lines and road rights-of-way.

b. All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained.

c. 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.

d. 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.

e. The permit holder shall maintain the premises so as to eliminate offensive odors or excessive noise.

f. The permit holder shall not permit any condition causing disturbance of the peace and quiet of neighbors.

g. Animals must be maintained in quarters so constructed as to prevent their escape. The permit holder assumes full responsibility for recapturing any animal that escapes from the premises. The permit holder shall make adequate provisions and safeguards to protect the public from the animals.

# ARTICLE 6a
# CONDITIONAL USES

## 601a Purpose

The purpose of conditional use regulations is to provide additional standards for controlling the unique or special characteristics of certain uses which otherwise conform to uses permitted in their respective districts.

## 602a General Provisions

Hearings and decisions for granting or denying conditional use permits shall be made by the Borough Council as provided for in §603(c)(2) and §913.2 of the Pennsylvania Municipalities Planning Code, Article 9 and this §602a.

1. Expansions: 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.

2. Decisions: Decisions of the Council shall be made pursuant to standards and criteria expressed in this Article, to regulations for the respective districts in which the uses are located, and to all other requirements of this Ordinance. The Council shall grant an approval for a conditional use only if it finds adequate evidence that the proposed use meets both the general and specific requirements for such use.

3. Planning Commission Review of Conditional Uses

    a. The Planning Commission shall be provided with an opportunity to review any proposed conditional use. The Planning Commission, at its option, may provide a written advisory review.

    b. If such review is not received by the Council within the time limit within which the Council must issue its decision then the Council may make a decision without having received comments from the Planning Commission.

4. Effect of Ordinance Changes on Application: See §917 of the Pennsylvania Municipalities Planning Code.

5. Site Plan: A plan for the proposed development of a site for a conditional use shall be submitted with the application for a conditional use. Such plan shall show the location of all buildings, open space, parking areas, traffic access and circulation, landscaping and any other information required for determining the conformance of the conditional use with the regulations for that use.

6. General Standards: Decisions for granting all conditional uses shall be guided by the following general standards:

    a. The proposed use shall not jeopardize the community development objectives of Article 2 and the Comprehensive Plan.

    b. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use.

    c. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.

    d. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size of the site relative to the proposed operation, and the nature and intensity of the operation involved.

    e. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious with the character and height of buildings, walls, and fences so that property is not impaired.

    f. The proposed use shall not be more objectionable in its operations in terms of noise, fumes, vibrations,

smoke, fly ash, or flashing lights than would be the operations of any permitted use in the district.

g. Additional Factors

i. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

ii. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

iii. Location, arrangement, appearance and sufficiency of off-street parking and loading.

iv. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

v. Adequacy of storm water control facilities.

vi. Adequacy of water supply and sewage disposal facilities.

vii. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the proposed site and adjoining lands, including the maximum retention of existing vegetation.

viii. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

ix. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

7. Conditions of Approval: Any other reasonable conditions and safeguards, in addition to those expressed in this Ordinance, may be implemented by the Council if the Council deems it necessary for implementing the purposes of the Pennsylvania Municipalities Planning Code and this Ordinance or to protect the public health, safety and welfare.

603a Specific Provisions

Uses permitted by conditional use in this Ordinance include the following for which additional regulations are prescribed.

1. Adult-Oriented Establishments: Adult-oriented establishments, as defined in Article 3, shall, in addition to all other applicable standards, comply with the following:

a. Purpose: The purpose of this conditional use is to provide for establishments which have a sex-related nature or purpose in an appropriate environment which prevents the deleterious blighting or downgrading effects which a concentration of such uses or the inappropriate placement of such uses may have upon surrounding neighborhoods.

b. Dimensional Regulations: The dimensional regulations shall be the same as those applicable to the C-2 Highway Commercial District.

c. Development Regulations: Adult-oriented establishments (as defined herein) shall be subject to the following development regulations:

i. Comprehensive Plan: The location of proposed adult-oriented establishments shall be consistent with the Comprehensive Plan of Tunkhannock Borough.

ii. Site Location: Adult-oriented establishments shall be located only in the C-2 Highway Commercial District, and the proposed location of such an establishment within such district shall be at least five

hundred (500) feet distant from another such adult-oriented, residential district, property lines of churches and related religious institutions, and property lines of schools, playgrounds, and parks.

d. Supplementary Regulations (See Article 7)

e. Subdividing and Developing: Since this use is a land development as defined in Article 3, it shall also be subject to the regulations found in the Subdivision and Land Development Ordinance.

2. Bulk Fuel Storage

a. Purpose: The purpose of this conditional use is to provide for industrial needs while securing the safety of workers and residents from potential hazards.

b. Use Regulations: The conditional use allowed shall be bulk fuel storage (1,000 gallons or more).

c. Dimensional Regulations

i. Minimum Lot Area: 90,000 square feet

ii. Minimum Lot Width: 300 feet

iii. Minimum Lot Depth: 300 feet

iv. Minimum Front, Side, and Rear Yards: 50 feet

v. Minimum Yards for Unattached Accessory Buildings: Same as minimum yards for principal buildings

vi. Maximum Lot Coverage: The maximum land area covered by buildings, tanks, and structures shall be 40% and the maximum total impervious surface cover shall be 50%.

vii. Maximum Building Height: 3 stories, that is, 35 feet, except that storage tanks may be higher as regulated by State and Federal law.

d. Development Regulations: Bulk fuel storage shall be subject to the following development regulations:

i. Location of Tanks: Storage tanks shall be located not less than one hundred (100) feet from any property line and shall be not less than five hundred (500) feet from any dwelling, school, church, hospital, occupied structure, or similar use.

ii. Location of Other Structures: Cylinder filling rooms, pumps, compressors and truck filling stations shall be located at least fifty (50) feet from all property lines.

iii. Compliance with Regulations of Other Agencies: The applicant shall supply to the Planning Commission the relevant regulations of the U.S. Environmental Protection Agency, the Pennsylvania Department of Environmental Resources or any Federal or State agency or insurance company regulating the material proposed to be stored. The Planning Commission, after reviewing the relevant requirements of such agency and this Ordinance, shall make a determination as to the applicability of the following conditions:

1. Whether the Federal, State, or insurance regulations allow the location of the material in the Borough,

2. Whether storage of the material should be in specially constructed buildings or containers,

3. Whether special lighting, signs, or patrolling are needed, and

4. Whether special requirements under Federal or State law are being met.

The Planning Commission shall then make a recommendation to the Council as to whether a permit should be issued and what conditions should be attached to the granting of such a permit.

e. Supplementary Regulations (See Article 7.)

f. Subdividing and Developing: Since this use is a land development as defined in Article 3, it shall also be subject to the regulations found in the Subdivision and Land Development Ordinance.

g. Buffer Area: Where the I-1 District abuts any residential district, a landscaped buffer strip of not less than twenty (20) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than (5) feet in height, except for corner lots where a clear sight triangle as defined in Article 3 shall be maintained.

h. Action of Council: The Council shall take into consideration the recommendation of the Planning Commission in approving or denying the permit. However, if the permit is approved, verification of approvals from all other pertinent governmental agencies shall be provided by the applicant before a certificate of zoning compliance is issued.

3. Cluster Housing Developments

a. Purpose: The purpose of this conditional use is to provide for housing that can be clustered together to achieve greater economies in the construction of roads and utilities, to maximize the preservation of open space on a tract, and to allow for greater flexibility of layout design.

b. Use Regulations: The types of housing permitted in cluster developments shall be the same as those otherwise permitted as principal permitted uses in the district in which the tract is located.

c. Parcel Size and Number of Dwelling Units

i. The total area of the site shall not be less than the total area that would be required if the dwellings were placed on individual lots.

ii. The maximum number of dwellings permitted shall be determined by a yield plan based on all requirements applicable to a standard subdivision for the dwelling types proposed.

d. Development Regulations: A proposed cluster housing development shall be subject to the following development regulations.

i. No minimum lot size shall be required.

ii. Although no minimum lot size is required, no building shall be closer to any other building, including its projections, than twenty (20) feet. No building; whether principal or accessory, shall be closer to any property line of the tract on which the housing is clustered than thirty (30) feet.

iii. Height regulations of the district in which such developments are located shall apply.

e. Supplementary Regulations (See Article 7.)

f. Subdivisions and Land Developments: Any subdivision or activity meeting the definition of “subdivision” or “land development” in Article 3 shall also be subject to the Subdivision and Land Development Ordinance.

g. Open Space Use and Design Standards: Not less than fifty (50) percent of the development tract shall remain as open space meeting the following standards:

i. Uses Permitted on Open Space: The following uses are permitted in open space areas:

(a) Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).

(b) Agricultural and horticultural uses, including raising crops, wholesale nurseries, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded is the keeping of livestock

(c) Pasture land for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than half of the minimum required conservation open space.

(d) Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.

(e) Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Borough.

(f) Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required conservation open space or five (5) acres, whichever is less.

(g) Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the conservation open space. However, water treatment plants and storage tanks, central sewage treatment plants and lagoons, and a 50-foot buffer around such facilities shall not be included within the minimum conservation open space requirement.

(h) Easements for drainage, access, sewer or water lines, or other public purposes.

(i) Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required conservation open space.

ii. Layout: The open space shall be in the largest blocks possible and shall be laid out to ensure that an interconnected network of open space will be provided.

iii. Ownership: The form of ownership of the open space shall ensure its perpetuity as open space and provide for its maintenance. The form of ownership shall be proposed by the applicant for approval by the Borough and may include, but not be limited to, public ownership, a homeowner association, a single property owner in the case of agricultural or forest land or an environmental organization or land trust.

iv. Use by Development Residents: In no case shall the amount of land available for the common use and enjoyment of the subdivision residents be less than thirty (30) percent of the total open space. Not less than fifteen (15) percent of the conservation open space shall be free of wetlands, floodway, and slopes over fifteen (15) percent; and, this minimum percentage shall be included in the conservation open space set aside for the common use and enjoyment of the subdivision residents.

v. Access: Pedestrian and maintenance access shall be provided to open space reserved for subdivision residents so that each group of fifteen (15) dwelling units is provided with at least one (1) centrally

located access point a minimum of thirty-five (35) feet in width per fifteen (15) lots.

vi. Permanent Open Space: The open space shall be subject to permanent conservation easements prohibiting future development, prohibiting its use to meet open space or density requirements for any other development, and defining the range of permitted activities.

4. Mobile Home Park

a. Purpose: The purpose of this conditional use is to permit mobile home parks in districts where they are authorized in such a way that their development is safe and sanitary and fit for human habitation and that their development is acceptable and compatible with other development in the areas in which they are located.

b. Use Regulations: The use shall be mobile homes. Accessory uses, and special exception uses shall be the same as those permitted in the "R-1" Residential District and subject to the same limitations.

c. Dimensional Regulations

i. Minimum Park Area: A mobile home park shall have an area of at least ten (10) acres.

ii. Minimum Park Width: A mobile home park shall have a minimum width of three hundred (300) feet.

iii. Front, Side, and Rear Yard: The minimum front, side, and rear yards for a mobile home park shall be fifty (50) feet in depth as measured at right angles from the property lines. This space shall be used for no other purpose but landscaping and access roads.

iv. Tract Coverage: Not more than twenty-five (25) percent of the tract shall be covered with buildings, and the maximum total impervious surface cover shall be forty percent (40%).

v. Building Height: The maximum height of any building shall be fifteen (15) feet or (1) story.

d. Development Regulations: A mobile home park shall also be subject to the following development regulations:

i. Comprehensive Plan: A proposed mobile home park shall be consistent with the Comprehensive Plan of Tunkhannock Borough.

ii. Site Location: A mobile home park shall be located on land having a reasonably flat terrain (having an average slope of eight percent [8%] or less). The land area shall be free of swamps, marshes, garbage, excessive noise, smoke, or other elements generally considered detrimental to residential development. The location shall be free from flooding by a one hundred (100) year flood and shall have access to public roads.

iii. Placement of Mobile Homes: Each mobile home shall be installed in accord with Uniform Construction Code requirements. Each mobile home site shall also be provided with a poured concrete outdoor patio six (6) inches deep and at least one hundred eighty (180) square feet in area at the main entrance to the mobile home.

iv. Mobile Home Lots: Only one mobile home, including its extensions or additions, may be placed on each mobile home lot which shall have access to a street in the mobile home park. Each lot shall have a minimum area of four thousand (4,000) square feet and a minimum lot width of forty (40) feet. The minimum front, yard shall be ten (10) feet; the rear yard, five (5) feet; and each side yard, five (5) feet. The minimum distance between buildings shall be twenty (20) feet. No more than thirty percent (30%) of each lot shall be covered by buildings, and the maximum total impervious surface cover shall be forty percent (40%).

v. Recreation Areas: A mobile home park shall be provided with a recreation area for mobile home residents. The recreation area shall be no less than five percent (5%) of the total area of the park. Such an area shall be appropriately developed with recreation facilities and easily accessible to all homes in the park.

vi. Utilities: All utilities serving mobile home lots shall be placed at least four (4) feet underground. In addition, each mobile home in the park shall be served by central water and sewerage.

vii. Storage Sheds: Each mobile home park shall provide to each mobile home an enclosed storage shed or partitioned space in such shed, either of which shall have at least three hundred sixty (360) cubic feet and shall be located within one hundred fifty (150) feet of said mobile home. No outside storage shall be permitted by any mobile home park or committed by any occupant, including the storage of anything underneath any mobile home.

viii. Refuse Storage and Collection: Each home shall provide its own garbage and refuse containers in accordance with Borough regulations pertaining to garbage and other solid wastes. The owner of the mobile home park shall provide for the weekly collection of garbage and refuse.

e. Supplementary Regulations: (See Article 7.)

f. Subdividing and Developing: Since a mobile home park is divided into parcels for sale or lease as a subdivision or land development as defined in Article 3, is shall also be subject to the regulations found in the Subdivision and Land Development Ordinance.

5. Mineral Extraction; Oil and Gas Wells: Mineral extraction and oil and gas wells shall be permitted only in those Districts as listed in the District Regulations. In addition to other applicable standards of this Ordinance, this Section shall apply to mineral extraction and 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 §603(I) 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 §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

i. 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 to establish the foundation for any conditions required to protect the public health, safety and general welfare.

ii. Oil and Gas Wells; Horizontal Capture of Natural Gas: Oil and gas wells shall comply with this Section 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. Multiple wells may be permitted on one (1) drilling pad.

c. Mineral Processing

i. Separate and Distinct Use: 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 a separate and distinct use regulated as *industry* by this Zoning Ordinance.

ii. 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. 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.

e. Undisturbed Buffer: The required setback areas shall be undisturbed to provide a buffer and shall not be used for parking, storage or any other mineral extraction purpose except landscaping and crossing of access roads.

f. 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.

i. 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.

ii. Buffers shall be designed in accord with §706,1 of this Ordinance and the design details shall be included on the site plan

iii. 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.

g. 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.

h. Conditions of Approval: If the Borough determines that the standards in §701 which are not pre-empted are not adequate for a conditional use, the Borough Council 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 imposed by the Borough Council may be related to hours of operation, more stringent noise control, outdoor operations and storage, lighting and glare, stormwater management, security, and other necessary safeguards.

i. 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.

j. Informational Requirements: The applicant shall provide:

i. Borough Application Information: The applicant shall, at a minimum, provide the information required by this Zoning 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.

ii. DEP Application Information: A copy of all applications and information required by the applicable DEP Rules and Regulations.

k. 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.

l. 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 the District Regulations 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 Section.

m. Additional Requirements for Oil and Gas Wells

i. Plot Plan: In addition to the information required by §802, 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 flood plains within five hundred (500) feet of the well location and other uses regulated by the PA Oil and Gas Act.

ii. 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 beginning and end dates:

- site preparation.
- drilling activity.
- completion (perforating) work.
- stimulation (fracturing) work.
- production work.
- plugging.

iii. Emergency Response Plan: The applicant shall submit an emergency response plan to the Borough, the local fire companies and the Wyoming County Emergency Management Agency, providing, at a minimum:

(a) The recommended first response by fire companies and other first responders to address:

- well leakage.
- spill containment.
- vandalism creating unknown conditions.
- defective casing or cementing.
- 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:

- The size and location of a storage pit for any material emanating from the well during drilling and site restoration;

- The size and location of any tankage designed for the site and dikes for spill containment of said tank during well production.

- Methods of oil separation and removal of all solids or liquid byproducts, including oil, from the site during production, if applicable

- Emergency contact information.

- A proposed response plan containing a National Incident Management System (NIMS) compliant emergency management protocol.

- An emergency traffic control plan.

iv. 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.

v. 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.

vi. 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.

6. Industrial Wastewater Treatment Facilities and Water Withdrawal Facilities: Industrial wastewater treatment facilities and water withdrawal facilities (referred to as *facilities*) shall be allowed only in those districts as specified in the District Regulations. In addition to all other applicable standards of this Ordinance, the requirements of this Section shall apply.

a. Setbacks: The following setbacks shall be maintained for the facilities and any truck parking or staging areas. Ancillary facilities such as offices, employee parking, and accessory structures shall comply with the buffer requirements in this section.

i. Property Lines, Road rights-of-Way: One hundred (100) feet to adjoining properties and public road rights-of-way.

ii. Residential Structures: Two hundred (200) feet to any existing residential structure not located on the project parcel.

b. Parking and Staging Areas: Adequate vehicle parking and staging areas shall be provided on site to prevent parking or staging on any public road right-of-way.

c. Buffer

i. 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.

ii. 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.

iii. Design details of buffers shall be included on the site plan.

iv. 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.

d. 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.

e. 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.

f. Informational Requirements

i. Application Information: The applicant and/or operator shall provide the information required by this §817.3, all other application information required by this Ordinance, and all other necessary information to enable the Borough to determine compliance with this Ordinance.

ii. DEP Application Information: A copy of all applications and information required by the applicable DEP Rules and Regulations.

iii. Conditions: The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval.

g. 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.

h. Review Fees: The Applicant shall pay all professional costs incurred by the Borough for review of technical aspects of the proposal, and shall deposit with the Borough an amount deemed adequate by the Borough to cover the anticipated costs. Should the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

7. 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 the District Regulations. In addition to all other applicable standards of this

Ordinance, the requirements of this Section shall apply.

a. Building; Noise: All compressors and associated mechanical equipment shall be located within a fully enclosed building with soundproofing and blow down silencers and mufflers adequate to ensure that the exterior noise level does not exceed the pre-development ambient noise levels as measured within three hundred (300) feet of the compressor station building(s), or as otherwise required as a condition of approval. 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. Noise levels shall be determined in accord with §706,6.

b. Setbacks: The following setbacks shall be maintained:

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

   ii. Residential Structures: Three hundred (300) feet to any existing residential structure not located on the project parcel.

   iii. Water Bodies: Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland.

c. Buffer

   i. 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.

   ii. 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.

   iii. Design details of buffers shall be included on the site plan.

   iv. 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.

d. 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.

e. 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.

f. Informational Requirements: The applicant shall provide the information required by this Section 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:

   i. Application Information: The information required by this Section, all required application information, and all other necessary information to enable the Borough to assess compliance with this

Ordinance.

ii. DEP Application Information: A copy of all applications and information required by the applicable DEP Rules and Regulations.

g. 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.

h. Review Fees: The Applicant shall pay all professional costs incurred by the Borough for review of technical aspects of the proposal, and shall deposit with the Borough an amount deemed adequate by the Borough to cover the anticipated costs. Should the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

8. Temporary and Permanent Dwelling Units: All dwelling units, whether proposed as permanent dwelling units or for temporary use, shall comply with all applicable requirements for the type of dwelling unit as defined in Article III and regulated by this Ordinance except as otherwise permitted by this §603a.8.

9. 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 the Schedule of Uses. In addition to all other applicable standards, 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 §603a.9.b.

b. 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.

c. 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.

d. Informational Requirements

i. Application Information: The applicant and/or operator for all facilities shall provide the information required by this §603a.9, all other application information required by this Ordinance, and all other necessary information to enable the Borough to determine compliance.

iv. 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.

iii. DEP Application Information: A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection (DEP) Rules and Regulations.

iv. Conditions: The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval.

e. 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.

f. Standards

i. Setbacks: The following setbacks shall be maintained for any building, processing operation, unloading/loading area, or processing equipment or mineral storage area:

(a) Property Lines, Road rights-of-Way: fifty (50) feet to adjoining properties and public road rights-of-way.

(b) Residential Structures: one hundred (100) feet to any existing residential structure not located on the project parcel.

ii. 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. 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 Wyoming County Subdivision and Land Development Ordinance.

(d) 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.

iii. 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.

iv. 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.

v. *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.

vi. 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.

vii. 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.

viii. Conditions of Approval: If the Borough determines that the standards in §706 are not adequate for a conditional use, the Borough Council shall attach such other conditions deemed necessary to protect the public health, safety and welfare. Such conditions imposed by the Borough Council 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.

g. 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.

h. Informational Requirements: The applicant shall provide the information required by this §603a.10 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:

i. Application Information: The information required by this §603a.10, all other application information required by this Ordinance, and all other necessary information to enable the Borough to assess compliance with this Ordinance.

ii. DEP Application Information : A copy of all applications and information required by the applicable DEP Rules and Regulations.

i. 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.

j. 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 Wyoming County Emergency Management Agency.

10. Mineral Processing and Mineral Depots: The requirements of this §603a.10 shall apply to mineral processing and mineral depots.

a. Standards

i. Setbacks: The following setbacks shall be maintained for any building, processing operation, unloading/loading area, or processing equipment or mineral storage area:

(a) Property Lines, Road rights-of-Way: fifty (50) feet to adjoining properties and public road rights-of-way.

(b) Residential Structures: one hundred (100) feet to any existing residential structure not located on the project parcel.

ii. 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. 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 property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

iii. 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.

iv. 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.

v. 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.

vi. 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.

vii. 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.

viii. Conditions of Approval: If the Borough determines that the standards in §706 are not adequate for a conditional use, the Borough Council shall attach such other conditions deemed necessary to protect the public health, safety and welfare. Such conditions imposed by the Borough Council 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.

b. 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.

c. Informational Requirements: The applicant shall provide the information required by this §603a.10 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:

i. Application Information: The information required by this §603a.10, all other information required by this ordinance, and all other necessary information to enable the Borough to assess compliance with this Ordinance.

ii. DEP Application Information: A copy of all applications and information required by the applicable DEP Rules and Regulations.

d. 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.

11. Power Plants: Power plants shall comply with this §603a.11.

a. Purposes

i. 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.

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

b. Standards

i. 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 §706.6 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.

ii. 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. The following setbacks shall be maintained:

- Property Lines, Road rights-of-Way: fifty (50) feet to adjoining properties and public road rights-of-way.

- Existing Buildings – one hundred (100) feet to any existing building.

(2) Buffer.

- 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.

- 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.

- 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.

- 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.

iii. Fencing. A fence may be required around the perimeter of the power plant site unless the design of the structures adequately provides for safety.

iv. 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.

v. 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.

vi. 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.

viii. 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 .

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 information required by this §603a.11.f 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:

i. Application Information. The information required by this §603a.11, all required application information, and all other necessary information to enable the Borough to assess compliance with this Ordinance.

ii. 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.

iii. State and Federal Application Information. A copy of all applications and information required by the applicable state and federal agencies.

iv. 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 Wyoming 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.

h. Discontinued Use. Should any power plant cease to be used, the owner or operator or then owner of the land on which the power plant 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. In addition, at the time of zoning permit issuance for any power plant, the Borough shall require a financial guarantee, in a term, form and amount determined by the Borough Council with the advice of the Borough Solicitor, to guarantee the removal of the power plant.

12. Solar Power Generation, Commercial

a. Purposes: The purpose of this §603a.12 is to:

i. Location and Number: 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.

ii. Critical Development Areas: Avoid development of land-intensive solar facilities in areas designated for other uses critical to community and economic development.

iii. Grid Infrastructure Costs: Minimize utility grid infrastructure development costs by requiring solar facilities to be near substations with the capacity to accommodate the generated electricity

iv. Traffic: Reduce traffic impacts by requiring solar facility access to roads with adequate capacity.

b. Permits; Use Regulations

i. Permits: A permit shall be required for every solar power facility installed in the Borough.

ii. 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 as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the solar power facility.

iii. 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 land development standards:

(a) The minimum lot area, minimum 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

i. Parcel Size; Location; Setbacks; Lot Coverage

(a) The parcel shall not be more than three (3) miles from a utility substation with the capacity to service the proposed facility.

(b) The setback for solar collectors, all structures, equipment containers and any associated mechanical facilities shall be forty (40) feet front, thirty (30) feet sides and thirty (30) feet rear.

(c) The maximum lot coverage shall be seventy-five (75) percent and the area of the solar collectors shall be included in the calculation of lot coverage.

ii. Height: Solar collectors shall not exceed the principal structure height limitations for the underlying zoning district.

iii. Fencing: A chain link fence not less than six (6) feet in height shall be installed around the perimeter of the facilities to restrict access.

iv. 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.

v. 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.

vi. Access; Required Parking: Access to the solar power facility shall be provided by means of a public road with the capacity to carry the anticipated amount and type of traffic. If the solar power facility site is fully automated, adequate parking shall be required for maintenance workers.

vii. 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.

viii. 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.

ix. Historic Structures: A solar power facility shall not be located within five hundred (500) feet of any structure listed on any public historic register.

x. 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.

xi. Uniform Construction Code: To the extent applicable, the solar power facility shall comply with the Pennsylvania Uniform Construction Code.

xii. 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.

xiii. 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.

xiv. Signs: No advertising material or signs other than warning, manufacturer and equipment information or indication of ownership shall be allowed on any equipment of structures.

xv. Transmission and Power Lines: On-site transmission and power lines shall, to the greatest extent possible, be placed underground.

xvi. Stray Voltage/Electromagnetic Fields (EMF): The operator shall use good industry practices to minimize the impact, if any, of stray voltage and/or EMF.

xvii. 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.

xviii. 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

i. 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.

ii. Depth Requirement: Decommissioning shall include removal of collectors, buildings, cabling,

electrical components, roads, foundations, and any other associated facilities.

iii. 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.

iv. 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.

v. Financial Security Bond: The solar power facility owner or operator, prior to the issuance of a zoning permit, shall provide a financial security bond with the Borough as payee in an amount approved by the Borough Council, but not less than $50,000, from a company and in a form and content acceptable to the Borough Council, 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.

vi. 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.

vii. Landowner Responsibility: If the solar power facility owner or operator fails to complete decommissioning within the prescribed time period, then the landowner shall have one hundred eighty (180) days to complete decommissioning.

viii. 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, their respective heirs, successors and assigns that the Borough may take such action as necessary to implement the decommissioning plan.

ix. Release of Decommissioning Funds: The escrow agent shall release the decommissioning funds 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.

13. Wind Energy Facilities: The provisions of this §603a.13 shall apply to wind energy facilities.

a. Purposes

i. 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.

ii. To avoid potential damage to adjacent properties from windmill structure failure and falling ice, through engineering and proper siting of such structures.

b. Permits; Use Regulations

i. Permits: A permit shall be required for every wind energy facility and windmill installed at any location in the Borough.

ii. Associated Use: All other uses ancillary to the wind energy facility (including a business office, maintenance depot,, etc., greater than 1,000 sq. ft.) are prohibited from the wind energy facility, unless otherwise permitted in the zoning 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.

iii. Wind Energy Facility as a Second Principal Use: A wind energy facility shall be permitted on a property with an existing use 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 windmills 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.

c. Standards

i. Wind Energy Facility Height: The applicant shall demonstrate that the windmills are at the minimum height required to function satisfactorily. No windmill that is taller than this minimum height shall be approved.

ii. Parcel Size; Setbacks

(a) Separate Parcel: If the parcel on which the wind energy facility 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. No part of any windmill shall be located closer to any property line than its height plus the normal setback for the district. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet.

(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 windmill, 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 part of any windmill shall be located closer to any property line (not lease, license or easement line) than its height plus the normal setback for the district.

(c) Principal Structures: No windmill shall be located less than five hundred (500) feet from any principal residential structure existing prior to the erection of the windmill.

iii. Wind Energy Facility Support Structure Safety: The applicant shall demonstrate that the proposed windmills are safe and the surrounding areas will not be negatively affected by structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All windmills 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 wind energy facility and support structure will be designed and constructed in accord with accepted engineering practices and all requirements of any applicable construction code. Within forty-five (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.

iv. Fencing: A fence may be required around windmills and other equipment, unless the design of the structures adequately provides for safety.

v. Landscaping: Landscaping may be required to screen as much of the wind energy 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 wind energy 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.

vi. Licenses; Other Regulations; Insurance: The applicant must demonstrate that it has obtained the required licenses from governing state and federal 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 wind energy 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 wind energy facility.

vii. 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 equal the number of people on the largest shift.

viii. Color and Lighting; FAA and PA DOT Notice: Windmills shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No windmill may be artificially lighted except as required by FAA requirements. 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.

ix. 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 wind energy facility developer.

x. Historic Structures: A wind energy facility shall not be located within five-hundred (500) feet of any structure listed on any public historic register.

xi. Discontinued Use: Should any wind energy facility or windmill cease to be used, the owner or operator or then owner of the land on which the wind energy facility or windmill 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. In addition, at the time of zoning permit issuance for any windmill, the Borough shall require a financial guarantee, in a term, form and amount determined by the Borough Council with the advice of the Borough Solicitor, to guarantee the removal of the windmill.

xii. Site Plan: A full site plan shall be required for all wind energy facility sites, showing the wind energy facility, windmills, building, fencing, buffering, access, and all other items required for conditional uses by this Ordinance.

d. Public Inquiries and Complaints: The 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 facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.

e. Wind Test Towers: Temporary wind test towers may be erected as a conditional use in Districts where

wind energy facilities are permitted in accord with other applicable requirements. Such towers shall be removed within eighteen (18) months of installation.

14. Airports and Heliports: The procedures and standards in this §603a.14 shall apply to all existing and proposed airports and heliports: (See also Article 14 - Airport Overlay District.)

    a. Approval Required: The existence of airport hazard zones limits the uses of surrounding landowners. No airport shall be permitted to make any change which would affect the location of airport surface zones, approach zones, or hazard zones, and no new airport shall be developed unless zoning approval has been granted. The following shall constitute changes at an airport requiring approval prior to the change:

        i. Any extension of a runway's length or location;

        ii. Any change in the height of a runway;

        iii. The paving of any previously unpaved portions of a runway, taxiway or holding area 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;

        iv. Any change of runway direction or alignment;

        v. Any change in the status of taxiways or holding areas affecting the location or extent of any airport hazard zones;

        vi. 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.

        vii. 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 shall contain the following documents and information:

        i. A full narrative description of the airport and any changes proposed.

        ii. Plans and maps prepared by a registered professional engineer showing the airport and any changes proposed to the airport.

        iii. Plans and maps prepared by a registered professional engineer showing existing and proposed locations of the airport hazard zones.

        iv. Copies of all applications, correspondence, documents, maps or plans submitted to the FAA and the Bureau of Aviation relating to the proposed change or construction, rating change, or other rating, legal or physical change.

        v. A plan showing how the lands or air rights negatively affected shall be acquired, if necessary.

        vi. A list of the names and addresses of all landowners negatively affected by the proposed airport or change within a height of seventy-five (75) feet from the surface of said lands by the change in airport hazard zones.

        vii. 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 Commission 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. 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 Department by certified mail, at least fourteen (14) days before the date of the hearing.

e. Criteria to Review:

i. The effect upon reasonable use of properties affected by the proposal

ii. How the applicant plans to acquire any necessary air rights.

iii. The character of the flying operations expected to be conducted at the airport;

iv. The nature of the terrain within the airport hazard zone area;

v. The character of the community which is affected by the proposal.

vi. The effect upon roads, development, transportation routes, and other aspects of the Borough's Comprehensive Plan;

vii. The provision of hazard lighting and marking;

viii. The importance of aircraft safety.

f. Runway and Landing Pad Setbacks: The edges and ends of any runway and/or helicopter landing pad shall be a minimum of two hundred and fifty (250) feet from any property line.

15. Mobile Food Service Operations and Mobile Sales Operations: In addition to all other applicable standards of this Ordinance, the requirements of this §603a.15 shall apply to mobile food service operations and mobile sales operations (referred to as *operations*).

a. Location:

i. Districts: Such operations shall only be permitted in the Districts specified in the Schedule of Uses.

ii. Setbacks: The District setbacks for principal structures shall be maintained.

iii. Right-of-Way; Access: The operation shall not be located in any public right-of-way or in any driveway aisles, no parking zones, parking or loading areas, or lanes, or other location which would impede the on-site circulation of motor vehicles.

iv. Vending Area: The vending area includes the space taken up by a portable stand, vehicle, or trailer; signs; equipment; products; and any tents, tarpaulins, canopies, or awnings.

b. Operating Standards:

i. Vehicle/Trailer: Any vehicle/trailer used for the operation shall remain portable and shall be removed from the site for a period of not less than twenty-four (24) hours in each fifteen (15)-day period.

ii. Hours of Operation: 7 a.m. to 10 p.m. on weekdays and 7 a.m. to 11 p.m. on weekends and federal holidays.

iii. Music or Sound: The use of any sound amplification shall not create a public nuisance.

iv. Signs: The only sign permitted shall be one (1) A-frame menu board of up to nine (9) square feet and the sign shall be within the vending area. The sign may be displayed only during hours of operation. No signs in the public right-of-way or balloons, banners, streamers or other similar devices to attract customers shall be permitted.

v. Parking and Access: Adequate access from the public road and off-street parking shall be provided to prevent traffic and safety hazards.

vi. Electric Service Connections: Electric service connection to an on-site approved outlet shall be permitted in accord with applicable codes provided that no wiring or cables are run beyond the vending area or pose any danger to the patrons.

vii. Water Supply: Connection to a water supply shall be permitted in accord with applicable codes and regulations.

viii. Sewage Disposal: Sewage disposal shall be provided in accord with Borough requirements.

ix. Trash: Adequate trash receptacles shall be provided and trash shall be disposed of to prevent the dispersal or accumulation outside of receptacles.

16. 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 two hundred fifty (250) feet from any property line or public road. Greater setbacks and buffers may be required in accord with §420-43 to address community effects.

b. 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.

c. 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.

d. 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.

e. Storage: No vehicles, supplies, parts, or any other material shall be stored in any required setback areas normally required for the district.

f. Fuel Documentation: Documentation shall be provided that all fuel and fuel storage areas comply with State and Federal requirements.

g. Fencing and Barrier:. 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.

h. 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:

i. Design standards of all safety fencing/barriers.
ii. Procedures for fuel storage, handling and dispensing.
iii. Emergency services, including fire and ambulance, which will be available during events.
iv. Disaster/emergency response procedures.
v. Crowd management.

i. Bond/Insurance: Based on the type and size of the race track, the Applicant may be required 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.

j. Animal Race Tracks: In addition to the other standards in this §603a16, the following additional standards shall apply to animal race tracks:

i. The race course for any animal race track race track 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 §420-43 to address community effects.

ii. 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.

iii. The Applicant shall provide a plan for manure and animal waste management demonstrating that all manure and animal waste shall be managed and disposed of in accord with applicable local, state and federal regulations.

17. Shooting Ranges, Outdoor Commercial: This §603a.17 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 §603a.17. 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 §603a.17. 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 §706.6 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: The 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.

# ARTICLE 7
# SUPPLEMENTARY REGULATIONS

## 701 Supplementary Use Regulations

1. Excavation and Removal of Top Soil: Excavation of top soil for the purpose of grading a site or preparing for the construction of a building shall be allowed. Excavation and removal activities shall comply with the following:

   a. Drainage: Any excavation for the removal of top soil or other earth products must be adequately drained to prevent the formation of pools of water and shall not create drainage problems for adjacent properties or public streets.

   b. Storage Piles: Unless specifically permitted, open excavations shall not be maintained, except those excavations made for the erection of a building or structure for which a permit has been issued.

   c. Dust: Dust problems shall be minimized during the excavation, storage, removal, and hauling of excavated materials.

2. Flood Plains: (See the Borough Flood Plain Ordinance.)

3. Home Gardening Nurseries and Greenhouses: Home gardening and accessory structures used for nurseries or greenhouses are permitted in all Districts provided that they shall not be located in any front yard and shall not include the outdoor storage of equipment and supplies.

4. No-Impact Home-Based Business: It is the intent of this section to authorize no-impact home-based businesses such as computer connected offices, home offices for personal record keeping, studios for authors or artists, sales representatives who work door-to-door, simple craft making (for which sales shall occur off-premises), and such other activities which have no effect whatever on neighboring residences or on the residential quality of an area.

   It is further the intent of this section to regulate the operation of a no-impact home-based business so that the average neighbor will not be aware of the existence of such business.

   a. A no-impact home-based business shall be a permitted use in all districts.

   b. A no-impact home-based business shall require a permit from the zoning officer. It shall be the decision of the Zoning Officer as to whether an activity is a no-impact home-based business or a home occupation under the Borough Zoning Ordinance.

   c. The following criteria shall apply to a no-impact home-based business:

      i. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

      ii. The business shall employ no employees other than family members residing in the dwelling.

      iii. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

      iv. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.

      v. The business activity 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.

vi. The business activity may not generate any solid waste or sewage discharge in volume or type, which is not normally associated with residential use in the neighborhood.

vii. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.

viii. The business shall not involve any illegal activity.

5. Off-Street Parking and Loading

a. Size and Design of Parking Spaces

i. Off-street parking areas shall be designed with sufficient space width and length, aisle widths, turning radii and maneuvering room, based upon a standard professional design guide acceptable to the Borough, such as the most recent edition of the American Institute of Architects Architectural Graphic Standards, or The Subdivision and Site Plan Handbook.

ii. All parking spaces shall be ample in size for the vehicles for which use is intended and each off-street parking space shall have an area of not less than two hundred (200) square feet and have dimensions of ten (10) feet in width and twenty (20) feet in depth, exclusive of access drives or aisles.

iii. All such spaces shall be kept in usable shape and condition.

iv. Except in the case of dwellings, no parking area shall contain fewer than three (3) spaces.

v. Open parking areas shall be calculated as yard area except as otherwise provided.

vi. Garages and carports not in the public right-of-way may be considered parking spaces.

b. Garages and Carports: A garage or carport may be located wholly or partly inside the walls of the principal building. If connected to the principal buildings, it shall be considered part of the principal building in calculating yard requirements. If separated from the principal building, it shall be considered an accessory building. The garage may be constructed under a yard or court, in which case the space above the underground garage shall be deemed to be part of the open space of the lot on which it is located.

c. Location of Parking Spaces: Required parking spaces shall be located either:

i. On the same lot as the use to which they are accessory or

ii. On another lot zoned the same, under the same ownership, and within four hundred (400) feet of the boundary of the property of the principal use.

If the spaces are on another lot, such spaces shall be subject to deed restrictions filed with the County Recorder of Deeds binding the owner of such lot and his heirs or assigns to maintain the required number of spaces throughout the life of such use.

d. Loading and Unloading Areas: In addition to the required off-street parking spaces the developer of any building erected, converted or enlarged in any district for commercial, office building, hotel, motel, restaurant, manufacturing, wholesale, hospital or other non-residential uses, to provide adequate off-street areas for loading and unloading of vehicles. The applicant shall provide details on the type and frequency of vehicles operating in connection with the proposed use to justify the loading and unloading areas proposed. Each required space shall meet the following dimensions:

| Largest Type of Truck Service | Minimum Width (feet) | Minimum Length (feet) |
|---|---|---|
| Tractor trailer | 12 | 40 with 12 ft clear height |
| Trucks other than tractor trailers, pick-ups or vans | 10 | 25 |
| Pick-up truck or van | 10 | 20 |

e. Access to Off-Street Parking and Loading Areas: There shall be adequate ingress and egress to all parking and loading areas. There shall be provided a driveway leading to the parking or storage areas or loading spaces. Such driveway shall be not less than ten (10) feet in width in the case of a dwelling, and not less than twenty (20) feet in width in all other cases. Access to off-street parking shall be limited to several well-defined, separate or common access points which shall comply with the following:

i. Driveways shall not open upon any public right-of-way within forty (40) feet of the nearest right-of-way line of any intersecting public street or highway.

ii. Driveways shall not open upon any public right-of-way where the sight distance in either direction along the public thoroughfare would be less than five hundred (500) feet when the posted speed limit is 35 miles per hour or more; however, when the posted speed limit is less than 35 miles per hour, the sight distance requirements may be reduced to two hundred fifty (250) feet.

iii. Driveways opening onto state highways shall require a highway occupancy permit from the Pennsylvania Department of Transportation.

iv. In no case shall there be unrestricted access along the length of a street or alley.

f. Parking Lot Screening and Landscaping

i. Off-street parking areas for more than ten (10) vehicles and all off-street loading areas shall be effectively screened by a planting strip at least five (5) feet in depth along all abutting property lines. The planting strip shall include a solid wall or substantial, attractive, tight fence, and evergreen hedges a minimum of five (5) feet in height, and other shrubbery, vines, flowers, grass, and other foliage. The evergreens shall be of such height at the time of planting that they will attain a height of five (5) feet within five (5) years.

ii. The interior area of a parking lot of more than twenty-five (25) vehicles , in addition to all border planting strips, shall contain planting areas dispersed throughout with not less than five (5) percent of such interior area in landscaping. Such planting areas shall contain shade trees, with no tree less than eight (8) feet in height at the time of planting, shrubbery, vines, flowers, grass, and other foliage. No interior area of such a parking lot shall be without at least one (1) shade tree.

g. Parking Lot Surfacing: Surfacing shall consist of any asphaltic or Portland cement binder pavement graded and drained to dispose of all surface water and designed to provide for orderly and safe loading and parking. Improved gravel surfaces may also be used for parking and loading areas, except for commercial, industrial and other nonresidential establishments.

h. Parking Lot Surfacing: Any lighting used to illuminate off-street parking and loading areas shall be arranged so as to reflect the light away from adjoining premises and public rights-of-way.

i. Parking Spaces Required: Any structure or building hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial or industrial purposes, shall be provided with not less than the minimum spaces, as set forth below, which spaces shall be readily accessible to the uses served thereby.

Fractional numbers of parking spaces shall be increased to the next whole number.

No additional off-street parking or loading and unloading areas shall be required for any proposed, expanded or changed nonresidential use that fronts on Tioga Street between Warren Street and Pine Street unless Subdivision or Land Development approval is also required by an Ordinance of the Borough of Tunkhannock or Wyoming County. In the event that the proposed, expanded or changed nonresidential use also requires Subdivision or Land Development approval, the number of parking spaces required by this Ordinance shall be reduced by sixty-five (65) percent. Off-street parking or loading and unloading areas existing at the effective date of this §701.5i shall not be reduced in number or area. Residential uses and changes from "residential" to "nonresidential" uses shall comply with all off-street parking requirements of this Ordinance except that the number of parking spaces required by this Ordinance shall be reduced by sixty-five (65) percent.

Parking for Residential Uses

i. Single-family houses and mobile homes shall be provided with two (2) parking spaces per dwelling unit. As attached or unattached garage or carport on the premises, or that portion of the driveway not included in the public right-of-way, may be considered as parking space.

ii. Two-family houses (duplexes and flats) shall be provided with a minimum of two (2) parking spaces per dwelling unit.

iii. Townhouses and multi-family low-rise apartments shall be provided with a minimum of two (2) parking spaces per dwelling unit.

iv. Multi-family mid-rise apartments shall be provided with a minimum of one and one-half (1 ½) parking spaces per dwelling unit.

v. Dwellings above or in combination with commercial establishments shall be provided with a minimum of one (1) parking space per dwelling unit in addition to all spaces required for the business.

vi. Rooming or boarding houses shall be provided with a minimum of one (1) parking space for each guest room and two (2) for the resident manager.

Parking for Public and Semi-Public Uses

i. Places of worship and cemetery chapels, school auditoriums, other public auditoriums, stadiums, assembly or meeting rooms, or other similar places of public or private assembly shall be provided with one (1) parking space for every three (3) seats provided for assembly.

ii. Elementary and secondary public or parochial school shall be provided with one (1) parking space for each fifteen (15) classroom seats. Where a school also has an auditorium, the total number of parking spaces required shall be provided according to the highest requirements.

iii. Nursing and convalescent homes shall be provided with one (1) parking space for every three (3) beds plus one (1) space for each employee on the largest shift.

iv. Clinic and medical, osteopathic, chiropractic, or dental offices shall be provided with five (5) patient spaces per doctor and one (1) space for each staff member.

v. Commercial schools such as art, music, dancing, photography, business and technical trade schools shall be provided with one (1) parking space for every two (2) classroom seats.

vi. Nursery and day care centers for children shall be provided with one (1) space for each employee and an off-street loading and unloading area to accommodate one (1) space for each six (6) children cared

for in the center.

vii. Community centers, municipal administration buildings, libraries, and similar places shall be provided with one (1) space for every three hundred (300) square feet of gross floor area.

viii. Public utility buildings and structures, such as telephone exchanges, electric stations and substations, and gas, water and sewage pumping stations, water tanks and reservoirs, sewage treatment plants, and radio and television transmission or receiving towers, shall be provided with at least two (2) parking spaces per facility.

ix. Public and public utility maintenance garages and storage yards shall be provided with one (1) parking space per employee assigned to work at such facility.

x. Parks and playgrounds which included spectator seating for baseball fields, tennis courts and similar facilities shall be provided with parking spaces relative to spectator seating accommodations for stadiums, as described above. Where no spectator seating accommodations are involved, the facility shall be provided with two (2) parking spaces per swimming lane when a pool is present, two (2) parking spaces per playing court when such facilities are provided, and one (1) parking space for each two thousand (2,000) square feet of area or fraction thereof in the recreation site.

Parking for Commercial Use

i. Retail stores or shops shall be provided with one (1) parking space for every two hundred (200) square feet of floor space used for sale purposes and one (1) space for each employee.

ii. Supermarkets, grocery stores, and dairy stores shall be provided with one (1) parking space for every two hundred (200) square feet of floor space used for sales purposes and one (1) space for each employee.

iii. Eating and drinking establishments, social halls, clubs, lodges and other places serving food and beverages shall be provided with one (1) parking space for every two and one-half (2 ½) seats for patron use and one (1) space for each employee.

iv. Drive-in and fast-food restaurants shall be provided with one (1) space for every fifty (50) square feet of floor area and one (1) space for each employee.

v. Bowling alleys shall be provided with five (5) parking spaces for each pair of lanes and one (1) space for each employee on the largest shift.

vi. Skating rinks shall be provided with one space for every one hundred (100) square feet of skating area and one (1) space for each employee.

vii. Billiard and pool rooms shall be provided with two (2) spaces per billiard or pool table and one (1) space for each employee.

viii. Golf driving ranges shall be provided with one (1) parking space per tee and one (1) space for each employee.

ix. Miniature golf ranges shall be provided with one (1) space per hole and one (1) space for each employee.

x. Other open space areas used for commercial purposes shall be provided with one (1) parking space for each two thousand (2,000) square feet of area or fraction thereof.

xi. Animal kennels shall be provided with one (1) parking space for every three (3) kennel runs and one

(1) space for each employee.

xii. Animal hospitals shall be provided with five (5) client/patron spaces per veterinarian and one (1) space for each employee.

xiii. Office buildings shall be provided with one (1) parking space for each two hundred (200) square feet of floor area or fraction thereof.

xiv. Professional offices and banks shall be provided with one (1) space for each two hundred (200) square feet of floor area or fraction thereof.

xv. Funeral homes and crematories shall be provided with a minimum of one (1) space for each three (3) seats for public use. Such spaces shall be in addition to one (1) space for each employee and service areas for mobile equipment such as hearses and ambulances.

xvi. Motels, hotels, and tourist homes shall be provided with one (1) parking space for each unit for overnight accommodations and one (1) space for each employee on the largest shift plus all spaces required for restaurants or other uses accommodated.

xvii. Barber and beauty shops and hair styling shops shall be provided with two (2) parking spaces per shop plus one and one half (1 ½) per chair and one (1) for each employee.

xviii. Personal service and repair establishments shall be provided with one (1) space for each two hundred (200) square feet of floor area or fraction thereof. Establishments with less than two hundred (200) square feet shall provide at least one (1) parking space per establishment.

xix. Self-service dry cleaning establishments and laundromats shall be provided with one (1) parking space for each two (2) washing, drying, and cleaning machines.

xx. Home occupations shall be provided with two (2) parking spaces for each dwelling unit, one (1) space for each non-resident employee, and one (1) space per patron.

xxi. Vehicular sales and body repair and service garages shall be provided with one (1) exterior parking space for each two hundred (200) square feet of interior floor space plus one (1) space for each employee on the largest shift.

xxii. Home center sales and building sales establishments and contractors' yards shall be provided with one (1) client parking space for each one thousand five hundred (1,500) square feet of sales area, whether indoor or outdoor, and one (1) space for each employee.

xxiii. Gasoline service stations and car washes shall be provided with one (1) parking space for each employee on the largest shift.

xxiv. Other commercial buildings shall be provided with one (1) space for every three hundred (300) square feet of floor area or fraction thereof.

Parking for Industrial Uses

i. Industrial, wholesale and warehouse establishments, truck terminals, manufacturing plants, and research and testing laboratories, etc., shall be provided with one (1) parking space for each one and a half (1 ½) employees on the largest shift. Space shall also be provided for company vehicles and for visitors and sales representatives in addition to the above parking requirements according to specific needs.

j. Parking Prohibitions: Required parking spaces shall not be met by spaces on any street right-of-way.

k. Reduction in Required Number of Spaces: The required number of parking spaces may be reduced subject to conditional use approval by the Borough Council. Any conditional use approval to permit such decrease shall be subject to the following criteria:

i. 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.

ii. Quality of Design: The applicant shall demonstrate to the Borough 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.

iii. Local Conditions: In making its determination the Borough 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.

iv. Burden; Conditions: If the Borough 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 Borough Council may impose such conditions as will, in its judgment, secure the objectives and purposes of this Ordinance.

6. Principal Buildings and Uses: In any district in which dwellings are a principal and permitted use, no lot intended for a residential purpose shall contain more than one principal building or use unless specifically permitted by this Ordinance.

7. Screen Planting: Yard screening shall be provided along the boundaries of any industrial or commercial lot where the lot abuts a residential use and along the boundaries of any lot containing a use permitted by special exception or as a conditional use where such screening is required. Such screening shall consist of a visual screen of obstruction of suitable shrubs, hedges, fences, or walls at least six (6) feet height and maintained in good condition.

   Fences, walls, shrubs, or hedges under six (6) feet high may be located in any yard or court and shall be maintained in good condition. Trees and other plant material designed to enhance the livability and attractiveness of any lot may also be located in any yard or court. (See also: §703.9 Clear View at Street Intersections.)

8. Swimming Pools (Private): Private swimming pools in districts where permitted shall comply with the following conditions and requirements:

   a. The pool shall be intended and shall be used solely for the enjoyment of the occupants and their guests of the principal use of the property on which it is located.

   b. The pool shall be located at either the rear or side of the property on which it is an accessory use.

   c. The pool, including any walks or paved areas or accessory structures adjacent thereto, shall not be located closer to the rear or side property lines than the minimum distance required for unattached accessory structures as provided for in §703.8.

   d. For all pools, the pool area or entire property on which the pool is located shall be so walled or fenced or otherwise protected in accord with the Uniform Construction Code so as to prevent uncontrolled access by children from the street or from adjacent properties.

9. Livestock and Poultry: The keeping of livestock or poultry in the Borough for any purpose is prohibited.

702 Supplementary Area Regulations

1. Nonconforming Lots of Record: See §1211.

2. Reduced Lot Area: No lot shall be so reduced in area so that any yard or area requirements will be smaller than that prescribed in the regulations for the district in which the lot is located.

3. Residential Habitable Floor Area: All dwelling units hereafter created shall have the following minimum floor area:

| | |
|---|---|
| efficiency unit | 500 square feet |
| one-bedroom unit | 655 square feet |
| two-bedroom unit | 900 square feet |
| three-bedroom unit | 1,125 square feet |
| four-bedroom unit | 1,330 square feet |
| five- or more-bedroom unit | 1,330 sq. ft. plus 200 sq. ft. for every additional bedroom over four |

703 Supplementary Yard Regulations

1. Fences and Walls: The erection of any fence or wall (including retaining walls) in all Districts shall require a zoning permit, and shall be subject to the following provisions:

   a. Clear Sight Triangles: All fences and walls shall comply with 703.9 of this Ordinance for visibility at intersections.

   b. Front Setback Area: Unless otherwise permitted or required, fences and walls in front setback areas may be erected to a height of not more than four (4) feet in R-1 and S-1 Districts and not more than a height of six (6) feet in C-1, C-2 and I-1 Districts. No such fence or wall shall encroach upon any public right-of-way.

   c. Located on Side and Rear Property Lines: Fences and walls not more than six (6) feet in height may be erected on a side or rear property line provided said property line is clearly located and physically marked on the lots by lot line markers placed in accord with a survey conducted by a Registered Land Surveyor, and the owners of said lots present to the Borough a written document executed between said owners establishing agreement for erection of the subject fence or wall.

   d. Not Located on the Property Line or More than Six Feet in Height: Fences or walls which are not located on the property line in accord with §703.1c and fences or walls in excess of six (6) feet in height shall maintain the required front yard setback (for the front end of the fence) and shall be set back from side and rear lot lines by at least three (3) feet.

   e. Maximum Height: The maximum height of any fence or wall shall be twelve (12) feet.

   f. Disputes: In the event of a dispute concerning the location of a boundary line between properties, the requirement of a setback in this Ordinance and the placement of a fence in accordance with this section should not be deemed evidence that the placement of the subject fence is evidence of the location of the boundary.

   g. Posts/Supports: All fence posts and other structural supports shall be located on the side of said fence towards the interior of the property owned by the person erecting the subject fence.

   h. Prohibitions: The following fences and fencing materials are prohibited:

i. Barbed wire except that surmounting a "man-proof" fence and said barbed wire is at least six (6) feet above ground level.

ii. Electrically charged fences.

iii. Broken glass surmounting a wall.

iv. Fabric, junk, junk vehicles, sheet metal, appliances, tanks, barrels or similar material.

2. Fire Escapes: Open fire escapes shall not extend into any required yard more than four and one-half (4 ½) feet.

3. Front Yards and "Through" Yards: In any district a lot which runs through a block from street to street shall have the required front yard for the district in which it is located for the frontage on both streets.

4. Front Yards and "Corner" Lots: In any district a lot which abuts on and is at the intersection of two or more streets or upon two part of the same street shall have the required front yard for the district in which it is located for the frontage on both streets.

5. Porches and Deck: Any porch or deck of more than four and one-half (4 ½) feet in depth shall be considered a part of the building in the determinations of the size of yards or lot coverage.

6. Projecting Architectural Features: Chimneys, cornices, eaves, gutters, bay windows, awnings and similar architectural features may extend not more than two (2) feet into any required yard. In C-1 and C-2 awnings may extend not more than four (4) feet into any required yard.

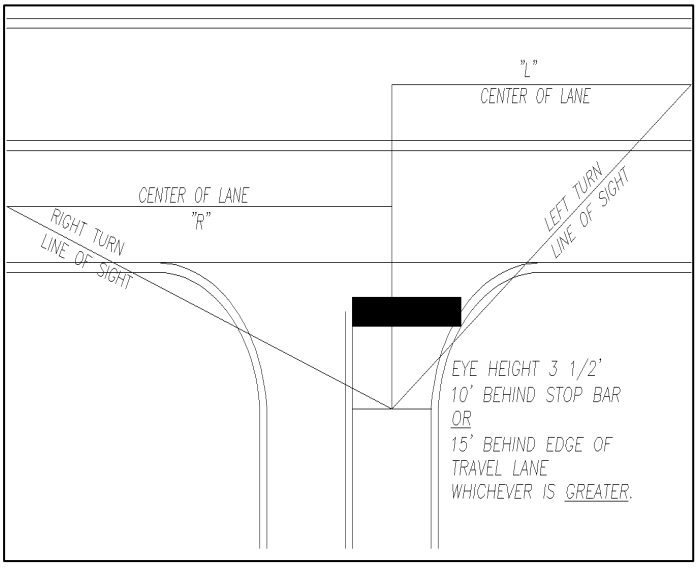
7. Structures, Attached Accessory: Accessory structures, such as garages or carports, which are attached to the principal building shall be considered a part of the building in the determination of the size of the yards or lot coverage.

8. Structures, Unattached Accessory: Unattached accessory structures on residential lots in any district may be erected within the rear or side yards provided that the maximum height of such structure be limited to one and one-half (1 ½) stories or fifteen (15) feet, and that the minimum distance of such structure from the rear and side property lines shall be as indicated in Article 5, District Regulations.

Sight Distance Table

| Vehicle Speed mph | Clear Sight Distance in Feet: Left Turn Maneuver "L" | Clear Sight Distance in Feet: Crossover / Right Turn Maneuver "R" |
|---|---|---|
| 15 | 170 | 145 |
| 20 | 225 | 195 |
| 25 | 280 | 240 |
| 30 | 335 | 290 |
| 35 | 390 | 335 |
| 40 | 445 | 385 |
| 45 | 500 | 430 |
| 50 | 555 | 480 |
| 55 | 610 | 530 |

2001 AASHTO *Green Book*




9. Clear View At Street Intersections: This Section shall apply to all lots located at intersections that involve any public road. On any portion of a lot that lies within the triangular area described below, nothing shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two-and-one-half (2.5) feet and ten (10) feet above the grade. The triangular area shall be set in accord with the latest revision of the American Association of State and Highway and Traffic Officials. In general, eye height is set at three and one-half (3.5) feet and the

target height is two (2) feet. Such sight triangles shall be measured in accord with the following diagram. More restrictive standards shall be required in cases where intersection alignment, topography or other circumstances dictate same to maintain adequate clear view.

704 Supplementary Height Regulations

1. Height Exceptions: The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, fire towers, bulk heads, and similar features; nor to silos, barns and other farm buildings and structures; nor to any accessory mechanical appurtenances usually carried above the roof level.

2. Ornamental Features: The provisions of this Ordinance shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornament (and without windows) extending above such height limit not more than five (5) feet.

3. Airports (See Article 14 – Airport Overlay District.)

705 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:

1. 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.

2. Minimum Parcel Size; Setback

   a. A minimum lot size of three-fourths (0.75) acres shall be required for an accessory wind turbine generator.

   b. 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.

   c. Guy wire anchors shall not extend closer than ten (10) feet to any property line or road-right-of-way.

3. Uniform Construction Code; Manufacturer's Standards

   a. 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.

b. The generator and support structure shall be installed in accord with all Uniform Construction Code and manufacturer requirements.

c. 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.

4. Climb Prevention/Locks/Fence

a. Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.

b. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent access by non-authorized persons.

5. Noise and Shadow Flicker

a. 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.

b. Best efforts shall be used to minimize shadow flicker on any other parcel.

6. 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.

7. Site Plan: A plot plan shall be provided to document all required setbacks.

8. 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.

706 Performance Standards Applicable to Nonresidential Uses

a. Intent and Applicability: The intent of this §706 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. No land or building shall be used or occupied in such manner which creates any dangerous, injurious, noxious, or otherwise objectionable condition in such amount to adversely affect the surrounding area, and any such activity is hereby declared to be a public nuisance. However, any use permitted by this Ordinance may be undertaken and maintained if it conforms to all applicable requirements of this Ordinance, including the standards in this §706 which are intended to limit nuisance elements. The following performance standards shall apply to all proposed new or expanded nonresidential uses, and residential uses explicitly referenced by a specific section. The standards in this §706 shall not apply to normal agricultural uses unless explicitly referenced by a specific section.

b. Affidavit

i. 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 §706 and applicable to such use, and affirming his agreement to conduct or operate such use at all times in conformance with such standards.

ii. 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.

iii. Regardless of whether or not a use is required to comply with the procedure specified in this §706, every use shall comply with all performance standards.

1. Yards and Buffers: Unless otherwise regulated by this Ordinance, where a commercial or manufacturing use is proposed contiguous to any existing residential use or any R-1 Residential District the minimum size of the abutting yard shall be increased by fifty (50) percent and a landscaped buffer not less than ten (10) feet in width shall be provided in accord with this Subsection 1. If larger setbacks and/or buffers are required by another provision of this Ordinance or the Subdivision and Land Development Ordinance, the larger shall apply.

   In the case of conditional uses and special exceptions, landscaped buffers may be required by the Borough in any yard 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 rural character of the District.

   a. 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. The width of the required buffer, as determined by the Borough, shall not be less than ten (10) feet.

   c. A mix of ground cover and shrubbery vegetation and canopy trees, of such variety compatible with the local climate, may be required so that a dense screen will be formed.

   d. 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. 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. Design details of buffers shall be included on the site plan.

   g. 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.

2. Landscaping: 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.

   a. 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.

   b. 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.

   c. Plants shall be species native to Pennsylvania and of a type which are proven successful in the Borough's

climate.

d. 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.

e. Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.

f. Artificial landscape materials shall not be used in place of live trees, shrubs and vegetative ground cover.

g. Adequate soil preparation in accord with accepted landscape industry practices shall be required.

h. All landscaping shall be maintained in good growing condition by the property owner and free of weeds, debris and brush.

3. Operations and Storage

a. 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 or other similar uses) 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:

i. 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.

ii. 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. 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 of equipment, supplies, products or any other materials shall not be permitted in any required setback areas.

4. Fire and Explosion Hazards: 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. Burning of waste materials in open fires is prohibited. The relevant provisions of Federal, State and local laws and regulations shall also apply. 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). 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.

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

6. Noise

a. Definitions:

i. A-weighted Noise Level (dBA). A measure of sound pressure in decibels with the sound pressure scale adjusted to conform with the frequency response of the human ear. A sound level meter that

measures A-weighted decibels, designated as dBA, has an electrical circuit that allows the meter to have the same sensitivity to sound at different frequencies as the average human ear (2007, Australian Academy of Science).

ii. Equivalent Noise Level (Leq). The dBA level of a steady state sound which has the same dBA weighted sound energy as that contained in the actual time-varying sound being measured over a specific time period (2003, Eilar Associates, Encinitas, CA).

iii. Ambient Noise Level. The average A-weighted Noise Level (Leq) at any specified point which is representative of the noise level of that environment over an extended period of time. It is a composite of all sounds from sources, both near and far.

iv. Noise Source. A single piece of equipment, or a collection of equipment under the control and operation of a single entity (e.g., a wind farm), that produces noise as a consequence of its operation. A collection of equipment may not necessarily be connected or related, if they may be operated simultaneously.

v. Suspect Source. A Noise Source that may be in violation of this Ordinance, identified by the nature of sounds or a correlation with the times of operation and the alleged violation.

b. Limits

i. Ambient Noise Level Threshold

(a) No Noise Source shall produce an A-Weighted Noise Level at any point in the Borough outside the boundaries of the property on which the Noise Source is located (or in the case of a project considered a single Noise Source, the boundaries of the collective project area) at a level in excess of ten (10) dBA above the Ambient Noise Level.

(b) An increase in excess of ten (10) dBA shall be permitted provided the owner/operator of the Noise Source acquires a noise easement in form and content approved by the Borough (solely with respect to the noise easement) from the affected property owner which establishes the maximum increase. However no increase shall be permitted for properties separated by any public road right of way and in no case shall the maximum noise level exceed the level established by §706.6.b.iii.

ii. Ambient Noise Level. For projects being developed, the Ambient Noise Level for the entire project may be established prior to construction of such project for the duration of construction and operation of such project by measuring the noise level near the boundaries of the property on which the project is to be constructed in accordance with §706.6.c below for a continuous two (2)-week period no more than two (2) years prior to the start of construction of such project.

**Maximum Sound Levels**

| Period | Receiving Land Limits (dBA) | | | | |
|---|---|---|---|---|---|
| | Existing Dwelling | Zoning District | | | |
| | | R | RA | C | I |
| Monday-Saturday, 7:00 a.m.. 9:00 p.m. | 60 | 60 | 60 | 65 | 70 |
| Saturday, 9:00 p.m.- Monday. 7:00 a.m.<br>Monday-Friday, 9:00 p.m.-7:00 a.m. | 50 | 50 | 55 | 60 | 70 |

iii. Maximum Noise Level. Notwithstanding any of the foregoing provisions of this §706.6.b, in no event shall a Noise Source produce an A-Weighted Noise Level outside the boundaries of the property on

which the Noise Source is located (or in the case of a project considered a single Noise Source, the boundaries of the collective project area) at a level in excess of the limits established in the Maximum Sound Levels Table.

c. Measurements

i. Type and Certification. All noise level measurements shall be made using a sound level meter meeting American National Standard Specification for Sound Level Meters (ANSI S1.4-1983 (R2001)/ANSI S1.4A-1985 or the current revision of that standard) for Type 1 instruments. The instrument shall have been laboratory re-certified according to the manufacturer's directions within the periodicity required by the manufacturer (usually 1- or 2-year interval) prior to the measurements

ii. Methods. All measurements shall be taken using the FAST response time and A-weighting

iii. Field Calibration. A field calibration check, using a certified field calibrator, shall be performed at the beginning and end of the measurement period and reported with the other data.

iv. Proposed Projects

(a) For projects establishing an Ambient Noise Level for the project prior to the approval of such project, the average A-weighted Noise Level (Leq) shall be measured at multiple points near the outside boundaries of the property on which the project is to be constructed for a continuous two-week period no more than one (1) year to the start of construction of such project

(b) Measurements should be attempted to be performed near outside boundaries which are closest in proximity to where the Noise Source will be located and/or where noise is reasonably expected to be the loudest

(c) The measurements must be made by an independent professional using the commonly-accepted measurement procedures specified in ANSI/ASA S1.13-2005 (R2010) standard "American National Standard Methods for the Measurement of Sound Pressure Levels In Air" or the current revision of that standard.

d. Investigation of Complaints

i. Initial Determination

(a) In the event a complaint is received regarding a Suspect Source, the Zoning Officer shall first determine that the complaint is valid by visiting the site of the complaint and the site of the Suspect Source

(b) If the nature of the sound at the site of the complaint is not similar to the nature of the sound produced by the Suspect Source, and if the subjective noise levels do not correlate with the operation of the Suspect Source, then the Zoning Officer shall file a report noting those observations, and shall notify the complainant and the owner/operator of the Suspect Source that the complaint has not been validated.

ii. Test Date

(a) If, by the nature of the sound, or correlation with the operation of the Suspect Source, the Zoning Officer determines a complaint to potentially be valid, the Zoning Officer shall arrange a date and time with the complainant and the owner/operator of the Suspect Source to conduct a test.

(b) The test should be close to the time of day and day of week of the complaint, but shall not represent an unreasonable burden on the complainant or the owner/operator of the Suspect Source.

iii. Background Noise Level

(a) The Zoning Officer shall conduct an average background A-weighted Noise Level measurement before and after the operation of the Suspect Source using commonly-accepted measurement equipment and standards; provided that at the election of the owner/operator, the owner/operator may engage an independent professional to conduct such measurements mutually agreed to by the Borough, at the cost of the owner/operator.

(b) At the direction of the Zoning Officer, the owner/operator of the Suspect Source shall operate the equipment according to normal operating procedures according to design limits, or the maximum approved limits of the conditional use approval, whichever is lower, for the duration of the test.

(c) The owner/operator may be required to operate the equipment in any mode or for any use that the equipment is normally or occasionally used. The owner/operator shall not be required to operate the equipment in any manner inconsistent with the design or normal use, nor in any unsafe manner.

iv. Average Background A-weighted Noise Level

(a) An average background A-weighted Noise Level shall be measured without the Suspect Source in operation. The atmospheric conditions at the time of measurement shall be as near the atmospheric conditions reported at the time of the complaint (wind direction and speed, temperature, temperature gradient, etc.).

(b) Background activities shall be representative of those expected in the environment for the time of day and day of the week

(c) Measurements of the average background A-weighted Noise Level shall be made for the length of time the Suspect Source will be in operation, but need not be any longer than fifteen (15) minutes. If manual measurements are being taken, the measurements shall be recorded every fifteen (15) seconds. If an automatic recording device is being used, the recording interval shall be one second, or the closest fixed or variable interval allowed by the meter and recording equipment.

v. Measurements

(a) Measurements of the average A-weighted Noise Level (Leq) with the Suspect Source in operation shall be conducted as soon as possible after obtaining the background noise level measurements without the Suspect Source in operation and shall be made for the length of time the source will normally be in operation, but in any case shall not be less than five (5) minutes and need not be any longer than 15 minutes.

(b) If manual measurements are being taken, the measurements shall be recorded every fifteen (15) seconds. If an automatic recording device is being used, the recording interval shall be one (1) second, or the closest fixed or variable interval allowed by the meter and recording equipment.

(c) The equation for deducing the A-weighted Noise Level (Leq) being produced by the Suspect Source (Ls) shall be as set forth below where L1 equals the measured average A-weighted Noise Level (Leq) of the background without the Suspect Source in operation and L2 equals the measured average A-weighted Noise Level (Leq) of the background with the Suspect Source in operation. Basically, Ls equals L2 minus L1 as shown in log notation below which is the basis for decibel calculations.

$$L_S = 10 \log_{10}\left(10^{\frac{L_2}{10}} - 10^{\frac{L_1}{10}}\right)$$

e. Report. After completion of the background noise level measurements before and after the operation of the Suspect Source, the report of the Zoning Officer (or the independent professional, if engaged by the

owner/operator of the Suspect Source) shall include:

i. The instrument manufacturer, model, type, serial number, and laboratory re-certification date of the sound level meter and the field calibrator.

ii. The level of the field calibration after making any adjustment of the sound level meter

iii. The location of the noise level measurements, by latitude and longitude or by other descriptive terms that would allow someone unfamiliar with the complaint to locate, unambiguously, the measurement point on the ground, or on a map.

iv. The location of the Suspect Source by latitude and longitude or by other descriptive terms that would allow someone unfamiliar with the complaint to locate, unambiguously, the measurement point on the ground, or on a map.

v. A description of the Suspect Source in operation, sufficient to allow someone to recreate the conditions of the test.

vi. The weather conditions at the time of measurement, including temperature, relative humidity, wind speed and direction, cloud cover, and an impression of the temperature gradient.

vii. The time at which noise level measurements were started and stopped.

viii. The time at which the operation of the Suspect Source was started and stopped, and when measurements were started and stopped.

ix. For manual measurements:

(a) a table of lines and sound levels as reported on the meter

(b) the calculated A-weighted Noise Level for each set of measurements

x. For automatic measurements:

(a) a notation of the time the instrument was started and the time stopped

(b) the reported A-weighted Noise Level

(c) if the instrument can report each data point, an electronic form of the data, including each measurement time and level, and a description of the data format shall be retained as a supplement to the report

(d) a calibration mark using the field calibrator

xi. A list of witnesses or other persons present during the measurements.

xii. Any additional comments from the complainant, witnesses or the operator/owner of the suspect equipment or sources.

f. Studies for Proposed Use. Applicants for a specific proposed use shall be required to demonstrate that the proposed use will not violate the standards in this §706.6 by providing reasonable documentary evidence, which may include:

i. Engineering studies which estimate the environmental noise levels from the proposed equipment operations and the impact of mitigation measures applied to the equipment and/or site; and/or

ii. Environmental noise measurements from similar operations and sites (same number and types of equipment, comparable topography and prevailing weather conditions).

Given the inherent vagaries of acoustic predictions and the variability of acoustic measurements, the Borough Council may apply conditions which are more conservative than would be indicated by the studies. In any case, the acceptance of proposed control or mitigation measures does not relieve the applicant from complying with the standards provided in this Ordinance and/or a conditional use approval.

g. Exceptions. The standards in this §706.6 do not apply to:

i. Radiated noise levels for vehicles or other operations subject to state or federal preemption; however, the operators of violating sources may offer modifications to radiated noise levels of equipment as a curative means.

ii. The operation of lawn mowers, leaf blowers, string trimmers, chain saws, and other small yard maintenance equipment between 8 AM and 6 PM local time.

iii. Emergency equipment and signals.

iv. Emergency operations of any kind, including, but not limited to, road repairs, utility repairs, response to accidents, injuries, fires, flooding, or hazardous material spills.

v. Short duration activities, such as construction or repair of facilities or infrastructure.

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.

8. 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. 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 Subsection 8 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: 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.

d. Glare: No direct or sky-reflected glare, whether from overhead lighting, floodlights or from high-temperature processes such as combustion or welding or otherwise, shall be permitted.

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. Flashing: Flashing, flickering or strobe lights are prohibited, except for non-advertising seasonal lights

between October 25th and January 10th.

h. Building Lighting - The exterior accent lighting of commercial, industrial, institutional and other nonresidential buildings shall be permitted in accord with the following:

i. The lighting accentuates an architectural or aesthetic element of the building, not the entire building.

ii. The light shall only be directed onto the building facade and shall not spillover beyond the plane of the building.

iii. 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.

iv. 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 §701.8.g.

9. Reserved

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

11. 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..

12. Surface and Ground Water Protection: All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. 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 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. The Borough may require a plan to be submitted for review and approval and may require security for insuring contamination response. Monitoring wells and water quality testing may also be required by the Borough. 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. 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.

13. Stormwater Management and Soil Erosion Control

a. Stormwater management shall be provided and maintained in accord with Subdivision and Land Development Ordinance and PA DEP requirements.

b. All soil erosion and sedimentation controls shall meet the specifications of the Wyoming 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.

14. Waste Materials: No liquid, solid, toxic or hazardous waste shall be stored or disposed in any commercial area, either above or below ground level, except for the temporary storage thereof pending removal from the premises. 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. In addition, no waste discharge is permitted into any reservoir, sewage or storm water disposal system, stream, open body of water or onto the ground. 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.

15. Travel Routes; Access

    a. Travel Routes: 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.

    b. Access: In cases where a lot has access to a state and Borough road, access to the lot shall be from the state road.

16. Settling and/or Storage Ponds and Reservoirs: 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. Any such facility which contains any material which is poisonous, toxic or caustic, shall be considered a conditional use, and the Borough Council shall, at a minimum, require that such structure be enclosed by a chain link fence not less than eight (8) feet high.

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

18. 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 siting, 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.

19. 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.

20. 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.

707 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.

1. Districts; Standards: Accessory solar collectors and associated energy storage facilities are permitted in all districts only in compliance with this §707 and other applicable standards of this Ordinance.

2. 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.

3. Mounting: A solar energy system may be roof mounted or ground mounted.

4. Height

    a. 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.

    b. Freestanding: A freestanding system shall not exceed the maximum building height for accessory buildings.

5. Parcel Sise; Setback: A minimum lot size of one (1) acre shall be required for accessory solar collectors and the following setbacks shall apply.

    a. Roof Mounted: In no instance shall any part of the solar energy system extend beyond the edge of the roof.

    b. Freestanding: Freestanding solar collectors shall comply with the setbacks specified for accessory structures in the underlying zoning district.

6. Mechanical Equipment: Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district and shall be screened from any adjacent property.

7. Power Lines: All power transmission lines from a freestanding solar energy system to any building or other structure shall be located underground.

8. Uniform Construction Code; Manufacturer's Standards: The system shall be installed in accord with Uniform Construction Code and manufacturer's standards.

9. 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.

708 Group Homes

Group homes using any lawful dwelling unit within the Borough of Tunkhannock shall meet the following requirements:

1. Such facility may be operated by any incorporated, public or private, profit or not-for-profit organization, society or association including any agency of the county, county institution district, or municipality and person as defined in Articles IX and X of the Pennsylvania Public Welfare Code, for which standards have been developed. Such a facility shall hold a current license under that Code.

2. The group home shall be licensed, certified or otherwise officially approved under an applicable state, county, or federal program for such housing. A copy of such license, certification or approval shall be filed with the Borough, and shall be required to be shown to the Zoning Officer upon request. The group home shall notify the Borough Zoning Officer within 14 days if there is a change in the type of clients, the sponsoring agency, and the maximum number of residents or if an applicable certification/license expires, is suspended or is withdrawn.

3. The use of a dwelling as a group home shall not include its use for offices or meetings of the organization operating the facility, but shall include use of the facility by "handicapped persons" as defined by the 1992 Federal Fair Housing Act as follows:

    a. A physical or mental impairment, which substantially limits one or more of such person's major life activities;

    b. A record of having such an impairment; or

    c. Being regarded as having such impairment, but such term does not include current illegal use of, or addiction to, a controlled substance as defined in §802 of Title 21.

4. The use of a dwelling as a group home does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others, or are prone to any of the following: psychoactive substance use disorders resulting from current illegal use of drugs. Pedophilia, voyeurism, other sexual behavior disorders or pyromania.

5. One off-street parking space shall be provided for each employee on duty at any one time, and one off-street parking space for every two residents of a type reasonably expected to be capable of driving a vehicle. Off-street parking areas of more than 5 spaces shall be buffered from adjacent existing single-family dwellings by a planting screen meeting the requirements of the Borough Zoning Ordinance.

6. There shall be adequate supervision as needed by an adequate number of persons trained in the field for which the group home is intended.

7. The building shall be maintained and/or constructed to insure 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.

8. The group home shall register its location, general type of treatment/care, maximum number of residents and sponsoring agency with the Zoning Officer. Such information shall be available for public review upon request.

9. Any medical or counseling services provided at the residence shall be limited to resident occupants.

10. The following maximum number of persons shall reside in a group home, excluding the maximum number of employees/supervisors and/or care providers routinely in the group home at any point in time:

    a. Single family detached dwelling with minimum lot size of 10,000 square feet and minimum building setbacks from all "residential lot lines" of 10 feet: five total persons.

    b. Any other lawful dwelling unit: four total persons.

11. Employees of the group home shall be prohibited from having visitors on the premises, except for visitation necessary for the operation of the group home and except for emergencies.

# ARTICLE 8
# ADMINISTRATION AND ENFORCEMENT

## 801 The Zoning Officer

1. The Zoning Officer: The provisions of the Zoning Ordinance shall be enforced by an agent to be appointed by the Borough Council who shall be known as the Zoning Officer. The Zoning Officer shall not hold any elective office in the Borough.

   The Zoning Officer shall meet qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough Council a working knowledge of municipal zoning. At a minimum he/she shall possess a certificate of completion from the Pennsylvania Department of Community and Economic Development or other agency for attending a workshop for Zoning Officers within six (6) months of appointment as Zoning Officer. Beyond that, the Zoning Officer shall be required to attend one (1) such workshop per year during the time he/she is Zoning Officer.

2. Compensation: The compensation for the Zoning Officer shall be determined by the Borough Council.

3. Duties and Responsibilities: The Zoning Officer shall have all the duties and powers conferred by the Zoning Ordinance in addition to those reasonably implied for that purpose. He/she shall not issue a permit in connection with any contemplated erection, construction, alteration, repair, extension, replacement, razing and/or use of any building, structure, sign, and/or land unless it first conforms to the literal requirements of this Zoning Ordinance, all other ordinances of the Borough, and with the laws of the Commonwealth of Pennsylvania. The Zoning Officer is authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his/her employment.

   He/she shall:

   a. Receive and check all applications for zoning permits and certificates of zoning compliance and make notations as to special conditions attached thereto.

   b. Issue zoning permits and certificates of zoning compliance only for construction and uses which are in accordance with the regulations of the Zoning Ordinance and subsequent amendments; or through the Zoning Hearing Board; or through Court approval. Zoning permits and certificates of zoning compliance shall not be issued where the request concerns a lot, parcel or tract in a subdivision required to be approved under applicable Subdivision and Land Development regulations, which subdivision or development has not had the required approval.

   c. Record and file all applications for zoning permits and certificates of zoning compliance together with accompanying plans and documents. All records shall be open to public inspection.

   d. Be responsible for maintaining the Zoning Map showing the current zoning classifications of all land and the Zoning Text including all amendments thereto.

   e. Maintain a register showing the registration, identity, and location of non-conforming uses, structures, and lots together with the reasons why they have been identified as non-conformities, and issue certificates of non-conformance for all such non-conformities. The Zoning Officer shall also examine such non-conforming uses, structures, and lots periodically to determine whether their status has changed.

   f. Participate in all proceedings before the Zoning Hearing Board, and the Planning Commission at their request, and furnish such facts, records, and similar information which will assist them in reaching their decisions.

   g. When the Zoning Hearing Board, or the Borough Council in the case of a conditional use, schedules and public hearing on any application over which it has jurisdiction, the Zoning Officer shall conspicuously

post a notice of said hearing on the affected property.

h. When a proposed amendment to the zoning map is to be considered by the Borough Council, the Zoning Officer shall conspicuously post notice of said public hearing along the perimeter of the tract not more than 100 feet apart and at least one (1) week prior to the date of the hearing to notify potentially interested citizens.

i. Issue an enforcement notice in writing to the owner of record of the parcel on which the violation of the Ordinance has occurred, to any person who has filed written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record. Such written notification may be served personally or by certified mail and shall contain all information required by this Article.

j. Institute legal proceedings before the District Justice for the enforcement of the provisions of this Ordinance.

k. Submit a monthly report to the Borough Council of all permits and certificates of zoning compliance issued and violations and stop work orders recommended or promulgated.

802 Permits

1. Requirements: It shall be unlawful to commence the excavation for or the construction or erection of any building including an accessory building, or to commence the moving or alteration of any building, including an accessory, until the Zoning Officer has issued a zoning permit for such work. No permit shall be required for the repair, maintenance, or interior remodeling of any building, structure, or grounds provided such repairs, maintenance, or remodeling do not change the use or otherwise violate the provisions of this Ordinance.

2. Form of Application: The application for a permit shall be submitted in such form as the Zoning Officer may prescribe and shall be accompanied by the required fee as hereinafter prescribed. Application shall be made by the Owner or Lessee of any land, building or structure, or the agent of either; provided, however, that if the application is made by a person other than the Owner or Lessee, it shall be accompanied by a written authorization of the Owner or the qualified person making an application, that the proposed work is authorized by this Owner. The full names and addresses of the Owner, Lessee, Applicant, and of the responsible officers, if the Owner or Lessee is a corporate body, shall be stated in the application.

3. Description of Work: The application shall contain a general description of the proposed work, use, and occupancy of all parts of the building, structure, land, or sign and such additional information as may be required by the Zoning Officer. The application for the permit shall be accompanied by a plot plan of the proposed building, structure, use or sign drawn to scale with sufficient clarity to show the nature and character of the work to be performed, including off-street parking and loading space, if required, the location of new and existing construction, and the distances of the same from the existing lot lines.

4. Issuance of Zoning Permit: Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing. If the application or plans do not conform to the provisions of all pertinent local laws, he/she shall reject such application in writing, stating the reasons therefor. He/she shall inform the applicant of his/her right of appeal to the Zoning Hearing Board in the even such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of the Zoning Ordinance and all laws and ordinances applicable thereto, he/she shall issue a permit therefor as soon as practical.

5. Notice of Starting Work: The Zoning Officer shall be given at least twenty-four (24) hours notice by owner or applicant prior to commencement of work at the site, which will have a zoning permit properly posted.

6. Expiration of Permit: The permit shall expire after one (1) year from the date of issuance unless work at the site has commenced within such period, but in any case, all work must be completed within two (2) years. If the work for which the permit has been granted has not been started within one (1) year from the granting of

such permit or if the work has not been completed within two (2) years, the Zoning Officer shall cancel the permit and shall give written notice thereof to the applicant stating that further work shall not proceed unless and until a new zoning permit has been obtained.

7. Completion of Work: Upon completion of the construction, erection, or alteration of any building, structure or portion thereof authorized by any zoning permit obtained in compliance with this Ordinance, and prior to use or occupancy, the holder of such permit shall notify the Zoning Officer of such completion. Use and occupancy shall not be authorized until the Zoning Officer has certified that the work has been inspected and approved as being in conformity with this and other applicable ordinances, and has issued a certificate of zoning compliance as provided below.

8. Revocation of Permits: The Zoning Officer may revoke a permit or approval issued under the provisions of the Zoning Ordinance in case of any false statement of misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in the Zoning Ordinance.

9. Posting of Permit: A true copy of the permit shall be kept on the site of operations open to public inspection during the entire time the work is being conducted and until the completion of the same as defined on the application.

803 Certificate of Zoning Compliance

1. Requirements: It shall be unlawful to use and/or occupy any structure, building, sign, and/or land or portion thereof for which a permit is required herein until a certificate of zoning compliance for such structure, building, sign, and/or land or portion thereof has been issued by the Zoning Officer.

2. Time of Application: When the use of premises involves a new building or structure or additions to an existing building or structure, the application for zoning compliance shall be made at the same time application is made for a zoning permit. When no construction or alteration in involved, application to occupy and use land may be made at any time.

3. Form of Application: The application for a certificate of zoning compliance shall be in such form as the Zoning Officer may prescribe. The application shall contain the intended use and/or occupancy of any structure, building, sign, and/or land or portion thereof for which a permit is required herein.

4. Issuance of Certificate of Zoning Compliance: The Zoning Officer shall inspect any structure, building, sign and/or use of land within ten (10) day upon notification that the proposed work that was listed under the permit has been completed; and, if satisfied that the work is in conformity and compliance with the work listed in the issued permit and all other pertinent laws, he/she shall issue a certificate of zoning compliance for the intended use listed in the original application. The certificate of zoning compliance or a true copy thereof shall be kept available for official inspection at all times.

804 Enforcement, Causes of Action, and Remedy

1. Enforcement: The construction, erection, replacement, alteration, repair, extension, and/or use of any structure, building, sign, and/or land or the change of use, area of use, percentage of use or extension or displacement of the use of any structure, building, sign, and/or land without first obtaining a permit; or the use of any building, structure, sign, and/or land without receipt of a certificate of zoning compliance; or the failure to comply with any other provisions of this Ordinance are hereby declared to be violations of this Zoning Ordinance.

2. Enforcement Notice

   a. If it appears to the Borough that a violation of the Zoning Ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.

b. 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 written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

c. An enforcement notice shall state at least the following:

i. The name of the owner of record and any other person against whom the Borough intends to take action.

ii. The location of the property in violation.

iii. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.

iv. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

v. 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 the Zoning Ordinance, Article 9.

vi. 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.

3. 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 the Zoning Ordinance, the Borough Council or, with the approval of the Borough Council, an officer of the Borough, or 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, structures, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

4. Jurisdiction: District Justices shall have initial jurisdiction over proceedings brought under paragraph 5 below.

5. Enforcement Remedies

a. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgement of not more than $500 plus all court costs, including reasonably attorney fees incurred by the Borough as a result thereof.

No judgement shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice.

If the defendant neither pays not timely appeals the judgement, the Borough may enforce the judgement pursuant to the applicable rules of civil procedure.

Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice, and, thereafter, each day that a violation continues shall constitute a separate violation.

All judgements, costs and reasonable attorney fees collected for the violation of the Zoning Ordinance shall be paid over to the Borough.

b. 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 judgement.

c. Nothing in this Section shall be construed or interpreted to grant any person or entity other than the Borough the right to commence any action for enforcement pursuant to this Section.

805 Payment of Fees

1. Application Fees: As authorized by §617.3(e) and §908(1.1) of the PA 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.

2. Fees by Resolution: The fee schedule shall be established, and may be amended, by resolution of the Borough Council.

3. Issuance: 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.

4. Stenographer Fees: The appearance fee for a stenographer shall be shared equally by the applicant and the Municipality as required by §908(7) of the PA 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.

# ARTICLE 9
# ZONING HEARING BOARD AND OTHER ADMINISTRATIVE PROCEEDINGS

## 901 Zoning Hearing Board Membership, Organization, Operation

1. Creation and Membership: There is hereby created, to be appointed by resolution of Borough Council, a Zoning Hearing Board, ("Board"), consisting of three (3) residents. The terms of office shall be three (3) years and shall be so fixed that the term of office of one member of the three member Board shall expire each year. 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 the term. Members of the Board shall hold no other office in the Borough.

2. Alternate Members: The Borough Council shall appoint one (1) resident of the Borough to serve as an alternate member of the Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of paragraph (4), below, an alternate shall be entitled to participate in all proceedings and discussions of the Board members, including specifically the right to cast a vote as a voting member during the proceedings and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. The alternate shall hold no other office in the Borough, including membership on the Planning Commission and Zoning Officer. An alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to paragraph (5), below, unless designated as a voting alternate member pursuant to paragraph (4), below.

3. Removal of Members: Any Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Borough Council which appointed the member, taken after the member has received fifteen (15) days advance notice of the charges and of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

4. Organization of Board

   a. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. 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, but 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 for in §902.

   b. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as the alternate member of the Board to provide a quorum. The alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case.

   c. The Board may make, alter, and rescind rules and forms for its procedure, consistent with the ordinance of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit a report to the Borough Council as requested by them.

5. Expenditures for Services: Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of Council.

   The alternate member of the Board may receive compensation, as may be fixed by the Borough Council, for the performance of his duties when designated as an alternate member pursuant to paragraph (4), but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members of the Zoning Hearing Board.

6. Meetings: Meetings shall be held at the call of the Board Chairman and at such other times as appeals are brought before the Board.

902 Hearings

The Board shall conduct hearings and make decisions in accordance with the following requirements:

1. Notice of Hearings: Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, such other persons whether owners or tenants of property located within two hundred (200) feet of the property of the applicant at issue, and to any person who has made timely request for the same.

   a. Public Notice: Public notice of a hearing before the Zoning Hearing Board shall be published once each week for two (2) 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 thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

   b. Written Notice: Written notice of a hearing before the Zoning Hearing Board shall be given by direct individual notice mailed, handed or delivered at least seven (7) days prior to the date of the hearing.

   c. Posting of Property: In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land by the Zoning Officer at least one (1) week prior to the hearing.

2. Hearing Fees: Hearing fees, as prescribed in §805, include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultant or expert witness costs.

3. Hearing Schedule: The hearing shall be held within sixty (60) days from the date the applicant's request for a hearing was accepted by the Zoning Officer, unless the applicant has agreed in writing to an extension of time.

4. Hearing Officer: The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

5. Parties to the Hearing: The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

6. Oaths and Subpoenas: The chairman or acting chairman of the Board or the hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and documents requested by the parties.

7. Representation by Counsel: The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

8. Rules of Evidence: Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

9. Stenographic Record: The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or 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.

10. Conduct of Board or Hearing Officer: The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

11. Written Decision or Findings: The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer.

    Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code (Act 247 as amended) or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

    If the hearing is conducted by a hearing officer, and there has been no stipulation that his decisions or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to the final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the decision of the hearing officer.

    Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall have been deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing to an extension of time.

    When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in paragraph (1) of this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

12. Copy of Final Decision or Findings: A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date.

    To all other persons who have filed their name and address with the Board not later than the last day of the meeting, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

903 Mediation Option

1. Parties to Proceedings: Parties to proceedings authorized in this Article and Article 10 Appeals to Court may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Hearing Board, in no case shall the Zoning Hearing Board initiate mediation or participate as a mediation party.

2. Supplemental Role of Mediation: Mediation shall supplement, not replace, those procedures in this Article and Article 10 Appeals to Court once they have been formally initiated. Nothing in this Section shall be

interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

3. Rules for Mediation: Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. The Borough shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:

   a. Funding mediation.

   b. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.

   c. Completing mediation, including time limits for such completion.

   d. Suspending time limits otherwise authorized in the Pennsylvania Municipalities Planning Code (Act 247 as amended), provided there is written consent by the mediating parties, and by an applicant or municipal decision-making body if either is not a party to the mediation.

   e. Identifying all parties and affording them the opportunity to participate.

   f. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.

   g. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision-making body pursuant to the authorized procedures set forth in other sections of this Ordinance.

4. Admissibility as Evidence: No offers or statements in the mediating sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

904 Jurisdiction

1. Jurisdiction of Zoning Hearing Board: The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

   a. Substantive Challenges to Validity of Land Use Ordinances: Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §1106, Procedures for Landowner Curative Amendments, and Subsection 912.1 (b).

   b. Challenges to Validity of Land Use Ordinances on Procedures: Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.

   c. Appeals from the Zoning Officer: 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 therefore, the issuance of any cease and desist order or the registration or refusal to register any non-conforming use, structure, or lot.

   d. Appeals from Determinations on Flood Plain Matters: Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.

e. Applications for Variances: Applications for variances from the terms of the Zoning Ordinance and Flood Hazard Ordinance or such provisions within a land use ordinance, pursuant to §906, below.

f. Applications for Special Exception Uses: Applications for Special Exception Uses under the Zoning Ordinance or Flood Plain or Flood Hazard Ordinance or such provisions within a land use ordinance, pursuant to §907, below.

g. Appeals from Determinations on Provisions Involving Transfers of Development Rights or Performance Density: Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions in the Zoning Ordinance presently or by future amendment.

h. Appeals from Zoning Officer on Procedure to Obtain Preliminary Opinion: Appeal's from the Zoning Officer's determination under §913, Procedure to Obtain Preliminary Opinion.

i. Appeals from Determinations on Sedimentation and Erosion Control and Storm Water Management Matters: 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 and Planned Residential Development applications. (See also Subsection 904.2 [f], below.)

2. Jurisdiction of the Borough Council: The Borough Council or, except as to clauses (b), (c), and (f), the Planning Commission, if designated, shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

a. Applications for Planned Residential Developments: All applications for approvals of Planned Residential Developments under the Pennsylvania Municipalities Planning Code (Act 247 as amended) Article VII pursuant to the provisions of §702 thereunder, or under comparable provisions of this Zoning Ordinance presently or by future amendment.

b. Applications for Subdivision and Land Development: All applications pursuant to approval procedures under the Subdivision and Land Development Ordinance, if the Borough should adopt such Ordinance. Any provision in the Subdivision and Land Development Ordinance requiring that final action concerning subdivision and land development applications be taken by the Planning Commission rather than the Borough Council shall vest exclusive jurisdiction in the Planning Commission in lieu of the Borough Council for the purposes of the provisions of this paragraph.

c. Applications for Conditional Uses: Applications for Conditional Uses, if the Borough provides for Conditional Uses in this Zoning Ordinance, and pursuant to the Pennsylvania Municipalities Planning Code (Act 247 as amended), §603 (c) (2).

d. Applications for Curative Amendment: Applications for Curative Amendment to the Zoning Ordinance pursuant to §1106, Procedures for Landowner Curative Amendments and Subsection 912.1 (b).

e. Petitions for Amendments to Land Use Ordinances: All petitions for amendments to land use ordinances, pursuant to procedures set forth in §1104, Procedures of the Borough Council. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.

f. Appeals from Determinations on Sedimentation and Erosion Control and Storm Water Management Matters: Appeals from the determination of the Zoning Officer or the Borough Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to application for land development under the Subdivision and Land Development Ordinance, if the Borough should adopt such Ordinance, and Planned Residential Development provisions of the Zoning Ordinance presently or by future amendment.

Where such determination relates only to development not involving a Subdivision and Land Development or Planned Residential Development application, the appeal from such determination of the Zoning Officer or the Borough Engineer shall be to the Zoning Hearing Board pursuant to Subsection 904.1 (i), above.

If the Borough should adopt a Subdivision and Land Development Ordinance and the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this paragraph shall be to the Planning Commission, and all appeals from the decision of the Planning Commission shall be to court.

g. Applications for Special Encroachment Permit: Applications for a Special Encroachment Permit pursuant to the Pennsylvania Municipalities Planning Code (Act 247 as amended), Article IV, Official Map, §405 and applications for a permit pursuant to §406, provided the Borough has adopted an Official Map.

905 Applicability of Judicial Remedies

Nothing contained in this Article shall be construed to deny the appellant the right to proceed directly to court where appropriate, pursuant to the Pennsylvania Rules of Civil Procedure No. 1091 (relation to action in mandamus).

906 Zoning Hearing Board's Functions: Variances:

1. Hear Requests for and Grant Variances: The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer.

   The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

   a. That there were 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 the Zoning Ordinance in the neighborhood or district in which the property is located.

   b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

   c. That such unnecessary hardship has not been created by the appellant.

   d. 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. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the Pennsylvania Municipalities Planning Code (Act 247 as amended) and this Zoning Ordinance.

2. Attach Reasonable Conditions and Safeguards: In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code (Act 247 as amended) and this Zoning Ordinance.

907 Zoning Hearing Board's Functions: Special Exception Uses

Where the Borough Council, in the Zoning Ordinance, has stated Special Exception Uses to be granted or denied by the Board pursuant to express standards and criteria, the Board shall hear and decide requests for such Special Exception

Uses in accordance with such standards and criteria.

1. Attach Reasonable Conditions and Safeguards: In granting a Special Exception Use, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code (Act 247 as amended) and this Zoning Ordinance.

908 Governing Body's Functions: Conditional Uses

Where the Borough Council, in the Zoning Ordinance, has stated Conditional Uses to be granted or denied by the Borough Council pursuant to express standards and criteria, the Borough Council shall hold hearings on and decide requests for such Conditional Uses in accordance with such standards and criteria.

1. Attach Reasonable Conditions and Safeguards: In granting a Conditional Use, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in the Zoning Ordinance, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code (Act 247 as amended) and this Zoning Ordinance.

909 Parties Appellant Before the Board

Appeals under the jurisdiction of the Zoning Hearing Board by Subsection 904.1 (a), (b), (c), (d), (g), (h), and (i) may be filed with the Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance under §906 and for Special Exception Uses under §907 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

910 Time Limitations

1. Time Limitations for Filing by Person Other than Landowner

   a. No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

   b. The failure of anyone, other than the landowner, to appeal from an adverse decision on a tentative plan pursuant to Zoning Ordinance provisions for Planned Residential Development "findings" or from an adverse decision by the Zoning Officer on a challenge to the validity of an ordinance or map pursuant to section 913, Procedure to Obtain Preliminary Opinion, shall preclude an appeal from the final approval except in the case where the final submission substantially deviates from the approved tentative approval.

2. Time Limitations for Filing by Landowners: All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

911 Stay of Proceedings

1. Conditions for Stay of Proceedings During Appeal

   a. Exceptions to Stay of Land Development Proceedings: Upon filing of any proceeding referred to in §909 and during its pendency before the Board, all land development pursuant to the challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body.

b. Developer's Petition for Appellant to Post Bond: When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

2. Hearing to Determine if Filing of Appeal is Frivolous: After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

3. Petition for Granting Bond if Petition is Frivolous: The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order directing the responding party to post a bond shall be interlocutory.

4. Appeal by Respondent to Petition for Granting Bond: If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

912 Validity of Ordinance: Substantive Questions

1. Submission of Challenge by Landowner: A landowner, who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provisions thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either:

   a. To the Zoning Hearing Board under Subsection 904.1 Jurisdiction of Zoning Hearing Board; or

   b. To the Borough Council under Subsection 904.2 Jurisdiction of the Borough Council, Applications for Curative Amendment, together with a request for a curative amendment under §1106, Procedures for Landowner Curative Amendments.

2. Submission of Challenge by Persons Aggrieved: Persons aggrieved by a use or development permitted on the land of another by an ordinance or map, or any provisions thereof, who desires to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon under Subsection 904.1 (a) Jurisdiction of Zoning Hearing Board, Substantive Challenges to Validity of Land Use Ordinances.

3. Rules Governing Submission of Challenges: The submission referred to in paragraphs (1) and (2), above, shall be governed by the following:

   a. In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Board that it hold a hearing on its challenge. The request shall contain the reason for the challenge.
   Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment under §1106, Procedures for Landowner Curative Amendments, his application to the Borough Council shall contain, in addition to the requirements of the written request hereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map.

Such plans or other materials shall not be required to meet the standards required for preliminary, tentative or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof.

Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting his challenge.

b. If the submission is made by the landowner to the Borough Council under paragraph (1) (b), above, the request also shall be accompanied by an amendment or amendments to the ordinance proposed by the landowner to cure the alleged defects therein.

c. If the submission is made to the Borough Council, the Borough solicitor shall represent and advise it at the hearing or hearings referred to in Subsection 904.2 (d), Jurisdiction of the Borough Council, Applications for Curative Amendment.

d. The Borough Council may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present the witnesses on its behalf.

e. Based upon the testimony presented at the hearing or hearings, the Borough Council or the Zoning Hearing Board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner.

If a challenge heard by the Borough Council is found to have merit, the Borough Council shall proceed as provided in §1106, Procedures for Landowner Curative Amendments.

If a challenge heard by the Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged ordinance which will cure the defects found.

In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:

i. The impact of the proposal upon roads, sewer facilities, water supplies, school and other public service facilities;

ii. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;

iii. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;

iv. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and

v. The impact of the proposal on the preservation of agricultural and other land uses which are essential to public health and welfare.

f. The Borough Council or the Zoning Hearing Board, as the case may be, shall render its decision within forty-five (45) days after the conclusion of the last hearing.

g. If the Borough Council or the Zoning Hearing Board, as the case may be, fails to act on the landowner's request within the time limits referred to in paragraph (f), above, a denial of the request is deemed to have

occurred in the 46th day after the close of the last hearing.

4. Hearing Schedule: The Zoning Hearing Board or the Borough Council, as the case may be, shall commence its hearings within sixty (60) days after the request is filed unless the landowner requests or consents to an extension of time.

5. Public Notice Content: Public notice of the hearing shall include notice that the validity of the ordinance or map is in question and shall give the place where and time when a copy of the request, including any plans, explanatory material or proposed amendments may be examined by the public.

6. Deemed Denials of Challenge: The challenge shall be deemed denied when:

   a. The Zoning Hearing Board or Borough Council, as the case may be, fails to commence the hearing within the time limits set forth in paragraph (4), above;

   b. The Borough Council notifies the landowner that it will not adopt the curative amendment;

   c. The Borough Council adopts another curative amendment which is unacceptable to the landowner; or

   d. The Zoning Hearing Board or the Borough Council, as the case may be, fails to act on the request forty-five (45) days after the close of the last hearing on the request, unless the time limit is extended by mutual consent of the landowner and Borough.

7. Period for Filing Application for Preliminary or Tentative Plan Approval or for Zoning Permit

   a. Where, after the effective date of this Ordinance, a curative amendment proposal is approved by the grant of a curative amendment application by the Borough Council pursuant to Subsection 904.2 (d), Jurisdiction of the Borough Council, Applications for Curative Amendment, or a validity challenge is sustained by the Zoning Hearing Board pursuant to Subsection 904.1 (a), Jurisdiction of Zoning Hearing Board, Substantive Challenges to Validity of Land Use Ordinances, or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two (2) years from the date of such approval to file an application for preliminary or tentative approval pursuant to Article V Subdivision and Land Development or Article VII Planned Residential Development of the Pennsylvania Municipalities Planning Code (Act 247 as amended).

      Within the two-year period, no subsequent change or amendment in zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge.
      Upon the filing of the preliminary or tentative plan, the provisions of §508 (4) of the Pennsylvania Municipalities Planning Code (Act 247 as amended) shall apply.

   b. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any Subdivision or Land Development Ordinance, the developer shall have one (1) year within which to file for a zoning permit.

      Within the one-year period, no subsequent change or amendment to the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge.

      During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

913 Procedure to Obtain Preliminary Opinion

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under

which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under §910, Time Limitations by the following procedure:

1. Submission of Plans and Other Materials: The landowner may submit plans and other materials describing his proposed use or development to the Zoning Officer for a preliminary opinion as to their compliance with the applicable ordinance and maps.

   Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a zoning permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.

2. Public Notice of Compliance: If the Zoning Officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough.

   Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public.

   The favorable preliminary approval under §910, Time Limitations, and the time therein specified for commencing a proceeding with the Board shall run from the time when the second notice thereof has been published.

# ARTICLE 10
# APPEALS TO COURT

## 1001 Land Use Appeals

The procedures set forth in this Article shall constitute the exclusive mode for securing review of any decision rendered pursuant to Article 9 or deemed to have been made under this Ordinance.

## 1002 Jurisdiction and Venue on Appeal; Time for Appeal

All appeals from all land use decisions rendered pursuant to Article 9 shall be taken to the Court of Common Pleas of the Judicial District wherein the land is located and shall be filed within thirty (30) days after entry of the decision as provided by 42 Pa. C. S. §5572 (relating to the time of entry of order) or, in the case of a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given as set forth in Subsection 902.11 of this Ordinance.

## 1003 Appeals to Court; Commencement; Stay of Proceedings

1. Land Use Appeal Notice: Land use appeals shall be entered as of course by the prothonotary or clerk upon the filing of a land use appeal notice which concisely sets forth the grounds on which the appellant relies. The appeal notice need not be verified. The land use appeal notice shall be accompanied by a true copy thereof.

2. Writ of Certiorari: Upon filing of a land use appeal, the prothonotary or clerk shall forthwith, as of course, send to the Borough Council, board or agency whose decision or action has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding said Borough Council, board or agency, within twenty (20) days after receipt thereof, to certify to the court its entire record in the matter in which the land use appeal has been taken, or a true and complete copy thereof, including any transcript of testimony in existence and available to the Borough Council, board or agency at the time it received the writ of certiorari.

3. Appellant Other than Landowner: If the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven (7) days after the land use appeal is filed, shall serve a true copy of the land use appeal notice by mailing said notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the Borough and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of court.

4. Stay of Proceedings

    a. Petition for Stay by Appellants: The filing of an appeal in court under this Section shall not stay the action appealed from, but the appellants may petition the court having jurisdiction of land use appeals for a stay.

    b. Landowner's Petition for Appellant to Post Bond: If the appellants are persons who are seeking to prevent a use or development of the land of another, whether or not a stay is sought by them, the landowner whose use or development is in question may petition the court to order the appellants to post bond as a condition to proceeding with the appeal.

    c. Hearing to Determine if Filing of Appeal is Frivolous: After the petition for posting a bond is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the landowners to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for posting a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

    d. Petition for Granting Bond if Petition is Frivolous: The question of the amount of the bond shall be within

the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the respondent to the petition for posting a bond to post a bond shall be interlocutory.

e. Appeal by Respondent to Petition for Granting Bond: If an appeal is taken by a respondent to the petition for posting a bond from an order of the court dismissing a land use appeal for refusal to post a bond, such responding party, upon motion of petitioner and, after hearing in the court having jurisdiction of land use appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by petitioner.

1004 Intervention

Within the thirty (30) days first following the filing of a land use appeal, if the appeal is from a board or agency of the Borough, the Borough and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service of the same, upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

1005 Hearing and Argument of Land Use Appeal

If, upon motion, it is shown that proper consideration of the land use appeal requires the presentation of additional evidence, a judge of the court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review, or may refer the case to a referee to receive additional evidence provided that appeals brought before the court pursuant to §912, Validity of Ordinance: Substantive Questions, shall not be remanded for further hearings before any body, agency or officer of the Borough.

If the record below includes findings of fact made by the Borough Council, board or agency whose decision or action is brought up for review and the court does not take additional evidence or appoint a referee to take additional evidence, the finding of the Borough Council, board or agency shall not be disturbed by the court if supported by substantial evidence.

If the record does not include findings of fact or if additional evidence is taken by the court or by a referee, the court shall make its own findings of fact based on the record below as supplemented by the additional evidence, if any.

1006 Judicial Relief

1. Powers of the Court in Land Use Appeals: In a land use appeal, the court shall have the power to declare any ordinance or map invalid and set aside or modify any action, decision or order of the Borough Council, agency or officer of the Borough brought up on appeal.

2. Order of Approval of Development or Use: If the court finds that an ordinance or map, or a decision or order thereunder, which has been brought up for review unlawfully prevents or restricts a development or use which has been described by the landowner through plans and other materials submitted to the Borough Council, agency or officer of the Borough whose action or failure to act is in question on the appeal, it may order the described development or use approved as to all elements or it may order it approved as to some elements and refer other elements to the Borough Council, agency or officer having jurisdiction thereof for further proceedings, including the adoption of alternative restrictions, in accordance with the court's opinion and order.

3. Additional Court Hearings: Upon a motion by any of the parties or upon motion by the court, the judge of the court may hold a hearing or hearings to receive additional evidence or employ experts to aid the court to frame an appropriate order. If the court employs an expert, the report or evidence of such expert shall be available to any party and he shall be subject to examination or cross-examination by any party. He shall be paid reasonable compensation for his services which may be assessed against any or all of the parties as determined by the court.

   The court shall retain jurisdiction of the appeal during the pendency of any such further proceedings and may, upon motion of the landowner, issue such supplementary orders as it deems necessary to protect the rights of the landowner as declared in its opinion and order.

4. Definitive Relief for Development or Use: The fact that the plans and other materials are not in a form or are not accompanied by other submissions which are required for final approval of the development or use in question or for the issuance of permits shall not prevent the court from granting the definitive relief authorized. The court may act upon preliminary or sketch plans by framing its decree to take into account the need for further submissions before final approval is granted.

# ARTICLE 11
# AMENDMENTS

## 1101 Purpose

Whenever the public necessity, convenience, general good or good zoning practice require, the Borough Council by Ordinance may, after receipt of recommendation thereon from the Planning Commission, and subject to procedures provided by law, amend, supplement, change, or repeal the regulations, district boundaries or classifications of property, now or hereafter established by this Ordinance or amendments thereof.

## 1102 Citizen Request for Amendment to Text or Map

Requests for changes in the Zoning Ordinance may be made by owners of land in the Borough or by their authorized agents.

1. Applications: All applications for amendments shall be made in writing by the owner or authorized agent, and shall be filed with the Zoning Officer on forms prescribed by him.

2. Applications shall contain all information necessary to assure the fullest practicable presentation of facts for the record, and shall contain the following:

   a. The applicant's name and address and that of his representative, and the interest of every person represented in the application;

   b. The verification by at least one of the owners of property to be reclassified, if this be the nature of the request, attesting to the truth and correctness of facts and information presented with the application;

   c. A plan showing the extent of the area to be rezoned if this be the nature of the request, and showing the streets bounding and intersecting the area, and the use and zone classification of abutting districts; and

   d. A statement of the circumstances in the proposed district and the abutting districts and any other factors on which the applicant relies as reasons for supporting the proposed rezoning.

   The Zoning Officer shall check the application to determine whether it conforms with the requirements listed above, and, if satisfactory, shall immediately submit it to the Borough Council.

## 1103 Planning Commission Requests for Amendment to Text or Map

Amendments to the Zoning Ordinance text or map may be initiated by the Planning Commission by motion recommending adoption according to procedures enumerated in §1105, below, and be submitted to the Borough Council, who shall follow the procedures enumerated in §1104, below.

## 1104 Procedures of the Borough Council

The Borough Council shall follow the procedures below for amending the Zoning Ordinance:

1. Preparation of Amendments: The Borough Council may request the Planning Commission to prepare amendments to the Zoning Ordinance using the same procedure as set forth in the Pennsylvania Municipalities Planning Code (Act 247 as amended) for the preparation of the Zoning Ordinance itself, as described in §1105, below.

2. Referral to the Planning Commission: In the case of an amendment other than that prepared by the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the public hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations. However, the Borough Council shall not be bound by the recommendations of the Planning Commission.

3. Referral to County Planning Commission: The Borough Council shall submit the proposed amendments to the County Planning Commission for its review and recommendations thirty (30) days prior to the public hearing on the amendment by the Borough Council. However, the Borough Council shall not be bound by the recommendations of the County Planning Commission.

4. Public Hearing: Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice, which notice shall be given in the manner prescribed in §1108, below.

5. Revision of Amendment: If, after the public hearing held upon the amendment, the proposed amendment is changed substantially or is revised to include land previously not affected by it, the Borough Council shall hold another public hearing pursuant to public notice, which notice shall be given in the manner prescribed in §1108, below, before proceeding to vote on the amendment.

6. Mediation Option: The Borough may offer a mediation option as an aid in completing proceedings authorized by this Section. In exercising such an option, the Borough and mediation parties shall meet the stipulations and follow the procedures set forth in Article 9, §903.

7. Voting on Amendment: The Borough Council shall consider the recommendations of the Borough Planning Commission, the County Planning Commission and testimony presented at the public hearing before voting on the proposed amendment at a public meeting.

8. Notice of Decision: The applicant and others requesting notice of the decision of the Borough Council shall receive such notice through the Zoning Officer. The Zoning Hearing Board and Planning Commission shall also receive such notice through the Zoning Officer.

9. Filing Copy of Amendment with County: Within thirty (30) days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the County Planning Commission.

1105 Procedures of the Planning Commission

The Planning Commission shall follow the procedures set forth below for amending the Zoning Ordinance:

1. Preparation of Amendments: At the request of the Borough Council or on its own initiative the Planning Commission:

   a. Shall prepare the text and map of the proposed zoning amendments as well as make all necessary studies and surveys preliminary thereto;

   b. May hold a public meeting pursuant to public notice and may hold additional public meetings upon such notice as it shall determine to be advisable; and

   c. Shall present to the Borough Council the proposed zoning amendment, together with recommendations and explanatory materials, upon the completion of its work.

2. Review of Amendments: In the case of an amendment other than that prepared by the Planning Commission, the Commission shall review each such amendment submitted to it by the Borough Council. It shall consider whether or not such proposed amendment reflects, in the view of the Commission, the policy goals of the Borough as found in the statement of Community Development Objectives and the Comprehensive Plan upon which the Zoning Ordinance is based. The Commission shall submit its recommendations on the amendment to the Borough Council prior to the public hearing scheduled on the amendment by the Borough Council.

1106 Procedures for Landowner Curative Amendments

A landowner shall follow the procedures below for challenging the validity of the Zoning Ordinance text or map:

1. Submission of Curative Amendment and Request for Hearing: A landowner who desires to challenge on

substantive grounds the validity of the Ordinance or Map or any provision thereof which prohibits or restricts the use or development of land in which he/she has an interest may submit a curative amendment to the Borough Council with a written request that his/her challenge and proposed amendment be heard and decided as provided for in Article 9 Zoning Hearing Board and Other Administrative Proceedings, §912.

2. Hearing Schedule: The Borough Council shall commence a public hearing thereon within sixty (60) days of the request as provided in Article 9, §912.

3. Referral to the Planning Commission: The curative amendment and challenge shall be referred to the Planning Commission as provided for in Subsection 1104.2, above.

4. Referral to County Planning Commission: The curative amendment and challenge shall be referred to the County Planning Commission as provided for in Subsection 1104.3, above.

5. Notice of Public Hearing: Notice of the public hearing on the curative amendment shall be given as provided for in §1109 and §912.

6. Hearing Procedures: The public hearing shall be conducted in accordance with §902, Hearings, and all references therein to the Zoning Hearing Board shall, for the purposes of curative amendments, be references to the Borough Council.

7. Consideration for Evaluating Curative Amendments: The Borough Council shall consider the curative amendment, plans and explanatory material submitted by the landowner and shall also consider:

   a. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;

   b. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or Map;

   c. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;

   d. The impact of the proposed use on the site's soils, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resource to development and any adverse environmental impacts; and

   e. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

8. Rejection of Curative Amendment: If the Borough does not accept a landowner's curative amendment brought in accordance with this Section and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance and Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

9. Approval of Curative Amendment or Alternative: If Borough Council determines that the validity challenge has merit, it may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects.

1107 Procedures Upon Municipal Curative Amendments

If the Borough determines that its Zoning Ordinance or any portion thereof is substantially invalid, it shall take the following actions:

1. Declaration of Invalidity and Proposal for Curative Amendment: The Borough Council, by formal action,

shall declare its Zoning Ordinance or portions thereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal the Borough Council shall:

a. By resolution make specific findings setting forth the declared invalidity of the Zoning Ordinance which may include:

i. References to specific uses which are either not permitted, or not permitted in sufficient quantity,

ii. Reference to a class of use or uses which require revision, or

iii. Reference to the entire Ordinance which requires revisions.

b. Begin to prepare and consider a curative amendment to the Zoning Ordinance to correct the declared invalidity.

2. Time Limit for Enactment of Curative Amendment: Within one hundred eighty (180) days from the date of the declaration and proposal, the Borough Council shall enact a curative amendment to validate, or reaffirm the validity of, its Zoning Ordinance pursuant to the provisions required by §1104, in order to cure the declared invalidity of the Zoning Ordinance.

3. Similar Landowner's Curative Amendment Need Not be Considered: Upon the initiation of the procedures, as set forth in Subsection 1107.1 (a), above, the Borough Council shall not be required to entertain or consider any landowner's curative amendment under §1106, nor shall the Zoning Hearing Board be required to give a report requested under Article 9, §904 or §912 subsequent to the declaration and proposal if the municipal curative amendment is based upon the grounds identical to or substantially similar to those specified in the resolution required by Subsection 1107.1 (a).

Furthermore, upon completion of the procedures as set forth in §1107.1 and §1107.2, above, no rights to a cure pursuant to the provisions of §1106 and §912 shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to this Section.

4. Frequency of Use of Municipal Curative Amendment: The Borough having utilized the procedures as set forth in §1107.1 and §1107.2, above, may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment, or a reaffirmation of the validity of its Zoning Ordinance, pursuant to §1107.2; Provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Borough may utilize the provisions of this Section to prepare a curative amendment to its Ordinance to fulfill said duty or obligation.

1108 Public Notice and Hearings

Before voting on the enactment of an amendment to the Zoning Ordinance, the Borough Council shall hold a public hearing for the purpose of informing the public and obtaining public comment on the proposed amendment. The public hearing shall be held pursuant to public notice as follows:

1. Description of Amendment: Public notices of a proposed Zoning Ordinance amendment shall include either the full text thereof or the title and a brief summary prepared by the Borough solicitor setting forth all the provisions in reasonable detail. If the full text is not included:

a. A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published;

b. A copy thereof shall be filed in the County Law Library; and

c. A public notice shall include a reference to the place within the Borough where copies of the proposed Zoning Ordinance amendment may be examined without charge or obtained for a charge not greater than the cost thereof.

2. Public Notice: A public notice of a proposed Zoning Ordinance amendment shall be published once each week for two (2) successive 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 thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

3. Posting of Property: In addition, if the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Borough along the perimeter of the tract not more than every one hundred (100) feet apart and at least one (1) week prior to the date of the hearing to notify potentially interested citizens.

1109 Publication, Advertisement and Availability of Ordinances

1. Notice of Proposed Enactment: Proposed Zoning Ordinance amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this Section, and shall include the time and place of the meeting at which passage will be considered, a reference to the place within the Borough where copies of the proposed Zoning Ordinance amendment may be examined without charge or obtained for a charge not greater than the cost thereof.

   The Borough Council shall publish the proposed Zoning Ordinance amendment once in a newspaper of general circulation in the Borough not more than sixty (60) days nor less than seven (7) days prior to passage.

   Publication of the proposed Zoning Ordinance amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough solicitor, and setting forth all the provisions in reasonable detail. If the full text is not included:

   a. A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published; and

   b. An attested copy of the proposed Zoning Ordinance amendment shall be filed in the County Law Library or other county office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

2. Revision of Amendment: In the event substantial amendments are made in the proposed Zoning Ordinance amendment, before voting upon enactment, the Borough Council shall, at least ten (10) days prior to enactment, readvertise, in one newspaper of general circulation in the Borough, a brief summary of the revised amendment setting forth all the provisions in reasonable detail together with a summary of the amendment.

3. Incorporation into Official Ordinance Books: This Zoning Ordinance and any amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

# ARTICLE 12
# NONCONFORMITIES

## 1201 Purpose, Applicability, Registration, and Continuation and Change

1. Purpose: It is the purpose of this Article to 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.

   It is also the purpose of this Article to 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.

   It is further the purpose of this Article to 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 non-conforming use. The following are regulations which shall apply.

2. Applicability: The provisions and protections of this Article 12 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 §1203 or §1204. 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.

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.

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 a nonconformity shall only proceed in compliance with this Article.

## 1202 Definitions

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.

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.

3. Nonconforming Structure, Alteration or Expansion: 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.

4. Nonconforming Structure, Reconstruction: The rebuilding of a nonconforming structure damaged or destroyed by casualty to the exact or less nonconforming condition which existed prior to the casualty.

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.

6. Nonconforming Use, Change: The conversion of a nonconforming use to a different use classification as enumerated in the District Regulations of this Zoning Ordinance.

7. Nonconforming Use, Extension: The expansion of a nonconforming use throughout the structure which the said use partially occupies; or the expansion of a nonconforming use onto property not already occupied by the said use.

8. Nonconforming Use, Reestablishment: The reopening or reinstitution of a nonconforming use which has been discontinued by the owner of the said use, such reopening effected prior to the abandonment of the nonconforming use as determined under the provisions of this Zoning Ordinance.

1203 Nonconformities Under Development

For the purposes of this Article 12, 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.

1204 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.

1205 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, shall comply with all other applicable standards and permit requirements of this Ordinance.

1206 Change of Nonconforming Use - Special Exception

The Zoning Hearing Board shall consider the factors in §1210 and may grant a special exception for a change from one nonconforming use to another nonconforming use if it finds that all of the following standards are met:

1. No structural alterations are made;

2. The proposed change will be less objectionable in external effects than the previous nonconforming use and will be more consistent physically with its surroundings;

3. No increases in traffic generation or congestion, including both vehicular and pedestrian traffic, will result from the change;
4. No increase in noise, smoke, dust, fumes, vapor, gases, heat, odor, glare, vibration, or electrical disturbances will result from the change; and

5. No increased threat to health by reason of rodent infestation or otherwise will result from the change.

1207 Extension of Nonconforming Uses - Special Exceptions

The Zoning Hearing Board shall consider the factors in §1210 and may grant a special exception for an extension of a nonconforming use if it finds that all of the following standards are met:

1. The yard and coverage requirements for the District in which it is located are not violated;

2. All off-street parking and loading requirements applicable to the use are retained;

3. No more than one enlargement of a nonconforming use or structure is made;

4. The extension is not more than twenty-five (25) percent of the floor or land area as it existed at the time the structure or use first became nonconforming.

5. The extension is 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.

1208 Restoration of Structure or Use

1. Structures

   a. A nonconforming building or other structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar active cause to the extent of more than sixty (60) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the District in which it is located.

   b. When damage is less than sixty (60) percent of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage. The Zoning Officer may for good cause grant a one-time extension of not more than one (1) year for the reconstruction of the nonconforming use. Said extension shall only be considered upon written application for same submitted by the property owner.

   c. The determination of the extent of damage in terms of percent replacement value due to damage or destruction shall be made by averaging two (2) estimates made by qualified appraisers using Federal Housing Administration standards and practices. The cost of the appraisals shall be borne by the property owner of the affected property.

   d. Unless a variance is issued by the Zoning Hearing Board, the reconstruction of any nonconforming building or structure which has been voluntarily removed shall meet current setback, lot coverage, height and other requirements if such removal exceeds fifty (50) percent of the cost to replace the entire structure or use in accord with the most current construction standards.

2. Non-Conforming Use of Open Land: All nonconforming signs, billboards, junk storage areas, storage areas, and similar nonconforming use of open land, when discontinued for a period of ninety (90) days or damaged to an extent of sixty (60) percent or more of replacement costs, shall not be continued, repaired, or reconstructed.

1209 Alterations and Expansions of Nonconforming Structures

1. Alterations: The alteration or expansion of nonconforming structures shall be permitted only in accord with this §1209. Such alteration or expansion shall be considered a special exception if the alteration or expansion involves a change or extension of a nonconforming use as regulated by §1206 and §1207 of this Ordinance, respectively.

2. Nonconforming Setbacks: A structure which is nonconforming as to a setback requirement, except along a

public road right-of-way, 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.

3. Increase in Area or Bulk Nonconformity: In the case where a proposed alteration or expansion 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.

1210 Review Factors

In addition to the other special exception standards in this Ordinance, and other applicable requirements, the Zoning Hearing Board shall consider any nonconformity special exception application in terms of the effect on the following factors:

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.

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 nonconforming facility, as on a lot in a nonconforming use, excepting those types of uses provided for in Subsection b below.

   b. Screening: Where the nonconforming 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. Yards and buffers shall be provided in accord with §706,1 of this Ordinance.

   c. Yards and Setbacks: No addition, change or expansion of a nonconforming 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 nonconforming 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 Borough may require vegetative screening of the parking area from nearby residential areas in accord with §706,1 of this Ordinance.

1211 Nonconforming Lots of Record

1. Single Lots

a. In any district a principal structure or use and customary accessory buildings allowed in the district may be erected on any nonconforming single lot provided there is compliance with all water and sewage requirements and other limitations imposed by other provisions of this Ordinance.

b. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements, other than those applying to area or width or both, shall conform to the regulations for the district in which such lot is located.

c. This provision shall not apply if this Zoning Ordinance requires a greater lot size for the proposed use than is normally required for the district.

2. Merger of Nonconforming Lots: Where two or more adjacent lots with less than the required area and width are held by one owner, the request for a zoning permit shall be referred to the Zoning Hearing Board. The Board may require the owner of said lots to resubdivide or realign the existing lots or lot lines of the nonconforming lots in such a manner so as to create a lot or lots that conform, or conform as nearly as possible (where total conformance is impossible), with the minimum applicable requirements for lot dimensions and area as set forth in this Ordinance.

1212 Abandonment and Reestablishment of Nonconformities

If a nonconforming use of land or structure ceases operations, is discontinued, is vacated or is otherwise abandoned for a period of eighteen (18) months or more, then this shall be deemed to be an intent to abandon such nonconforming use, 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. 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.

# ARTICLE 13
# SIGNS

## 1301 Intent and Purpose

Regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities in the Borough area without difficulty and confusion, to encourage the general attractiveness of the community and to protect property values therein. Accordingly, it is the intent of this Ordinance to establish regulations governing the display of signs which will:

1. Promote and protect the public health, safety, comfort, morals, and convenience.

2. Enhance the economy and the business and industry of the area by promoting the reasonable, orderly, and effective display of signs, and thereby encourage increased communication with the public.

3. Restrict signs and lights which overload the public's capacity to receive information or which increase the probability of traffic congestion and accidents by distracting attention or obstructing vision.

4. Reduce conflict among signs and sign lighting and between public and private signs, and;

5. Promote signs which are compatible with their surroundings, are appropriate to the type of activity to which they pertain, and are expressive of the identity of proprietors and other persons displaying signs.

## 1302 Definitions

The definitions in this §1302 shall supplement the definitions in Article III of this Ordinance as applicable to the regulation of signs.



A-Frame / Sandwich Board

A-FRAME OR SANDWICH BOARD SIGN: A movable sign consisting of two (2) faces, connected and hinged at the top.

AWNING: A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted to a position against the building.

BANNER: A sign intended to be hung either with or without a frame possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind excluding flags, emblems, and insignia or political, professional, religious, education, or corporate organizations providing that such flags, emblems, and insignia are displayed for noncommercial purposes.



Awning Sign


Civic Event Banner



Banner

BILLBOARD AND OFF-PREMISES SIGN: A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than upon the same lot where such sign is displayed. The term off-premises sign shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.

BUSINESS SIGN: A sign which directs attention to a business, profession, activity, commodity, service, product price, or entertainment conducted, sold, or offered upon the premises where such sign is located, or within the building to which such sign is affixed.

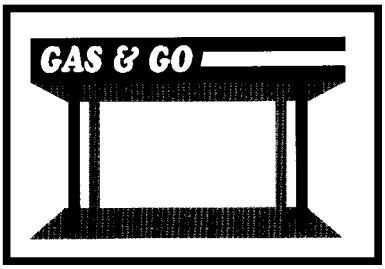


Business Sign

CANOPY: A rigid structure other than an awning made of cloth, metal, or other materials with frame affixed to a building and carried by a frame, which is generally supported by the ground.

CONSTRUCTION SIGN: A sign identifying individuals or companies involved in design, construction, wrecking, financing, or development when placed upon the premises where work is under construction, but only for the duration of construction or wrecking.

CURB LEVEL: The level of the established curb in the front of a building or other structure measured at the center of such front. Where no curb elevation has been established, the mean elevation of the center line of the street fronting and building structure shall be considered curb level.



Canopy Sign on Freestanding Canopy

DIRECTIONAL SIGN: A sign, providing no advertising of any kind, 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 indicates the name and/or address of the occupant, the address of the premises, and/or identification of any legal business or occupation which may exist at the premises.



Construction Sign

EXTERNAL ILLUMINATION: Illumination of a sign which is affected by an artificial source of light which is not contained within the sign itself.

FLASHING SIGN: An illuminated sign on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated. For the purpose of this Ordinance, any moving illuminated sign affected by intermittent lighting shall be deemed to be a flashing sign. This shall not include permitted electronic text message signs.

GRADE: The average level of the finished surface of the ground adjacent to a sign or the exterior wall of the building to which a sign is affixed.



Directional Sign

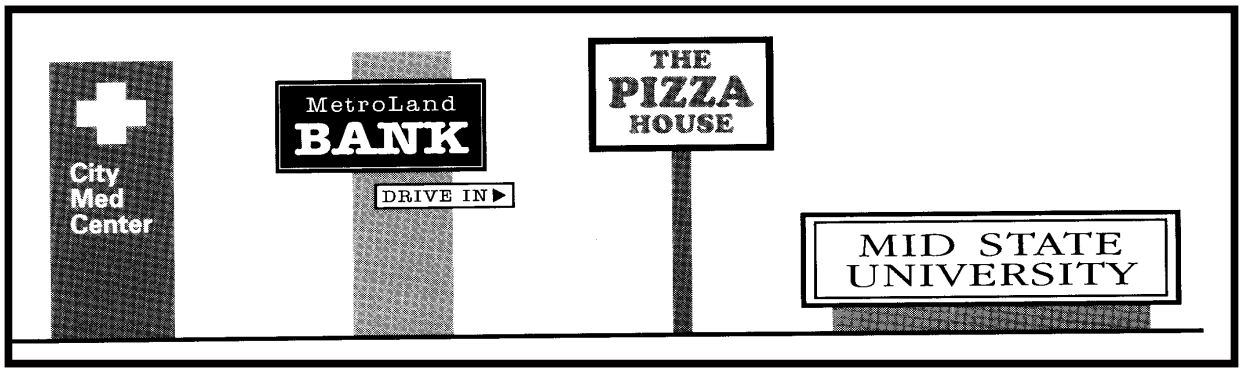


Gross Surface Area

GROSS SURFACE AREA: The entire area within a single continuous perimeter composed of a single face enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures, together with a material, or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall not be included in gross surface area; however, if any portion of the required structural supports become enclosed for decorative or architectural purposes, that portion will be included in the total gross surface area of the sign.



Directory Sign



Common Freestanding Sign Types

GROUND SIGN - A sign supported by structures or supports or upon the ground and not attached or dependent for support from any building.

ILLUMINATED SIGN - A sign in which an artificial source of light is used in connection with the display of such sign.

INSTRUCTIONAL SIGN - A sign, providing no advertising of any kind, 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 walkway, parking areas, and other similar facilities.

INTERNAL ILLUMINATION - Illumination of a sign which is affected by an artificial source of light, which is contained within the sign itself.

ITEM OF INFORMATION - A word, an abbreviation, a number, a symbol, or a geometric shape contained in a sign. A sign which combines several different geometric shapes of unusual configuration, is assessed one (1) item of information for each non-continuous plane.



Internal and External Illumination

MARQUEE - A permanent roof-like structure extending from part of the wall of a building, but not supported by the ground, and constructed of durable material such as metal or glass.

MOVING SIGN - A sign which, in whole or in part, revolves, rotates, swings, undulates, or otherwise attracts attention through the movement of parts or through the impression of movement, including automatic, electrically controlled copy changes, but not including flags, banners, or pennants.



Marquee Sign

NEON OR OTHER GAS TUBE ILLUMINATION - Illumination affected by a light source consisting of a neon or other gas tube which is bent to form letters, symbols, or other shapes.

NONCONFORMING SIGN - A sign which does not adhere to one (1) or more of the provisions contained in this Ordinance.

OPEN SIGN - A sign in which the area exposed to wind is less than fifty (50%) percent of such sign's aggregate gross surface area.

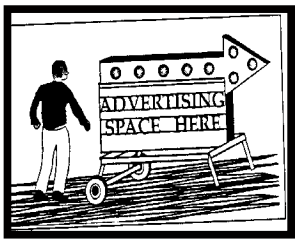


Neon Sign

PERMANENT SIGN - A permanent sign displayed in the Borough on and after the effective date of this Ordinance.

POLITICAL SIGN - A temporary sign identifying a political candidate, issues, or party.

PORTABLE SIGN - A sign not permanently affixed to the ground, a building, or other structure, which may be moved from place to place.



Portable Sign

PROJECTING SIGN - A sign which is affixed to a building or wall and extends beyond the line of such building or wall or beyond the surface of that portion of the building or wall to which it is affixed by more than fifteen (15) inches.

REAL ESTATE SIGN - A sign which is used to offer for sale, lease, or rent that premises upon which such sign is placed.

ROOF SIGN - A sign erected or maintained in whole or in part upon, against, or directly above the parapet line or roof of the building.

SERVICE ISLAND - A set of one or more fuel dispensing pumps arranged in proximity to each other as a raised, concrete island surrounded by paving.

SIGN - Any identification, description, illustration, advertisement, or device illuminated or non-illuminated which is visible to the general public and directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, flag, banner, pennant, or placard designed to advertise, identify, or convey information.



Projecting Sign

TEMPORARY SIGN - A non-permanent sign erected, affixed, or maintained on a premises for a short, usually fixed, period of time.

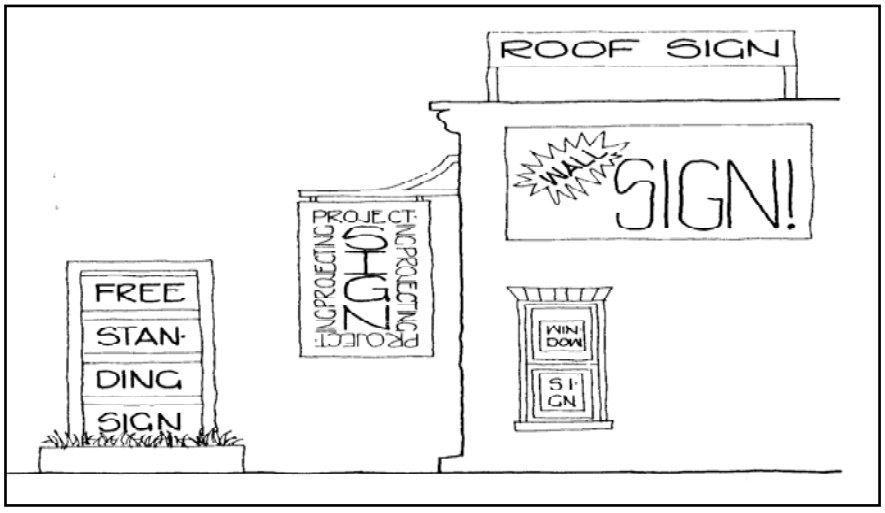
WALL SIGN - A sign attached directly to an exterior wall of a building or dependent upon a building for support with the exposed face of the sign located in a place substantially parallel to such exterior building wall to which the sign is attached or supported.



Wall Sign

WARNING SIGN - A sign containing no advertising material, warning the public of the existence of danger.

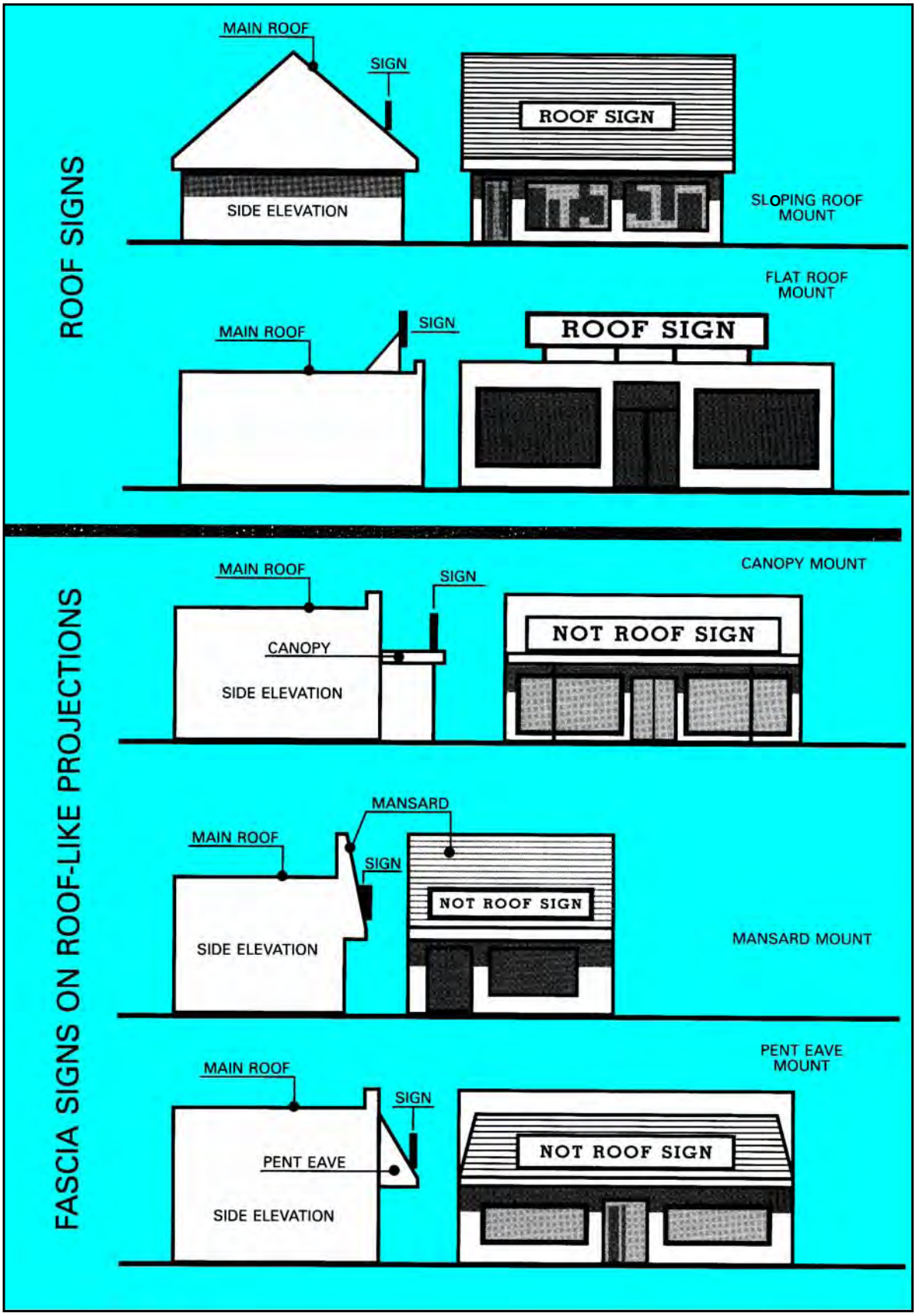
WINDOW SIGN - A sign attached to, placed upon, or painted on the interior of a window or door of a building which is intended for viewing from the exterior of such building.



Sign Comparison



Window Signs




Comparison – Roof and Fascia Signs

1303 General Provisions

1. Basis of Which Signs are Regulated: The display of signs in the Borough is hereby regulated on the basis of the following factors:

   a. The type of activity displaying the sign; and

   b. The following four (4) design features:

      i. the type of sign
      ii. the area of the sign
      iii. the height of the sign
      iv. the location of the sign

   In addition, certain signs and certain activities are regulated on the basis of additional factors, as set forth in this Ordinance.

2. Items of Information Allowed

   a. General Rules: Subject to the requirements of all other provisions of this Ordinance, each exposed face of a sign shall contain no more than eight (8) items of information. However, if the name of the occupant of the premises on which the sign is to be affixed contains more than eight (8) items of information, the name may be displayed on each exposed face of a sign, provided no other information is displayed on such sign.

   b. Certain Information Not Counted: In calculating items of information, the following shall be excluded;

      i. Letters nineteen (19) inches or less in height which are carved into, or securely attached to a building in such a way that they are an architectural detail of the building; provided that the letters are not illuminated apart from the building, are not made of a reflective material, do not contrast sharply in color with the building, and do not exceed a thickness of one (1) inch; or

      ii. That information pertaining to the date of erection, the sign permit number, the sign permit expiration date, and the voltage of any electrical apparatus to be used in connection with the sign on which it is to be displayed as specified herein.

1304 Illumination

All signs permitted by this Ordinance may be illuminated, provided that the provisions of this Section are strictly complied with.

1. Electrical Permit: In addition to complying with the provisions of this Ordinance, all signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of the National Electrical Code.

2. Illumination of Buildings, Structures, and Areas

   a. Unshielded Lighting - The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires, or any other type of support, to illuminate buildings, structures, outdoor sales areas, or outdoor storage area is prohibited except;

      i. during the month of December for areas in which Christmas trees are offered for sale;

      ii. on a temporary basis for areas in which carnivals, fairs, or other similar activities are held;

   b. Building/Structure Illumination - A building or other structure may be illuminated, but all lighting used for this purpose must be designated, located, shielded, and directed in such a manner that the light source is

fixed and not directly visible from any adjacent publicly dedicated roadway and surrounding property.

c. Glare; Intensity: 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.

1305 Construction Specifications

All permanent signs permitted by this Ordinance shall be constructed in accordance with the provisions of this Section.

1. Compliance with Applicable Codes: In addition to complying with the provisions of this Ordinance, all signs shall be constructed in accordance with the applicable provisions of the Uniform Construction Code.

2. Reserved

3. Auxiliary Specifications: All signs permitted by this Ordinance shall be constructed in accordance with the following provisions:

   a. Obstruction to Exit: 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.

   b. Obstruction to Ventilation: No sign shall be erected, constructed, or maintained so as to interfere with any opening required for ventilation.

   c. 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 (8) feet of any electrical power line, conductor, or service drop, or any communication line, conductor, or service drop.

   d. 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.

   e. No Obstruction to Any Existing Warning or Instructional Sign: No sign shall be erected, constructed, or maintained so as to interfere with any existing warning or instructional sign.

   f. Intersections: No sign shall be erected which creates a traffic hazard at any street intersection and all signs shall comply with §502.3: Clear View At Street Intersections.

4. Wind Loads: All signs, except those attached flat against the wall of a building shall be constructed to withstand minimum wind loads as set forth in the Uniform Construction Code.

1306 Prohibited Signs

The following signs are hereby expressly prohibited for erection, construction, repair, alteration, or relocation within the Borough except as otherwise permitted in this Ordinance.

1. "A" Frame or Sandwich Board Signs: "A" frame or sandwich board and sidewalk, or curb signs, except as provided for in §1310.5 of this Ordinance.

2. Banners and Pennants: Banners, pennants, streamers, balloons, and other gas-filled figures, except as a temporary sign, are provided for in §1308 of this Ordinance.

3. 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 or animation or video display, including automatic, electronically controlled copy changes, or through the impression of movement or flashing. This shall not include time and temperature indicators, whose movement is either digital or analogue, or electronic signs or flags otherwise permitted by this Ordinance.

4. Portable and Wheeled Signs: Portable and Wheeled signs, except as a temporary sign, as provided for in §1308 of this Ordinance.

5. 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.

6. Signs and Parked Vehicle, Trailers and/or Containers: 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 nearby.

7. Signs on Trees or Utility Poles: Signs which are attached or otherwise affixed to trees or other living vegetation, or utility poles.

8. 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.

1307 Exempt Signs

The following signs are hereby exempt from the provisions of this Ordinance, excepting for such instances where any sign listed herein is found to be unsafe or unlawful as provided for in other Sections of this Ordinance.

1. Awning, Canopy, and Marquee Signs: Signs, not exceeding an aggregate gross surface area of four (4) square feet, indicating only the name of the activity conducted on the premises on which the sign is to be located and/or a brief generic description of the business being conducted by the activity. Advertising material of any kind is strictly prohibited on signs affixed to awnings, canopies, and marquees. An awning, canopy, or marquee sign shall not project beyond the edges of the awning, canopy, or marquee to which such sign is affixed

2. 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 for each exposed surface and four (4) square feet aggregate gross surface area.

3. Directional or Instructional Signs: Signs, not exceeding four (4) 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.

4. Political Signs and Non-Commercial Signs: Political signs; flags, emblems, and insignia of political, professional, religious, educational, or fraternal organizations; and other signs displaying non-commercial protected speech; providing that such signs and flags, emblems, and insignia are displayed for non-commercial purpose and do not exceed ten (10) square feet.

5. Governmental Signs: Governmental signs for control of traffic and other 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.

6. 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.

7. Interior Signs: Signs not visible from the exterior of the structure 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 at the entrance of any theater when such signs are intended for patrons immediately adjacent to the signs.

8. Memorial Signs: Memorial plaques or tablets, grave markers, statutory, or other remembrances of persons or events which are non-commercial in nature.

9. Name and Address Plates: Signs, not exceeding two (2) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four (4) 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.

10. No Trespassing, No Hunting, No Fishing, No Dumping, No Parking, No Towing, 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 in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four (4) square feet.

11. Parking Lot Directional and Instructional Signs: The following signs if located on the same premises to which they apply:

    a. Directional Signs: Signs designating parking area entrances and exits limited to one (1) sign for each entrance and/or exit and not exceeding four (4) square feet in gross surface area for each exposed face. Parking lot directional signs shall not project higher than five (5) feet in height, as measured from the established grade of the parking area to which such signs are accessory.

    b. Instructional Signs: Signs designating the conditions of use or identity of parking areas and not exceeding eight (8) square feet in gross surface area for each exposed face nor exceeding an aggregate gross 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.

12. 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 thirty-two (32) square feet of gross aggregate surface area. Sponsors advertising on score boards may not exceed twenty-five percent (25%) of the surface area of the score board.

13. Plaques: Plaques, nameplates, or memorial signs, directly attached or affixed to the exterior walls of a building, not exceeding four (4) square feet in aggregate gross surface area.

14. Public Notices: Official notices posted by public officers or employees in the performance of the officer's or employee's duties.

15. Public Signs: Signs required by governmental bodies or specifically authorized for a public purpose by any law, statute, or ordinance. Such public signs may be on any type, number, area, height, location, or illumination as required by law, statute, or ordinance, and Borough owned and maintained community information signs including electronic message displays.

16. 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



Public Sign

any way intended to permit signs placed on or affixed to vehicles and/or trailers, 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.

17. Symbols or Insignia: Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding two (2) square feet in gross surface area for each exposed face not exceeding four (4) square feet in aggregate gross surface area.

18. 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 four (4) square feet in gross surface area for each exposed face not exceeding an aggregate gross surface area of eight (8) square feet on each machine.

19. Warning Signs: Signs warning the public of the existence of danger, but containing no advertising material; to be removed within three (3) 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.

1308 Temporary Signs

Temporary signs may be erected and maintained in accordance with the provisions contained in this §1308.

1. General Conditions

   a. Illumination: Temporary signs may be illuminated, subject to §1304.

   b. Sign Types: Temporary signs shall be limited to non-projecting wall signs, attached ground signs, or portable and wheeled signs as defined herein.

2. Temporary Business Signs: Temporary business signs 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 two (2) permits for temporary business signs issued for the same premises within one (1) calendar year. Each temporary business sign permit may be erected and maintained for a period not to exceed thirty (30) days and shall be removed within three (3) days of the termination of the activity, service, project, or sale. Or, alternatively, a temporary business sign permit may be applied for a maximum of five (5) times during one (1) calendar year for the same premises; each permit shall be issued for a maximum of seven (7) days. It is expressly stated that temporary business sign permits shall be issued under one method or the alternative and that the methods may not be used jointly or in combination during any one (1) calendar year.

   b. District

      i. R-1 and S-1 Districts: In R-1 and S-1 Districts, temporary business signs shall not exceed two (2) square feet in gross surface area for each exposed face not to exceed an aggregate gross surface area of four (4) square feet.

      ii. C-1, C-2 and I-1 Districts: In C-1, C-2 and I-1 Districts, temporary business signs shall not exceed thirty-two (32) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of sixty-four (64) square feet.

   c. Location: Temporary business signs shall be located only upon the zoning lot upon which the special, unique, or limited activity, service product, or sale is to occur. Such signs may be located in any required yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular

access from a zoning lot to a public roadway.

d. Height

i. Residential Areas: In residential areas, temporary business signs shall not project higher than seven (7) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

ii. Non-Residential Areas: In non-residential areas, temporary business signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

3. Temporary Construction Signs: Temporary construction signs identifying the parties involved in the construction 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 (1) temporary, construction sign for each project or development, except that where a project or development abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.

b. Area

i. Residential Areas: In residential areas, temporary construction signs shall not exceed sixteen (16) square feet in gross surface area for each exposed face, not exceeding an aggregate gross area of thirty-two (32) square feet.

ii. Non-Residential Areas: In non-residential areas, temporary construction signs shall not exceed thirty-two (32) square feet in gross surface area for each exposed face, not exceeding an aggregate gross surface of sixty-four (64) square feet.

c. Location: Temporary construction 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 yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

d. Height: Temporary construction signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

e. Special Conditions: Temporary construction signs shall be permitted only as accessory to an approved building 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.

4. 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, Area, Height, and Location: The permitted number, area, height, location, and construction of temporary event signs shall be determined by the Zoning Officer with consideration given to the public intended purpose. In any event, no sign may exceed thirty-two (32) square feet for each exposed surface or sixty-four (64) square feet in gross surface area.

b. Timing: Temporary event signs may be erected and maintained for a period not to exceed thirty (30) days prior to the date of which the campaign, drive, activity, or event advertised is scheduled to occur and shall be removed within three (3) days of the termination of such campaign, drive, activity, or event.

c. Limit on Number of Permits: No more than six (6) permits for temporary event signs shall be issued for the same premises within one (1) calendar year.

5. Reserved

6. 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 zoning lot except that where a lot abuts two (2) or more streets, additional signs, one (1) oriented to each abutting street, shall be permitted.

b. Area

i. Residential Areas: In all residential areas, temporary real estate signs shall not exceed six (6) square feet in gross surface area for each exposed face, nor exceed an aggregate gross surface area of twelve (12) square feet.

ii. Non-Residential Areas: In non-residential areas, temporary real estate signs shall not exceed sixteen (16) square feet in gross surface area for each exposed face, nor exceed an aggregate gross surface area of thirty-two (32) 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 yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

d. Height: Temporary real estate signs shall not exceed a height of fifteen (15) feet as measured from grade at the sign to the highest part of the sign.

e. Special Conditions: Temporary real estate signs shall be removed within seven (7) days of the sale or lease of the premises upon which the sign is located.

7. Temporary Yard or Garage Sale, Open House, or Auction Signs: Temporary yard sale or garage sale, open house, or auction signs advertising the sale of items and the sales location shall be subject to the following:

a. Area: In all zoning districts no temporary yard or garage sale signs shall exceed four (4) square feet in size.

b. Location: A temporary yard or garage sale sign shall not create a public hazard.

c. Height: Temporary yard or garage sale signs shall not exceed thirty (30) inches in height.

d. Timing: Temporary yard or garage sale signs may be erected no sooner than seven (7) days before the sale and must be removed no later than three (3) days after the sale. No temporary yard or garage sale signs shall remain erected for a period longer than ten (10) days.

1309 Residential Use

For all residential uses, only the following signs are hereby permitted and then only if accessory and incidental to a permitted use.

1. Building Name and Address Signs: Name and address signs of buildings containing six (6) 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 (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.

c. Area: Building name and address signs shall not exceed four (4) square feet in gross surface area for exposed face, nor exceed an aggregate gross surface area of eight (8) 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 fifteen (15) feet of any point of vehicular access from a zoning lot 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 exceed a height of fifteen (15) feet for wall signs and seven (7) feet for ground signs, as measured from grade at the sign to the highest part of the sign.

2. Residential Development Signs: Residential development signs indicating only the name of the development, 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 signs shall be ground signs.

b. Number: There shall not be more than two (2) residential development signs for each point of vehicular access to a development.

c. Area: Residential development signs shall not exceed twenty (20) square feet in gross surface area.

d. Location: Residential development signs may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to 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 signs shall not exceed a height of seven (7) feet, as measured from grade at the sign to the highest part of the sign.

3. Exempt Signs: Exempt signs as specified in §1307 of this Ordinance.

4. Temporary Signs: Temporary signs as specified in §1308 of this Ordinance.

1310 Commercial, Industrial, and Institutional Uses

For all commercial, industrial, and institutional uses, the signs included in this 1310 shall be permitted in accord with the applicable requirements and then only if accessory and incidental to a permitted use. All signs governed by this §1310 (except for billboards and off-premises signs) shall not be used for any message which is displayed in trade for any form of compensation unless the displayed product or service is offered upon the premises where the sign is located, and any sign which does not conform to this shall be considered a billboard subject to §1311.

1. Commercial, Industrial, and Institutional Use Signs: Commercial, industrial, and institutional use signs, other than those subject to special conditions in later parts of this section, shall be subject to the following:

a. Maximum Combined Sign Area: The maximum combined gross aggregate surface area of all business signs (see definition) on any property shall not exceed one hundred and sixty (160) square feet.

b. Wall Signs

i. Number: There shall be not more than one (1) wall sign for each principal building except that where the building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting

street, shall be permitted and one (1) any side of a building which includes the main entrance of a business.

ii. Area: The gross surface area of a wall sign shall not exceed ten (10%) percent of the area of the building wall, including doors and windows, to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller. The gross surface area of a wall sign may be increased by twenty (20%) percent, except that the gross surface of the sign shall not exceed sixty-four (64) square feet, if such wall sign;

1. consists only of individual, outlined alphabetic, numeric, and/or symbolic characters without background, except that provided by the building surface to which the sign is to be affixed; and

2. if illuminated, such illumination is achieved through shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters.

iii. Location: A wall sign may be located on the outermost wall of any principal building, but shall not project more than twelve (12) inches from the wall to which the sign is to be affixed.

iv. Height: A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.

c. Ground Signs

i. Number: There shall not be more than (1) ground sign for each lot except that where a legal nonconforming roof sign is located on the premise, no ground sign may be permitted unless the roof sign is removed.

ii. Area: The gross surface area of a ground sign shall not exceed thirty-two (32) square feet for each exposed face, nor exceed an aggregate gross surface area of sixty-four (64) square feet.

iii. Location: A ground sign may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

iv. Height: A ground sign shall not exceed a height of twenty-five (25) feet, as measured from grade at the sign to the highest part of the sign.

d. Awning, Canopy, and Marquee Signs (See §1310.3 for fuel service island canopies.)

i. Area: The aggregate gross surface area of all awning, canopy, or marquee signs shall not exceed twenty-four (24) square feet for each principal building and no individual awning, canopy, or marquee sign shall exceed four (4) square feet in gross surface area.

ii. Coverage: An awning, canopy, or marquee sign shall not project beyond the edges of the awning, canopy, or marquee to which such sign is affixed.

iii. Roof Signs: Roof signs shall not be permitted.

2. Multi-Use Signs: Multi-use project signs shall be subject to the following:

a. Wall Signs

i. Number: There shall not be more than one (1) wall sign for each principal tenant or use contained in a multi-use project except that where a tenant or use abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.

ii. Area: The gross surface area of a wall sign shall not exceed ten (10%) percent of the tenant's or user's proportionate share of the building wall to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller.

iii. Location: A wall sign may be located on the outermost wall of any principal building, but shall not project more than twelve (12) inches from the wall to which the sign is to be affixed. The location and arrangement of all wall signs shall be subject to the review and approval of the Zoning Officer.

iv. Height: A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.

b. Ground Signs

i. Number: There shall not be more than one (1) ground sign for each multi-use project.

ii. Area: The gross surface area of a ground sign shall not exceed a maximum of one (1) square foot of gross aggregate surface area for each one and one-half (1) lineal feet of front footage of the lot not to exceed one hundred (100) square feet of gross aggregate surface area.

iii. Location: A ground sign may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

iv. Height: A ground sign shall not exceed a height of twenty-five (25) feet, as measured from grade at the sign to the highest part of the sign.

v. Directory Signs: Each multi-use project ground sign may include affixed directly to it a directory indicating only the names of the tenants of the multi-use project in which the sign is to be located. The gross surface area of a directory sign shall not exceed ten (10) square feet for each exposed face, nor exceed an aggregate gross surface area of twenty (20) square feet for each tenant located in the multi-use project in which the sign is to be located. The information displayed by a multi-use project directory sign, which is in compliance with the foregoing requirements, shall not be treated as items of information as otherwise specified in §1300.3, B.

3. Fuel Service Signs: In addition to the other signs permitted by this Article, the following signs shall be permitted for retail fuel sales establishments and shall be counted as part of the 160-square foot maximum sign area:

a. Fuel Price Signs: One (1) sign with up to four (4) fuel prices attached to the business sign which may be an electronic sign in compliance with Sections 1311.8. a, b, and c. 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.

| # of Products Advertised | Maximum Letter Height |
|---|---|
| 1or 2 | 24 inches |
| 3 | 15 inches |
| 4 | 12 inches |

b. Canopy Signs: Service island canopy signs over fuel service islands indicating the brand, manufacturer and/or logo, shall be subject to the following:

i. Location: Service island canopy signs shall be attached to the face of the canopy and shall not extend

beyond the edges of the canopy.

ii. Number: There shall not be more than one (1) service island canopy sign on each face of the canopy.

iii. Area: 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.

4. Window Signs: Interior and exterior window signs shall be permitted for retail/service/wholesale commercial premises subject to the following:

   a. Area: The total surface area of all window signs shall not exceed twenty-five (25) percent of the area of the window to which the signs are attached.

   b. Location: Window signs shall be permitted only in windows facing an abutting street or any side of a building which includes the main entrance of a business.

5. A-Frame or Sandwich Board Signs: A-frame or sandwich board signs shall be permitted for retail/service/wholesale commercial establishments subject to the following:

   a. Each business establishment shall be limited to one (1) A-frame or sandwich board sign.

   b. The sign shall be comprised of two (2) boards of durable material with no attachments.

   c. The sign shall not exceed eight (8) square feet for each exposed face and shall not exceed thirty (30) inches in width.

   d. The sign shall not be illuminated.

   e. The sign shall be displayed only during the hours when the establishment is open for business and shall include advertising pertaining only to the establishment of location.

   f. The sign shall not be placed in such manner as to impede pedestrian or vehicle traffic or the opening of vehicle doors.

   g. The sign shall be sufficiently secured or weighted to resist overturning.

   h. The placement of the sign shall comply with PennDOT and Americans with Disabilities Act requirements.

   i. The sign shall not be displayed at any time when snow has accumulated on or has not been completely removed from the sidewalk in front of the premises where the sign is permitted.

1311 Billboards and Off-Premises Signs

Billboards or off-premises signs may only be erected in the Industrial District subject to special exception approval and in compliance with all applicable requirements of this Ordinance and the following:

1. Number: One (1) billboard or off-premises sign may be erected, constructed, or maintained on any premises in a Industrial District only in accord with the following criteria:

2. Area: An off-premises sign or billboard shall not exceed one hundred fifty (150) square feet in surface area, and each such sign shall have only one (1) exposed face.

3. Spacing: An off-premises sign or billboard shall not be closer than five hundred (500) feet to another off-premises sign or billboard along the same side of any street or highway.

4. Spacing at Intersections: An off-premises sign or billboard shall not be located within fifty (50) feet of any

street intersection.

5. Location: An off-premises sign or billboard shall only be permitted in the Industrial Zoning District. The sign shall be located in accordance with the yard setbacks for structures located in the Industrial Zoning District.

6. Height: An off-premises sign or billboard shall not exceed a height of twenty-two (22) feet, as measured from grade at the sign to the highest part of the sign.

7. Site Plan: An application for an off-premises sign or billboard shall be accompanied by a site plan and contain all of the applicable requirements as required by this Ordinance.

8. Electronic Signs: An off-premises freestanding advertising sign may be an electronic message sign provided it complies with other applicable requirements of this Ordinance and the following:

   a. Electronic message signs shall not display animation, flash or blink and motion shall be limited to the transition from one message to another.

   b. Electronic message signs shall be equipped with light sensors capable of measuring ambient light levels and dimming devices that shall lower the brightness of the sign based on the measured ambient light to minimize the brightness level required to make the sign visible. The dimming device shall minimize the illumination used to the lowest level necessary to make the sign conspicuous and visible during both daytime and night time hours. At no time shall the brightness level of any electronic message sign constitute glare.

   c. Transitions for electronic message signs shall fade and content shall not change more than once every ten (10) seconds with a transition time not exceeding two (2) seconds

9. Engineering Certification: Any applications for an off-premise sign or billboard shall be accompanied by certification under seal by a Professional Engineer that the existence of the off-premises sign or billboard, as proposed, shall not present a safety hazard.

1312 Permits

1. Permit Required: Except for the following, no person may erect, alter, or relocate within the Borough any sign without first obtaining a sign permit from the Zoning Officer and paying the required fee:

   a. Exempt signs as specified in §1307.

   b. Real estate and temporary construction signs.

   c. 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 nonconforming.

2. Permit Application: Applications for sign permits shall be submitted to the Zoning Officer and shall contain or have attached thereto the following information:

   a. The names, addresses, and telephone numbers of the applicant, the owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the person to be erecting or affixing the sign.

   b. The location of the building, structure, or zoning lot on which the sign is to be erected or affixed.

   c. A sketch plan of the property involved, showing accurate placement thereon of the proposed sign.

   d. Two (2) blueprints or ink drawings of the plans and specifications of the sign to be erected or affixed and method of construction and attachment to the building or in the ground. Such plans and specifications

shall include details of dimensions, color, materials, and weight.

e. If required by the Zoning Officer, a copy of stress sheets and calculations prepared by or approved by a registered structural engineer, licensed by the State of Pennsylvania, showing that the sign is designed for dead load and wind pressure in any direction in the amount required by this and all other applicable ordinances of the Borough.

f. The written consent of the owner of the building, structure, or property on which the sign is to be erected or affixed.

g. Such other information as the Zoning Officer may require to determine full compliance with this and other applicable ordinances of the Borough.

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 it appears that the proposed sign is in compliance with all the requirements of this Ordinance and other applicable ordinances of the Borough and if the appropriate permit fee has been paid, the Zoning Officer shall issue a permit for the proposed sign. If the work authorized under a sign permit has not been completed within ninety (90) days after the date of issuance, the permit shall become null and void, unless otherwise extended by the Zoning Officer for a single additional ninety (90) day period.

4. Permit Fees: Each sign required by this Ordinance requiring a sign permit shall pay a fee as established pursuant to a Resolution by the Borough Council.

5. Revocation of Permit: All rights and privileges acquired under the provisions of this Ordinance are mere licenses and, as such, are at any time revocable for just cause by the Borough. All permits issued pursuant to this Section are hereby subject to this provision.

1313 Nonconforming Signs

1. Legal, Nonconforming Signs: Any sign lawfully existing or under construction on the effective date of this Ordinance, which does not conform to one (1) or more of the provisions of this Ordinance, may be continued in operation and maintained indefinitely as a legal nonconforming sign subject to compliance with the requirements of §1300.13,B.

2. Maintenance and Repair of Legal Nonconforming Signs: Normal maintenance of legal nonconforming signs, including changing of copy, necessary repairs, and incidental alterations which do not extend or intensify the nonconforming features of the sign, shall be permitted. However, no alteration, enlargement, or extension shall be made to a legal nonconforming sign unless the alteration, enlargement, or extension will result in the elimination of the nonconforming features of the sign. If a legal nonconforming sign is damaged or destroyed by any means to the extent of fifty (50%) percent or more of its replacement value at the time, the sign may not be rebuilt to its original condition and may not continue to be displayed.

1314 Removal of Certain Signs

1. Nonconforming Signs: If the Zoning Officer shall find that any nonconforming sign, except for those legal nonconforming signs as specified in §1300.13 is displayed, he shall give written notice to the owners, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be effected within ten (10) days after receipt of the notice from the Zoning Officer. If such sign is not removed after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

2. Obsolete Signs: 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 removed within ninety (90) days upon 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.

If the Zoning Officer shall find that any such sign advertising 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 has not been removed within ninety (90) days upon the cessation of such business or sale of such product, he shall give written notices to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be affected within ten (10) days after receipt of the notice from the Zoning Officer. If such sign is not removed after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

3. Unsafe Signs: If the Zoning Officer shall find that any sign is unsafe or insecure, or is a menace to the public, he shall give written notice to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Correction to the condition which caused the Zoning Officer to give such notice shall be effected within ten (10) days after receipt of the notice. If such condition is not corrected after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located. 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.

1315 Electronic Message Signs in the Industrial District

1. Types of Signs – Industrial District: In the Industrial District the following types of signs may be an electronic message sign:

   a. Individual use wall sign (§1310.1.b).
   b. Individual use ground sign (§1310.1.c).
   c. Multi-use wall sign (§1310.2.a).
   d. Multi-use ground sign (§1310.2.a).
   e. A retail fuel sales sign (§1310.3.c).
   f. A billboard or off-premises sign (§1311).

2. One Sign: Only one (1) electronic message sign shall be permitted per development parcel. If the sign structure has two (2) sign faces, each sign face may be an electronic message sign.

3. Size: The electronic message sign shall not exceed eighty (80) percent of the maximum allowable size of a non-electronic message sign of the same type.

4. Message Display: The message display shall comply with Sections 1311.8. a, b, and c.

# ARTICLE 14
# AIRPORT OVERLAY DISTRICT

(See §603a.14 for standards applicable to new airports and changes to existing airports.)

## 1400 Introduction and Purpose

1. Introduction: This Article 14 applies to the *Airport Overlay District* created by §401.1 of this Ordinance which includes all of the land lying beneath the approach surfaces, primary surfaces, transitional surfaces, horizontal surfaces and conical surfaces as applied to airports as defined and regulated by this Article 14. The Airport Overlay District shall not modify the boundaries of any underlying zoning district. Where identified, the Airport Overlay District shall impose certain requirements on land use and construction in addition to those contained in the underlying zoning district. In addition to all other applicable standards of this Zoning Ordinance the requirements of this Article 14 shall apply in the Airport Overlay District.

   This Article 14 regulates and restricts the height to which structures may be erected or objects of natural growth are permitted to extend, and otherwise regulates the use of property in the vicinity of an airport regulated by this Article 14 by creating the appropriate zones and establishing the boundaries thereof; provides for changes in the restrictions and boundaries of such zones; and defines certain terms used herein.

2. Purpose: The purpose of this ordinance is to create an airport overlay district that considers safety issues around Airports, regulates and restricts the heights of constructed structures and objects of natural growth, creates appropriate zones, establishing the boundaries thereof and providing for changes in the restrictions and boundaries of such zones, creates the permitting process for use within said zones.

## 1401 Authority

In addition to the authority for zoning in general as authorized by the Pennsylvania Municipalities Code, the provisions of this Article 14 are adopted pursuant to the authority conferred by the Act of October 10, 1984, P.L. 8313, No. 164, of the General Assembly of the Commonwealth of Pennsylvania, as amended, known and cited as the *Aviation Code of Pennsylvania* and specifically that subchapter of the *Aviation Code* known as the *Airport Zoning Act*

## 1402 Findings

1. Certain airport hazards in effect reduce the size of the area available for landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein

2. The creation or establishment of an airport hazard is a public nuisance and may injure the region served by the airport

3. It is necessary in the interest of public health, public safety and general welfare that the creation or establishment of airport hazards be prevented.

4. The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of police power.

5. Both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

## 1403 General Definitions

The following definitions shall supplement the definitions in Article 3 of this Ordinance and shall apply to the requirements and standards of this Article 14.

Airport Elevation: The highest point of an airport's useable landing area measured in feet above sea level.

Airport Hazard: Any structure or object, natural or manmade, or use of land which obstructs the airspace required for

flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §5102.

Airport Hazard Area: Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Ordinance and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

Approach Surface (Zone): An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach. The approach surface zone, as shown on the *Part 77 Surface Areas Diagram*, is derived from the approach surface.

BOA: Pennsylvania Department of Transportation Bureau of Aviation.

Conical Surface (Zone): An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on *Part 77 Surface Areas Diagram*, is based on the conical surface.

Department: Pennsylvania Department of Transportation.

FAA: Federal Aviation Administration of the United States Department of Transportation.

Height: For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal Surface (Zone): An imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone, as shown on *Part 77 Surface Areas Diagram*,, is derived from the horizontal surface.

Larger Than Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Nonconforming Use: Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

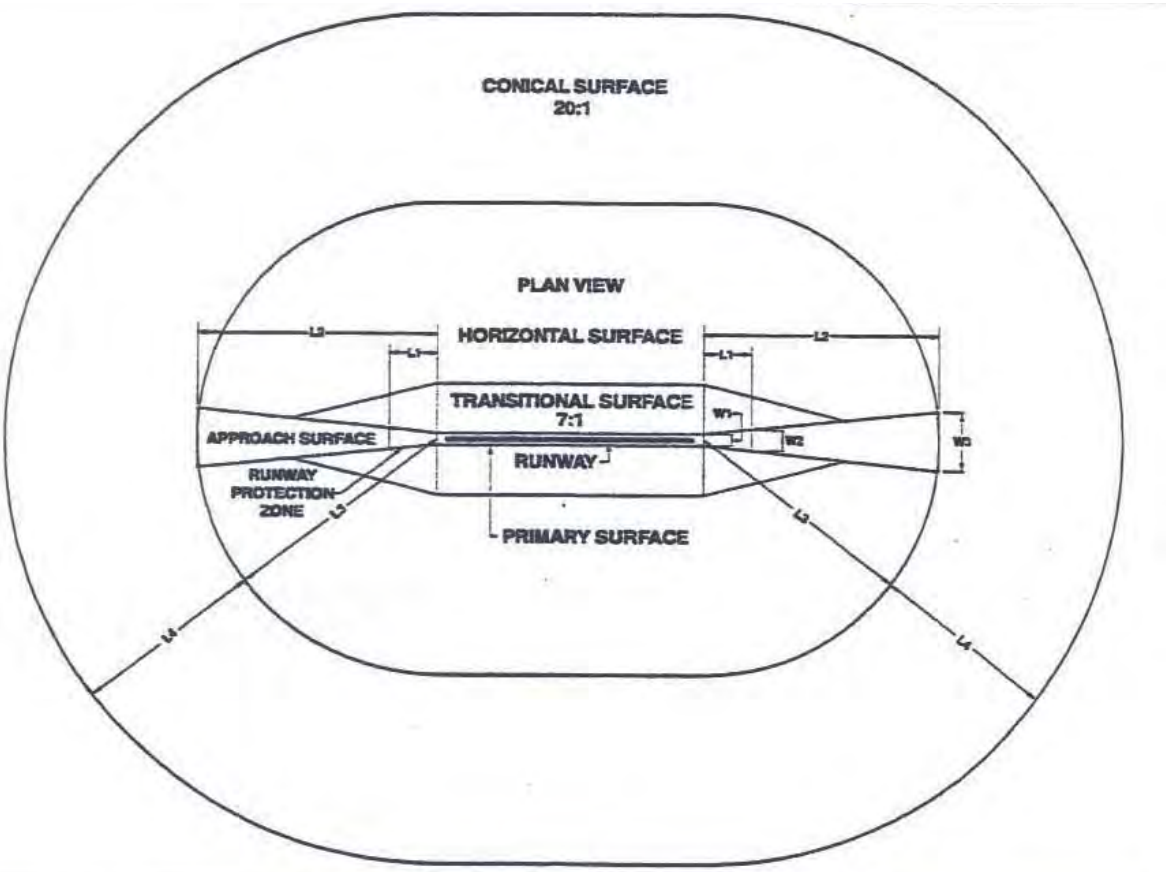
Non-Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Ordinance.

Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precisions Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary Surface (Zone): An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface zone, as shown on *Part 77 Surface Areas Diagram*, is derived from the primary surface.

Runway: A defined area of an airport prepared for landing and takeoff of aircraft along its length.




**FAR PART 77 "IMAGINARY SURFACES" DIMENSION[1] REQUIREMENTS**

| Runway Type | Runway End | | Conical Surface (L4) | Horizontal Surface (L3) | Approach Surface | | | Approach Slope | Primary Surface Width | Transitional Surface |
|---|---|---|---|---|---|---|---|---|---|---|
| | Approach | Other | | | Length (L2) | Inner Width (W1) | Other Width (W3) | | | |
| Small Airplanes[2] | V | V | 4,000 | 5,000 | 5,000 | 250 | 1,250 | 20:1 | 250 | 7:1 |
| | | NP | 4,000 | 5,000 | 5,000 | 500 | 1,250 | 20:1 | 500 | 7:1 |
| | | NP 3/4 | 4,000 | 5,000 | 5,000 | 1,000 | 1,250 | 20:1 | 1,000 | 7:1 |
| | | P | 4,000 | 5,000 | 5,000 | 1,000 | 1,250 | 20:1 | 1,000 | 7:1 |
| | NP | V | 4,000 | 5,000 | 5,000 | 500 | 2,000 | 20:1 | 500 | 7:1 |
| | | NP | 4,000 | 5,000 | 5,000 | 500 | 2,000 | 20:1 | 500 | 7:1 |
| | | NP 3/4 | 4,000 | 5,000 | 5,000 | 1,000 | 2,000 | 20:1 | 1,000 | 7:1 |
| | | P | 4,000 | 5,000 | 5,000 | 1,000 | 2,000 | 20:1 | 1,000 | 7:1 |
| Large Airplanes[3] | V | V | 4,000 | 5,000 | 5,000 | 500 | 1,500 | 20:1 | 500 | 7:1 |
| | | NP | 4,000 | 10,000 | 5,000 | 500 | 1,500 | 20:1 | 500 | 7:1 |
| | | NP 3/4 | 4,000 | 10,000 | 5,000 | 1,000 | 1,500 | 20:1 | 1,000 | 7:1 |
| | | P | 4,000 | 10,000 | 5,000 | 1,000 | 1,500 | 20:1 | 1,000 | 7:1 |
| | NP | V | 4,000 | 10,000 | 10,000 | 500 | 3,500 | 34:1 | 500 | 7:1 |
| | | NP | 4,000 | 10,000 | 10,000 | 500 | 3,500 | 34:1 | 500 | 7:1 |
| | | NP 3/4 | 4,000 | 10,000 | 10,000 | 1,000 | 3,500 | 34:1 | 1,000 | 7:1 |
| | | P | 4,000 | 10,000 | 10,000 | 1,000 | 3,500 | 34:1 | 1,000 | 7:1 |
| Large and Small Airplanes | NP 3/4 | V | 4,000 | 10,000 | 10,000 | 1,000 | 4,000 | 34:1 | 1,000 | 7:1 |
| | | NP | 4,000 | 10,000 | 10,000 | 1,000 | 4,000 | 34:1 | 1,000 | 7:1 |
| | | NP 3/4 | 4,000 | 10,000 | 10,000 | 1,000 | 4,000 | 34:1 | 1,000 | 7:1 |
| | | P | 4,000 | 10,000 | 10,000 | 1,000 | 4,000 | 34:1 | 1,000 | 7:1 |
| | P | V | 4,000 | 10,000 | 10,000/40,000 | 1,000 | 4,000/16,000 | 50:1/40:1 | 1,000 | 7:1 |
| | | NP | 4,000 | 10,000 | 10,000/40,000 | 1,000 | 4,000/16,000 | 50:1/40:1 | 1,000 | 7:1 |
| | | NP 3/4 | 4,000 | 10,000 | 10,000/40,000 | 1,000 | 4,000/16,000 | 50:1/40:1 | 1,000 | 7:1 |
| | | P | 4,000 | 10,000 | 10,000/40,000 | 1,000 | 4,000/16,000 | 50:1/40:1 | 1,000 | 7:1 |

1 - In Feet
2 - Less than 12,500 lbs maximum certified takeoff weight
3 - Greater than 12,500 lbs maximum certified takeoff weight

V = Visual approach 20:1
NP = Nonprecision approach 34:1
NP 3/4 = Nonprecision approach with visibility minimums as low as 3/4 statute miles 34:1
P= Precision approach 50:1

Note: L1 is the length of the RPZ and W2 is the outer width of the RPZ as defined by approach visibility minimums

Source: Federal Aviation Administration




Skyhaven Airport Height Limitation and Zoning District Map, 1989
Pennsylvania Department of Transportation, Bureau of Aviation

Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

Transitional Surface (Zone): An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface zone, as shown on *Part 77 Surface Areas Diagram*, is derived from the transitional surface.

Tree: Any object of natural growth.

Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

1404 Establishment of Airport Zones

1. Generally: There are hereby created and established certain zones within the Airport Overlay District, as defined in §1403 and depicted on the *Part 77 Surface Areas Diagram*, which include:

    a. Approach Surface Zone
    b. Conical Surface Zone
    c. Horizontal Surface Zone
    d. Primary Surface Zone
    e. Transitional Surface Zone

2. Skyhaven Airport: The *Skyhaven Airport Height Limitation and Zoning District Map*, 1989, as illustrated on the *Skyhaven Airport Height Limitation and Zoning District Map Diagram*, is hereby adopted as part of this Ordinance.

1405 Airport Surface Zone Height Limitations

Except as otherwise provided in this Article 14, no structure shall be erected, altered, or maintained, and no vegetation shall be allowed to grow in any zone created by §1404.2 to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Surface Zones:

    a. Visual Approach Surface Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) feet along the extended runway centerline.

    b. Non-precision Instrument Approach Surface Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) along the extended runway centerline.

2. Primary Surface Zone: Established at the same height as the primary surface.

3. Transitional Surface Zones: Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation.

4. Horizontal Surface Zone: Established at one hundred fifty (150) feet above the established airport elevation.

5. Conical Surface Zone: Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal surface and at one hundred fifty (150) feet above the established airport elevation and extending to a

height of three hundred fifty (350) feet above the established airport elevation.

6. Excepted Height Limitations: However, nothing in this Article 14 shall be construed as prohibiting the construction or maintenance of any structure or growth of any vegetation to a height up to fifty (50) feet above the surface of the land, which is not otherwise prohibited by this Zoning Ordinance. This exception shall not apply in the Primary Surface Zone or the Transitional Surface Zone.

1406 Variance

1. Compliance: Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced).

2. FAA Determination: In addition to the procedures and requirements of Article 9, the granting of a variance by the Zoning Hearing Board shall depend on the determinations made by the FAA and the Department's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the Zoning Hearing Board shall consider which of the following categories the FAA has placed the proposed construction in:

   a. No Objection: The subject construction is determined not exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance may be granted.

   b. Conditional Determination: The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance may be granted contingent upon implementation of mitigating measures in accord with §1406.4.

   c. Objectionable: The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied.

3. Decision: Requests for variances shall be granted only where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accord with the intent of this ordinance.

4. Obstruction Marking and Lighting: Any variance granted pursuant to the provisions of this ordinance may be conditioned according to the process described in §1406.2.b to require the owner of the structure or object of natural growth in question to permit the municipality, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

1407 Use Restrictions

Notwithstanding any other provisions of this Ordinance, no use shall be made of land or water within the Airport Overlay District in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the airport.

1408 Pre-Existing Nonconforming Uses

The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. No nonconforming use shall be structurally altered or be permitted to grow higher so as to increase the nonconformity, and a nonconforming use, once substantially abated, may only be reestablished consistent with the provisions of Article 12.