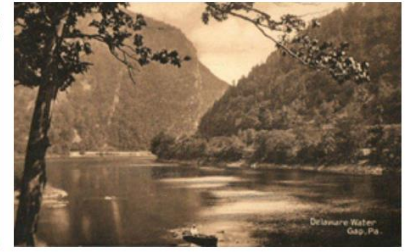


Borough of

Delaware Water Gap



MONROE COUNTY, PENNSYLVANIA

ZONING ORDINANCE

ADOPTED AUGUST 16, 2023

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BOROUGH OF DELAWARE WATER GAP

MONROE COUNTY, PENNSYLVANIA

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY, THE BOROUGH OF DELAWARE WATER GAP ZONING ORDINANCE OF FEBRUARY 1, 1988, AS AMENDED, AND THE BOROUGH OF DELAWARE WATER GAP ZONING MAP, AS AMENDED; PERMITTING, PROHIBITING, REGULATING, RESTRICTING, AND DETERMINING THE USES OF LAND, WATERCOURSES, AND OTHER BODIES OF WATER; THE SIZE, HEIGHT, BULK, LOCATION, ERECTION, CONSTRUCTION, REPAIR, MAINTENANCE, ALTERATION, RAZING, REMOVAL AND USE OF STRUCTURES; THE AREAS AND DIMENSIONS OF LAND AND BODIES OF WATER TO BE OCCUPIED BY USES AND STRUCTURES AS WELL AS COURTS, YARDS, AND OTHER OPEN SPACES AND DISTANCES TO BE LEFT UNOCCUPIED BY USES AND STRUCTURES; THE DENSITY OF POPULATION AND INTENSITY OF USE; CREATING ZONING DISTRICTS AND ESTABLISHING THE BOUNDARIES THEREOF; AUTHORIZING THE APPOINTMENT OF A ZONING OFFICER; CREATING A ZONING HEARING BOARD; AND PROVIDING FOR THE ADMINISTRATION, AMENDMENT, AND ENFORCEMENT OF THE ORDINANCE, INCLUDING THE IMPOSITION OF PENALTIES.

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

**ARTICLE I
GENERAL PROVISIONS****§1 Adoption**

The Borough of Delaware Water Gap Zoning Ordinance of February 1, 1988, as amended, is hereby repealed and replaced in its entirety as hereinafter set forth.

§2 Short Title

This ordinance shall be known and may be cited as the BOROUGH OF DELAWARE WATER GAP ZONING ORDINANCE.

§3 Purpose

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

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare; coordinated and practical community development; density of population; civil defense and disaster evacuation, airports, and national defense facilities; the provisions of adequate light and air; police protection; vehicle parking and loading space; transportation; natural resources, agricultural land and uses; the safe use of natural or artificial bodies of water, boat docks and related facilities; reliable, safe and adequate water supplies; safe and adequate sewerage disposal, schools, public grounds and other public requirements and other purposes set forth in the Pennsylvania Municipalities Planning Code.
- B. To prevent one or more of the following: overcrowding of land, watercourses and other bodies of water, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic, or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable

range of multifamily dwellings in various arrangements, manufactured housing and manufactured housing parks, provided, however, that this ordinance shall not be deemed invalid for the failure to provide for any other specific dwelling type.

- E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

§4 Applicability

- A. Existing Uses. Any legally established existing use of a building, structure, lot or parcel of land or part thereof, as of the effective date of this ordinance may be continued.
- B. Conformance. Any activity regulated by this ordinance shall only occur or be undertaken and be continued in conformance with the requirements of this ordinance.
- C. Authorization. This ordinance regulates all matters and activities authorized by Article VI of the Pennsylvania Municipalities Planning Code, as amended.

D. Regulated Activities

1. The following activities and any other activity or matter regulated by this ordinance shall only be undertaken after the required permit or approval has been obtained in full compliance with this ordinance:
 - a. The erection, construction, demolition, alteration, extension, replacement, relocation, or conversion of any building or structure or any activity to prepare the site for the erection, construction, demolition, alteration, extension, replacement, relocation or conversion of any building or structure;
 - b. Change in the type of use or expansion of the use of a structure or area of land; and/or,
 - c. Creation of a lot or alteration of lot lines.
 2. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
 3. No lot shall be formed from part of a lot already occupied by a building unless such building, all required setbacks and open spaces connected therewith, and the remaining lot conforms with all requirements prescribed by this ordinance for the district in which said lot is located. No building permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this ordinance.
 4. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.
- E. Repairs and Maintenance. Ordinary repairs, structural strengthening, facade improvements and maintenance to existing structures that do not infringe upon a required setback may be made without a zoning permit provided such activity does not involve:
1. a change in use;
 2. an expansion, construction or placement of a structure;
 3. an increase in the number of dwelling units or boarding house units; and/or
 4. any other activity regulated by this ordinance.
- F. Municipal Authorities and Water Companies. A municipal authority, water company or any other municipality that plans to expand water, sanitary sewer or storm sewer service via a new main extension to a proposed development that has not received any municipal approvals within the Borough shall:
1. Notify the Borough by certified mail, return receipt requested, of its intention and shall provide the

Borough an opportunity to provide written comment on whether the proposed expansion of service within the Borough is generally consistent with this ordinance.

2. Comply with the other applicable requirements of §608.1 of the MPC.

G. Public Utility Commission

1. 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.
2. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the Borough have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceedings.

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

§5 Interpretation

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

B. Conflict

1. Borough Provisions

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

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

3. Private Provisions

- a. 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.

- b. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or higher standards than the requirements of this ordinance, then such private provisions shall be operative and supplemental to these requirements.
- C. Specificity. Whenever any regulations pertaining to a specific use or activity under authority of this ordinance require a greater width or size of yards, courts or other open space, or require a lower height of buildings and/or structures or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required for the zoning district or generally required under this ordinance, the greater or higher standards shall govern.
- D. Pennsylvania Municipalities Planning Code Amendments. The provisions of this ordinance that only repeat, summarize or reference provisions of the Pennsylvania Municipalities Planning Code shall be deemed to be automatically superseded and replaced by any applicable amendments to such provisions of the Pennsylvania Municipalities Planning Code at the date such amendments become effective as State law.

§6 Severability

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

§7 Effective Date

This Ordinance shall be effective five days following adoption.

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

§8 General Community Development Objectives

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

A. General Community Development Objectives.

1. Promote, protect and facilitate the public health, safety, morals and general welfare.
2. Promote coordinated and practical community development and provide for the overall improvement and development of the Borough.
3. Provide for proper densities of population, adequate light and air, vehicle parking and loading space.
4. Provide opportunities for safe development of transportation, water, sewage facilities and other appropriate public facilities.
5. Prevent overcrowding of land, blight, danger, and congestion, loss of health, life or property from fire, flood, panic or other dangers.
6. Balance the needs for new development against the need to conserve the natural environment and other existing development in the Borough.

B. Specific Community Development Objectives.

1. Protect existing residential, commercial, industrial and public land uses and provide opportunities for continued development of such uses in accordance with the comprehensive planning studies and recommendations prepared by the Planning Commission and the Borough Council.
2. Establish zoning districts which protect existing uses from encroachment of incompatible land uses of a type which would adversely affect existing neighborhoods or districts.
3. Specific objectives with regard to various types of uses are listed below:

a. Residential Land Uses.

- (1) Protect existing residential neighborhoods from adverse location of incompatible uses in such neighborhoods.
- (2) Provide a variety of choices for different housing types in residential areas, at generally low densities of development, which are needed to meet the economic and social needs of the population and the specialized needs of the elderly.
- (3) Maintain the general integrity of existing single-family and two-family residential areas but provide for controlled development in such as conservation design development and of other uses normally related to or appropriate in residential areas.
- (4) Provide suitable areas for conservation design development.
- (5) Provide opportunities where sufficient vacant land exists for the controlled development of mobile home parks.
- (6) Provide opportunities for the development of home occupations in residential areas in a manner which does not detract from the quality of the residential neighborhood.
- (7) Promote the rehabilitation and improvement of the existing housing stock.

- (8) Provide opportunities for new residential development in established residential neighborhoods and districts.

b. Non-Residential Development.

- (1) Provide opportunities for strengthening the existing economic base and economic activities in the Borough by establishment of well-defined areas for commercial and industrial development.
- (2) Protect existing commercial and industrial areas from adverse location of incompatible uses and where conflicts between residential and nonresidential uses exist, balance the needs of both types of uses.
- (3) Provide opportunities for broadening the type of economic development which exists in the Borough by promoting activities which serve local, regional and expanded economic markets.
- (4) Provide for suitable commercial development through the establishment of defined areas for the location of general commercial uses and provide for the controlled development of residential uses in such areas in a manner which protects both types of uses.
- (5) Heavy commercial uses such as warehouses and truck depots may locate in industrial zoned areas.
- (6) Promote the rehabilitation, appropriate conversion and improvement of the older commercial buildings and encourage the utilization of underutilized commercial space.
- (7) Provide opportunities for new commercial development which serves the needs of residents of the Borough and also of the many visitors to the area.
- (8) Preserve the river frontage and agricultural river terrace land in its natural state with any development of these lands to primarily benefit Borough residents for such uses as recreation, parking for fishing and boating access.

c. Resort and Recreational Use.

- (1) Recognize the special historical characteristics and gateway to Pennsylvania location of the Borough as a resort-recreational community in the Poconos.
- (2) Provide opportunities for continued resort-recreational uses to serve visitors in the area in a manner which does not conflict with the needs of the permanent population of the Borough.
- (3) Protect and enhance the existing resort- recreational uses which have become established over the years.
- (4) Discourage any uses which would distract from the resort-recreational environment such as land use activities which generate excessive noise, light, air pollution, ground or water pollution.

d. Appropriate Public Uses.

- (1) Provide for the controlled development of appropriate public uses and facilities in all areas where such uses are needed to serve the area or the community as a whole.

e. Customary Accessory Uses and Essential Services.

- (1) Permit development of accessory uses which are needed to complement other residential and nonresidential uses to which they are related.

- (2) Permit the development in all areas of necessary public utilities and public services which are needed to serve the public and to maintain the general welfare and safety of the population.

f. Special Facilities and Uses.

- (1) Where feasible, provide for the development of off-street parking and loading facilities needed to serve any new development.
- (2) Provide for the controlled development, in appropriate areas, of signs, fences, swimming pools, screening and mobile homes which should be located only in mobile home parks or on individual lots in high-density non-historic areas.
- (3) Prohibit obscene sexual uses or activities which violate State law and local ordinances or contemporary community standards of the Borough.

g. Nonconforming Lots.

- (1) Recognize that since the town was founded in 1793, development in the Borough has included many small lot sizes which do not meet current and more modern standards for development.
- (2) Establish a reduced bulk, density and area standard for such lots which permits their development, or which permits existing uses on such lots to be expanded in a manner which is in keeping with the general character of the neighborhood in which they are located.
- (3) Such small lots shall not, by reason of the size of the lot or by its area dimensions or coverage, render an existing use to be a nonconforming use or structure.

h. Nonconforming Uses or Structures. Identify existing uses or structures which do not conform with the use provisions established in this ordinance and establish standards and conditions under which such non-conforming uses may be enlarged, restored, discontinued or changed.

i. Existing Conforming Uses and Legal Nonconforming Uses. Provide for the continuation and expansion of existing conforming uses and legal nonconforming uses which have encroached into required yard areas or exceeded the height requirements of this ordinance.

j. Historic, Architectural and Environmental Preservation.

- (1) Provide encouragement for property owners to restore their historic and/or architecturally significant structures.
- (2) Respect for the existing physical and human environment should be required regarding any proposed change to the Borough environment. The Borough should continue to provide opportunities for people to learn about the physical and biological processes in the evolution of the Borough through such places as the Antoine Dutot Museum and Gallery. Knowledge of this evolution and the values of this place should be an indispensable step before anyone makes a change to the land.
- (3) Protect the historic legacy of the Borough which was identified in the Monroe County Historic Preservation Plan published in June of 1980 by the Monroe County Planning Commission.
- (4) Encourage designation on the National Register of Historic Places for Borough historic structures.
- (5) Preserve the local environment through an ecological evaluation process with the following considered:
 - Climate - includes air pollution potential.

- Geology - includes natural scenic features such as the Delaware Water Gap, bedrock and archeological digs.
- Physiography - includes features of scientific, educational, and scenic value, slope of land, surface drainage, riparian land, beaches, and stream access.
- Hydrology - includes water areas, aquifers, and aquifer recharge and watershed protection.
- Pedology - includes soil drainage, compression strength and stability for foundations and erosion susceptibility.
- Vegetation - includes existing woodland and marsh areas.
- Wildlife - includes land and water species. Any new major project should have an environmental impact evaluation which at least considers the above factors.

k. Transportation System.

- (1) To develop the best possible traffic circulation system that will serve all types of traffic; local, inter-municipal, recreation and through traffic in cooperation with the Pennsylvania Department of Transportation and the Delaware River Bridge Commission.
- (2) To promote a satisfactory transit bus service system including convenient, safe school bus stops in the Borough which are also protected from deleterious influences.
- (3) To provide adequate ingress and egress from major commercial, industrial and residential developments in the Borough.

§9 Comprehensive Plan

In addition to the General Community Development Objectives set forth in §8, this ordinance is intended to implement the Borough of *Delaware Water Gap Comprehensive Plan*, as may be adopted, and amended, the *Borough of Delaware Water Gap Village Study*, May 2013, and any other plan which may be adopted by the Borough.

ARTICLE III DEFINITIONS

§10 Rules of Construction and Definitions

The following rules of construction shall apply to this ordinance:

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

§11 Terms or Words Not Defined; Diagrams

- A. Terms, Phrases, Words Not Defined - When terms, phrases, or words are not defined, they shall have the meaning as defined in The Complete Illustrated Book of Development Definitions (Moskowitz, Lindbloom, Listokin, Preiss, and Merriam, Transaction Publishers, New Brunswick, NJ, 4th edition, 2015, ISBN: 978-1-4128-5504-) or the latest edition thereof, or if not defined therein, they shall have their ordinarily accepted meanings or such as the context may imply.
- B. Diagrams - The diagrams in §12 are for illustrative purposes only and shall not be interpreted as having any effect on the meaning of the associated term.

§12 Definitions

For the purpose 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 the external act by which it is carried into effect.

Abandoned Motor Vehicle: Any unregistered, unlicensed, or abandoned automobile, truck, trailer, motorcycle, bus, farm machinery, or other motor vehicle, including 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 CSA §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: See *domestic violence shelter*.

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

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

by right as needed.

Accessory Use or Structure (includes Accessory Building): A use or structure subordinate to and located on the same lot as the principal use or building and serving a purpose customarily incidental to the use of the principal use or building. Where any part of the wall of an accessory building is part of the wall of a main building, or where the accessory building is attached to the main building by a roof, including carports however covered, such accessory building shall be deemed part of the main building.

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

Adjacent: Two or more lots that share a common lot line.

Adult Business: Any of the following:

- A. A use of a building or land for a business which has obscene materials as a substantial or significant portion of its stock-in-trade.
- B. Any nightclub, bar, restaurant, arcade, theater, or any other establishment that conducts live performances as a principal part of its business that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, videos, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas, or where any specified sexual activities are conducted for economic gain or any other form of consideration.
- C. Any of the following as defined in this Article III:
 - 1. Adult arcade
 - 2. Adult bookstore or adult video store
 - 3. Adult live entertainment use or facility
 - 4. Adult motel
 - 5. Adult motion picture theater
 - 6. Adult theater
 - 7. Escort agency
 - 8. Massage parlor
 - 9. Nude model studio
 - 10. Sexual encounter center

Additional definitions associated with *adult business* include:

- A. Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images of five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of *specified sexual activities* or *specified anatomical areas*. An *adult arcade* shall be considered an *adult business* for regulation by this ordinance.
- B. Adult Bookstore or Adult Video Store: A commercial establishment which, as one of its principal business purposes or as a substantial part of its business, offers for sale or rental for any form of consideration, any one or more of the following:
 - 1. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video, or video reproductions, slides or other visual representations which depict or describe *specified sexual activities* or *specified anatomical areas*; or
 - 2. Instruments, devices, or paraphernalia which are designed for use in connection with *specified sexual activities*.

A commercial establishment may have other principal business purposes that do not involve the offering

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

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

- C. Adult Live Entertainment Use or Facility: A commercial use (including, but not limited to, a use selling food or beverages) including live entertainment involving:
1. Persons (which may include, but is not limited to, waiters, waitresses, dancers, clerks, bartenders, contractors, or others) appearing in a state of nudity; or,
 2. Live performances which are characterized by the exposure of specified anatomical areas or simulated or actual specified sexual activities; or,
 3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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

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

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

- E. Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. An *Adult motion picture theater* shall be considered an *adult business* for the purpose of this ordinance.
- F. Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas. An *adult theater* shall be considered an Adult Business for regulation by this ordinance.
- G. Escort: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- H. Escort Agency: A person or business association or establishment which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An *escort agency* shall be considered an *adult business* for regulation by this ordinance.
- I. Massage: Pressing, squeezing, stretching, or stimulating the face, scalp, neck, limbs, or other parts of the human body with or without cosmetic preparation, either by hand, or with mechanical or electrical appliances.

- J. Massage Parlor: A person or business association or establishment which furnishes, offers to furnish or advertises to furnish as one of its primary business purposes for a fee, tip or other consideration, a massage which involves the exposure of any *specified anatomical areas*. A *massage parlor* shall be considered an *adult business* for regulation by this ordinance.
- K. Nude Model Studio: Any place, which is not excepted by §73C(17), where a person who appears in a state of nudity or displays *specified anatomical areas* is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A *nude model studio* shall be considered an *adult business* for regulation by this ordinance.
- L. Nudity or a State of Nudity: The showing of the human male or female genitals or pubic area with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering or any portion thereof below the top of the areola.
- M. Obscene Materials: Any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, sound recording, article, instrument or any other written or recorded matter which depicts or describes, any *specified sexual activities* and/or *specified anatomical areas*.
- N. Sexual Encounter Center: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude. A *sexual encounter center* shall be considered an *adult business* for regulation by this ordinance.
- O. Specified Anatomical Areas: Any of the following:
1. Less than completely and opaquely covered human genitals, pubic region, anus, or female breasts below a point immediately above the top of the areola.
 2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- P. Specified Sexual Activities: Any of the following:
1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
 2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
 3. Masturbation, actual or simulated.
 4. Excretory functions as part of or in connection with any of the activities set forth in 1, 2 and 3, above.

Adult Care Facility: See *nursing home*.

Agent: Any person other than the owner who, acting for the owner, applies for the purpose of obtaining approval in accord with this ordinance.

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

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

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

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

Alteration, Structural: As applied to a building or structure, a change or rearrangement in the structural parts of a structure including the walls, columns, beams, girders, floors, roof or ceiling; or an enlargement whether by extending on a side or by increasing in height; or the moving from one location or position to another; but not including normal maintenance or minor repairs or improvements.

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

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

Animal Hospital: See *veterinary clinic*.

Animal Husbandry: The raising and keeping of livestock and poultry, with the intent of producing capital gain, or profit or with the intent of selling any livestock or poultry products. The keeping of livestock or poultry as farm pets, or for domestic purposes pursuant to the regulations of this ordinance shall not be construed as animal husbandry.

Animal Kennel: See *kennel*.

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

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

Apartment: See *dwelling*.

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

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

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

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

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

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.

Bakery, Retail: A retail establishment for the production and sale of baked goods primarily on the premises.

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

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

Bed and Breakfast Inn: An owner or operator-occupied single-family dwelling in which transient visitors to the area are lodged for compensation, only breakfast for lodging guests may be included, and no cooking facilities are provided in any rental room.

Billiard Hall: An establishment with the principal use of playing cue sports such as pool, snooker or carom billiard. Considered a *recreation facility, commercial* for regulation by this ordinance.

Bituminous Concrete Batch Plant: An operation which combines asphalt or bituminous materials and aggregates and heat to manufacture a bituminous seal coat or bituminous concrete product. Considered *industry* for regulation by this ordinance.

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

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

Borough: The Borough of Delaware Water Gap, Monroe County, Pennsylvania.

Borough Council or Council: The Borough Council of the Borough of Delaware Water Gap, Monroe County, Pennsylvania.

Borough Facilities and Uses: Any building, structure, service or use under the jurisdiction of the Borough of Delaware Water Gap, Monroe County, Pennsylvania.

Brew/Distillery/Winery Pub: A *restaurant* which includes as an accessory use, and primarily intended for sale or consumption on the premises, the brewing of malt beverages of alcoholic and/or non-alcoholic content, the distilling of liquor, and or the making of wine. Considered a *restaurant* for regulation by this ordinance.

Brewery: A facility for the production and packaging of malt beverages of alcoholic and/or non-alcoholic content for retail or wholesale distribution off the premises. Considered *agricultural products processing* for the purposes of this ordinance. (See also *brew/distillery/winery pub*.)

Buffer: A strip of land with fencing, dense vegetative planting, additional setback distances, berms or a combination thereof that separates one use from another use or feature and is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways or improvements which is used to provide separation between incompatible uses to effect a visual barrier, block physical passage

between uses, and reduce noise, dust and litter.

Building: Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more not pierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum setback requirements.

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

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

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

Building Height: The vertical distance from grade plane to the average height of the highest roof surface. (See *grade plane*.)

Building Permit or Construction Permit: See *permit*.

Building, Principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Bulk: The size and shape of a building or its location in relationship to lot lines and other buildings and all open spaces required in connection with a building.

Bulk Fuel Storage Facility: Any facility where gasoline is stored in bulk for distribution by delivery truck, or fuel, including, but not limited, to kerosene, home heating oil, diesel fuel, gasoline, or propane, is stored in large volume tanks for distribution to retail or wholesale establishments; or any *retail home heating fuel distributor* where the storage of fuel on the site exceeds a combined total of 20,000 gallons.

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

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

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

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

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

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

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

Canopy or Awning: An overhanging projection or covering, usually supported on poles, and made of canvas,

fabric, plastic or other materials.

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

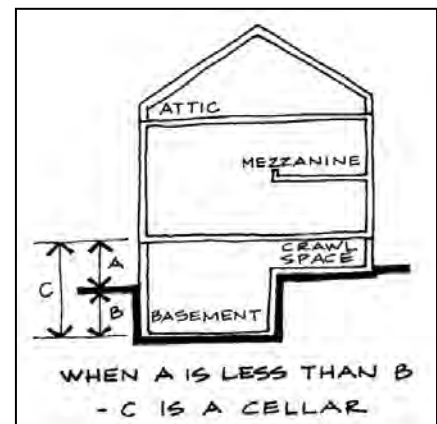
Car Wash: Any building or premises or portions thereof used for commercial purposes for washing motorcycles, passenger cars and other two-axle, four-tire, single-unit vehicles without trailers.

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

Catering Service: The business of providing food and/or beverage service at a site other than the site where the food/beverage is prepared.

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

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



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

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

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

Church: See *place of worship*.

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

Clinic: See *medical clinic*.

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

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

Commercial Use: An occupation, employment, or enterprise carried on for profit by the owner, lessee, or licensee.

Commercial Vehicle: A truck with a gross or combined vehicle weight of 26,001 pounds or more. Classified by the Motor Vehicle Code of the State of Pennsylvania (75 Pa.C.S. §1916) as a truck of Weight Class 9 or greater.

Commission: The Planning Commission of the Borough of Delaware Water Gap, Monroe County, Pennsylvania.

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

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

Community 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.

Composting: The process by which organic solid waste is biologically decomposed under controlled anaerobic or aerobic conditions to yield a humus-like product.

Composting Facility: A facility using land for processing of municipal waste by composting. The term includes land thereby affected during the lifetime of the operations, including, but not limited to, areas where composting actually occurs, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection, transportation and storage facilities, closure and post-closure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to operation of the facility. The term does not include a facility for composting residential municipal waste that is located at the site where the waste was generated.

Comprehensive Plan: The Borough of Delaware Water Gap Comprehensive Plan including all maps, charts and textual matter.

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

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

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

Constrained Land: Selected resources and areas of restricted land multiplied by a protection factor, totaled and used for the calculation of *required lot area*.)

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

Consumer Fireworks:

- A. Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions for *consumer fireworks* as defined in the American Pyrotechnics Association Standard 87-1 (Standard for Construction and Approval for Transportation of Fireworks,

Novelties, and Theatrical Pyrotechnics, 2001 edition, or any subsequent edition, or any successor standard) the sale, possession and use of which is permitted throughout the Commonwealth.

- B. The term does not include devices as *ground and hand-held sparkling devices*, *novelties* or *toy caps* in APA 87-1 or any successor standard, the sale, possession and use of which is permitted at all times throughout the Commonwealth.

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

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

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

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

Cottage Housing Development: See §32A(2).

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

County: The County of Monroe, Commonwealth of Pennsylvania.

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

Court: Any open space, unobstructed from the ground to the sky, which is bounded on two or more sides by the walls of a building on the same lot.

Coverage, Lot: See *lot coverage*.

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

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

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

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

Cultural Center: A public or non-profit operated building open to the public which contains exhibits of a cultural interest, such as a museum, art gallery, nature center, library, etc.

Daycare Center: A facility not located in a dwelling unit which cares for seven or more children or adults for periods of less than 24 hours per day at any hours of any day of the year.

Day-Care, Family Home - A private residence where six or fewer children or adults receive care or supervision for

periods of less than 18 hours per day at any hours between 6:00 a.m. and 12:00 midnight.

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

Deck: An attached or unattached platform structure with no walls and with no roof.

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

DEP: The Pennsylvania Department of Environmental Protection.

Detached Building: See *building, detached*.

Detached Structure: See *structure, detached*.

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

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

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.

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

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

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

Distillery: A facility for the production and packaging of alcoholic liquor for retail and/or wholesale distribution off the premises and licensed as such by the Commonwealth of Pennsylvania. Considered *agricultural products processing* for the purposes of this ordinance. (See also *brew/distillery/wine pub*.)

Distillery Pub: See *brew/distillery/wine pub*.

Distribution/Fulfillment Center or Truck Terminal: An area or structure where trucks load and unload goods, products, cargo, materials and/or freight and where the same may be broken down or aggregated into smaller or larger loads for transfer to other motor vehicles or modes of transportation or to other points or junctions. A truck terminal includes value-added services between a supplier and its customers, such as breaking down of large orders from a single source into smaller orders, product mixing, packaging, cross-docking, order fulfillment, or order returns, and the consolidation of several orders into one large order for distribution to several recipients and/or vice versa.

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

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

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

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

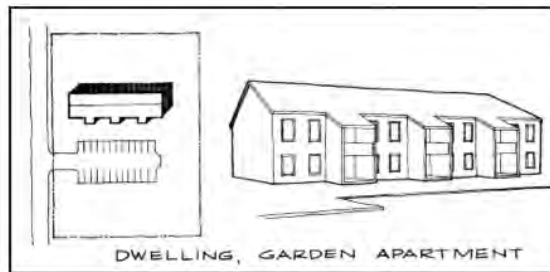
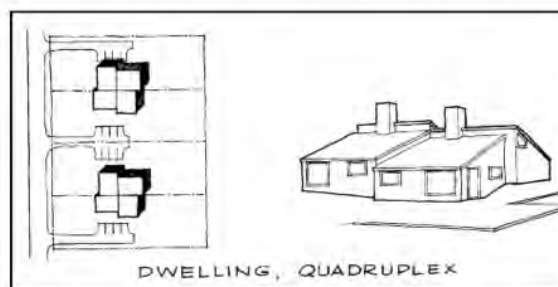
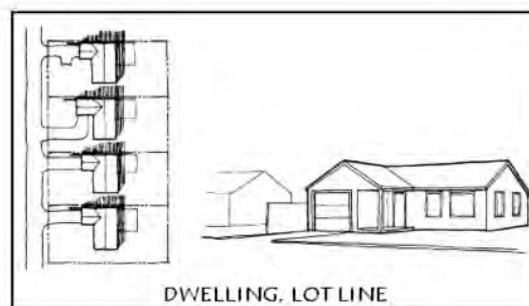
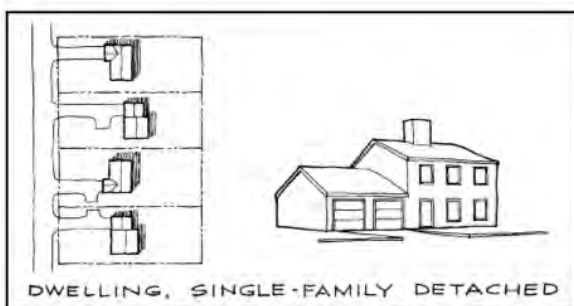
Drive-in Theater: See *theater, drive-in*.

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

Drug and Alcohol Treatment Center: A use (other than a correction facility or a permitted accessory use in a hospital) providing facilities for persons who need specialized housing, treatment and/or counseling for stays in most cases of less than one year and who need such facilities because of chronic abuse of or addiction to alcohol and/or a controlled substance.

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

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



Dwelling, Apartment Unit - One or more rooms with private bath and kitchen facilities constituting an independent, self-contained dwelling unit in a building containing three or more dwelling units, or a dwelling unit located on the upper floors of a nonresidential building.

Dwelling, Lot Line - A single-family, detached dwelling on an individual lot, with the building set on, or close to, one side property line, so that the lot essentially has only one side yard. This side yard and the rear yard constitute the primary outdoor living areas for the dwelling. Typically, no windows are placed in the building wall that is on the lot line. If the building is set on the lot line, a five-foot easement is provided on the adjacent property along the lot line for necessary access and maintenance of the building wall.

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

- A. Apartment Building - A multi-family dwelling structure, originally designed as such, containing three or more apartment units which is more than 2.5 stories but not exceeding the height limitations (in feet) of this ordinance.
- B. Garden Apartment Building - A multi-family dwelling structure, originally designed as such, containing three to ten apartment units and not exceeding two and 2.5 stories or 35 feet in height, with access to each apartment unit usually from a common hall with the apartment units located back-to-back, adjacent, or one on top of another.
- C. Quadraplex - Four attached single-family dwellings in one building in which each unit has two open space exposures and shares one or two walls with adjoining unit or units.
- D. Single-family Attached/Townhouse - A dwelling unit located in a multi-family dwelling structure in which each unit has its own front access to the outside and may have a rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more vertical common fire resistant walls.
- E. Conversion to Apartment - The conversion of an existing building into three to five dwelling units.

Dwelling, Single-Family Detached - A building containing one dwelling unit that is not attached to any other dwelling by any means and is surrounded by open space or yards.

Dwelling, Two-Family - A building containing two dwelling units either attached side by side using a vertical party wall and having one side yard adjacent to each dwelling unit or upstairs/downstairs units.

Dwelling Unit - One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household but not including a *short-term rental unit* as defined in this Article III. Any part of a dwelling structure which is not connected with full unrestricted access to all other parts of the dwelling structure is considered a separate dwelling unit.

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

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

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

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.

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

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

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

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

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

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

Exotic Animal: See *wild or exotic animal*.

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

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

B. The term does not include the following:

1. Commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, matches and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms or antique devices, as defined in 18 U.S.C.A. §921 (relating to definitions).
2. Smokeless powder, primers used for reloading rifle or pistol cartridges, shot shells, percussion caps and smokeless propellants intended for personal use.

Explosive Plant or Storage Facility: Land with buildings or structures used in connection with the manufacturing or processing of explosives, as well as the storehouses and magazines for the storage of explosives.

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

- A. Any number of people related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship resulting in one of the following relationships: husband, wife, brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, nephew, niece, sister-in-law, brother-in-law, father-in-law, mother-in-law or first cousin;
- B. Three unrelated people;
- C. Two unrelated people and any children related to either of them;
- D. Not more than eight people who are residents of a group home meeting the requirements of §54; or
- E. Not more than eight people who are granted a special exception as a single nonprofit housekeeping unit

(a *functional family*) pursuant to §55.

The definition of a family does not include:

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

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

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

Fence: Any outdoor barrier of either natural living vegetation or composed of fabricated materials, as defined below, which is placed or arranged as a line of demarcation between lots, or to enclose a lot or a part of a lot. For the purpose of this ordinance, a fence is a boundary line fence when the average center line of the fence is established on the lot within two feet of a property and/or lot line. The height of any fence shall be the distance measured from the existing grade of the natural surface to the top of the fence.

- A. **Natural Living Fence:** A barrier of natural living vegetation, including shrubs, hedges, trees or other plant materials, shall only be considered to be a fence if 50 percent or more of the horizontal dimension of such materials or growth provides a visual screen or obstruction to vision.
- B. **Fabricated Materials Fence** - Any structure or wall, regardless of composition or material, except for a natural living fence, which is constructed and installed to act as a visual or physical outdoor barrier.

Financial Institution: See *bank*.

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 *agricultural products processing* for regulation by this ordinance.

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

Fireworks, Consumer: See *consumer fireworks*.

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

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

Floor Area: See *gross floor area*.

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

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

Frontage: See *lot frontage*.

Fulfillment Center: See *distribution/fulfillment center or truck terminal*.

Functional Family: See *family* and §55.

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

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

Gaming Establishment: Any facility in which any form of gaming is conducted as authorized by the laws of the Commonwealth of Pennsylvania including, without limitation, gaming authorized by: (i) the Pennsylvania Racehorse Development and Gaming Act, P.L. 572, No. 71, 4 Pa. C.S.A. §1101, et seq., as amended from time to time (the *Racehorse Development and Gaming Act*); and (ii) the Racehorse Industry Reform Act, P.L. 435, No. 135, 4 P.S. §325.101, et seq., as amended from time to time (the *Racehorse Reform Act*). Notwithstanding the foregoing, for purposes of this ordinance, the term *gaming establishments* shall not include or encompass facilities or establishments at which small games of chance are played, facilities participating in any lottery authorized by the Commonwealth of Pennsylvania, or any other games of chance permitted by Pennsylvania law as accessory to a commercial use.

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

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

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

Garage Sale: See *yard, lawn, garage, tag or estate sale*.

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

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

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

Golf Course, Miniature: A novelty version of golf played with a putter and golf ball on a miniature course, typically

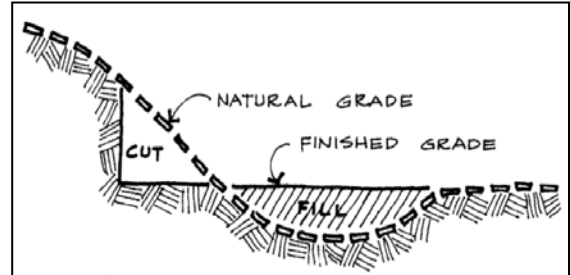
with artificial playing surfaces, and including obstacles such as bridges and tunnels. Considered a *recreation facility, commercial* for regulation by this ordinance.

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

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

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

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



Grade Plane: A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building. (See *building height*.)

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

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

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

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

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

- A. Involves the care of the maximum number of persons permitted by the *group home* standards of §54 and meets all other standards of such section.
- B. Involves persons functioning as a common household.
- C. Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, mental impairment or other handicap* as defined by applicable Federal law.
- D. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

*NOTE: As of 1992, the Federal Fair Housing Act defined *Handicap* as follows: 1) a *physical or mental impairment which substantially limits one or more of such person's major life activities*, 2) a *record of having such an impairment*, or 3) *being regarded as having such an impairment*, but such term does not include *current, illegal use of or addiction to a controlled substance as defined in §802 of Title 21*.

Group Home, Institutional: A use that would otherwise meet the definition of *group home*, but which includes

more than the permitted number of residents specified by this ordinance.

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

Halfway House: See *transitional living facility*.

Hazardous Liquid Pipeline: See *pipelines and associated facilities*.

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

Height, Building: See *building height*.

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

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

Home Daycare: See *daycare, home*.

Home Occupation: An occupation which is permitted under the terms of this ordinance conducted in a residential dwelling unit as an accessory use. (See also *no-impact home based business*.)

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

Homeowners Association: See *property owners association*.

Hookah Bar/Smoking Lounge: A businesses serving flavored tobacco or other products for on-site smoking.

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

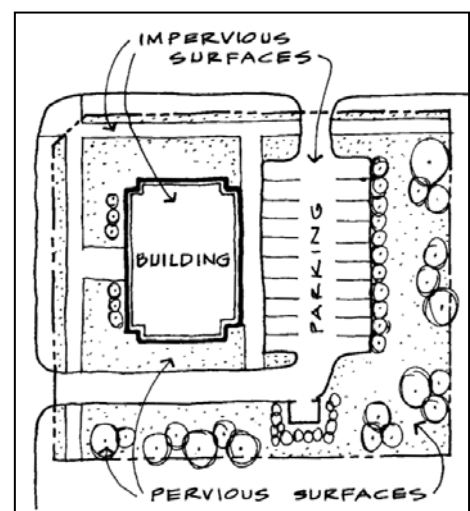
Hotel: A facility offering temporary (generally for periods of two weeks or less and not intended to be used as a permanent residence) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, and providing additional services such as restaurants, meeting rooms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

Household: A family living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit. See *family*.

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

Improvements: See *development improvements*.

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

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

- A. Scrap iron, tin, brass, copper, lead, zinc and all other metals and alloys; bones, rags, paper, used cloth, used rubber, used rope, and similar materials; old or used, or parts of machinery, vehicles, tools, appliances, furniture, plumbing, heating and other fixtures, and pipe and pipe fittings;
- B. Used lumber, boxes, crates and pallets;
- C. Used tires;
- D. Other worn, deteriorated, or obsolete manufactured goods which are unusable;
- E. Mobile/manufactured homes that are not in habitable condition; and,
- F. Abandoned motor vehicles.

Junk shall not include:

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

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

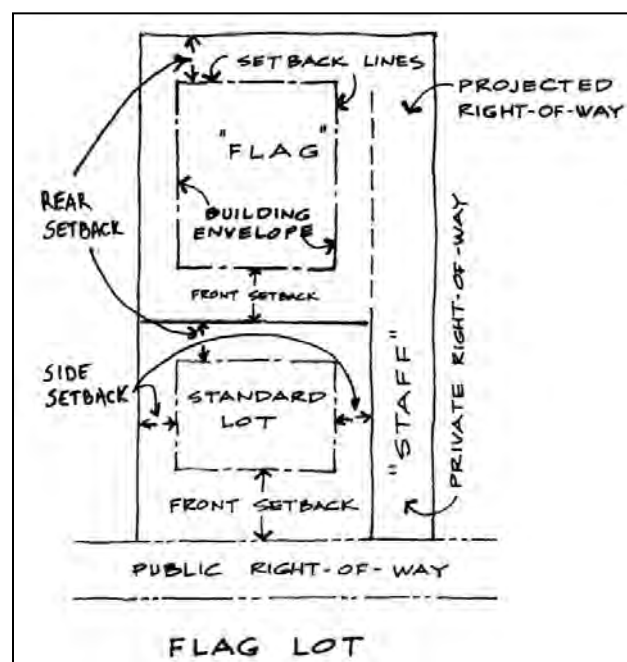
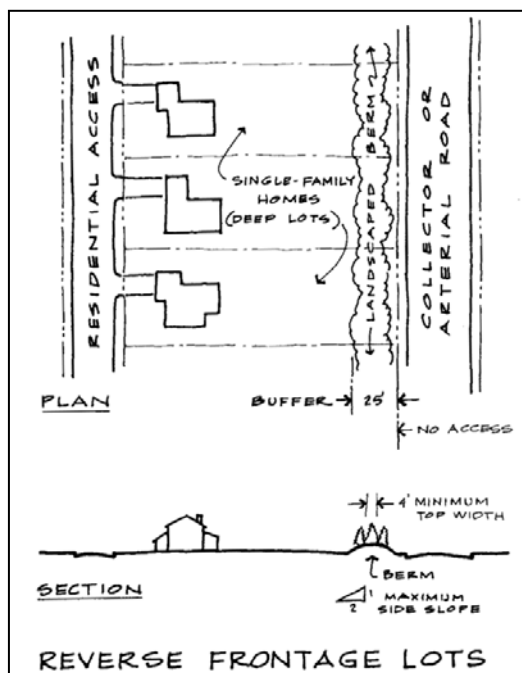
Kennel: Any of the following:

- A. Any commercial establishment where dogs, cats, or other household pets are housed or boarded and where grooming, breeding, training, or selling of animals may be conducted.
- B. As defined by the Pennsylvania Department of Agriculture, Bureau of Dog Law Enforcement: pet shop kennels, dealer kennels, rescue network kennels, research kennels, boarding kennels, nonprofit kennels and commercial kennels.

resource with the highest protection factor shall be used.

CONSTRAINED LAND				
	Resource	Area of Resource (acres)	Protection Factor	Constrained Land (acres)
A	existing public or private street rights-of-way and existing utility or other rights-of-way		X 1.00	=
B	wetlands as determined by a delineation		X 0.95	
C	floodway (if not mapped by FEMA assume 50 feet each side of top-of-bank of stream)		X 1.00	
D	100-year floodplain (if not mapped by FEMA area is included in floodway above)		X 1.00	
E	steep slopes (25% or greater)		X 1.00	
F	ponds, lakes and streams to the high water mark		X 1.00	=
G	CONSTRAINED LAND = SUM OF A through F =			

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



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

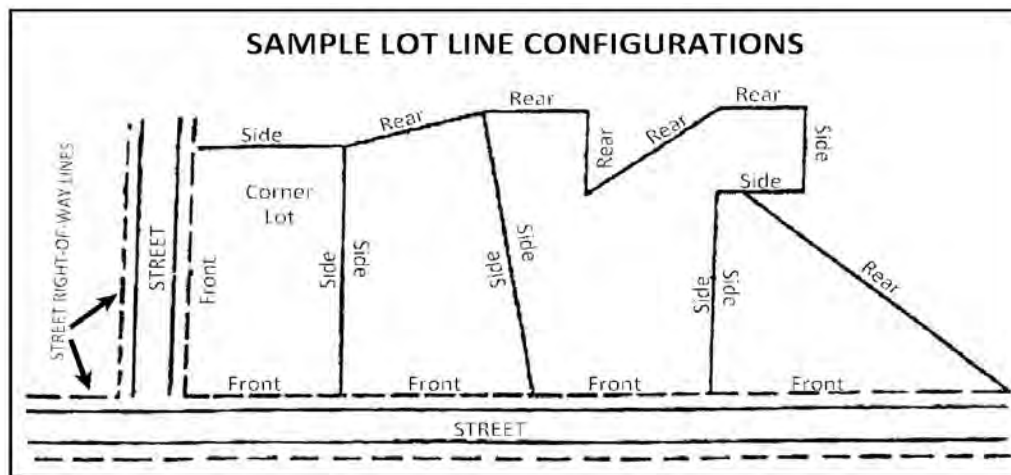
Lot Depth: The horizontal distance between the midpoint of the front lot line and the midpoint of the rear lot line. On corner lots, lot depth shall be measured along the longest dimension of the lot.

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

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

Lot, Interior: A lot other than a corner lot, the rear and side lines of which do not abut a street.

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



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

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

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

Lot Width: The horizontal distance between the side lot lines measured at right angles to its depth along the required minimum front setback line.

Lumbering: See *forestry*.

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

Manufactured Housing or House: Housing which bears a label as required by and referred to in the act of November 17, 1982 PL.676. No. 192). known as the Manufactured Housing Construction and Safety Standards Authorization Act, certifying that it conforms to Federal construction and safety standards adopted under the Housing and Community Development Act of 1974 (Public Law 93-383, 88 Stat. 633).

Manufactured Housing Lot: A parcel of land in a manufactured housing park which is leased by the park owner to the occupants of the manufactured house erected on the lot and which is improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single manufactured house.

Manufactured Housing Park: A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more manufactured housing lots for the placement thereon of manufactured houses.

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

- A. Light manufacturing includes, but is not limited to:
 - 1. Grain storage, distribution, processing and milling operations.
 - 2. Fabrication, processing, assembly, repair, testing, packing and/or storage of products made from previously prepared materials, products, components, and parts such as cloth, plastic, food, paper, glass, leather, stones, and electronic components.
 - 3. Textile and clothing manufacturing.
 - 4. Furniture or other wood products production.
- B. Light manufacturing does not include:
 - 1. Basic industrial processing as defined by industry.
 - 2. Processing of raw materials, except for milling and processing of grain.
 - 3. Slaughterhouses or the production of fish or meat products, or other use as defined by *agricultural products processing*.
 - 4. Rendering of fats and oils.

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

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

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

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

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

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, light* 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.

Membership Club: See *club/lodge, private*.

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

Micro-Brewery/Distillery/Winery: See *brew/distillery/winery pub*.

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, subsurface mining, and drilling) of minerals as defined in this Article III and including the incidental screening, washing, crushing and grading of materials originating on the site. Mineral extraction shall not include:

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

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

Mini-Mart: See *convenience store*.

Mobile Home: See *manufactured housing*.

Mobile Home Lot: See *manufactured housing lot*.

Mobile Home Park: See *manufactured housing park*.

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

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

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

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

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

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

Municipality: The Borough of Delaware Water Gap, Monroe County, Pennsylvania.

Natural Gas Processing Plant: See *pipelines and associated facilities*.

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

No-Impact Home-Based Business: A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements as set forth in §107 of the Pennsylvania Municipalities Planning Code:

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no other employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- E. The business activity shall not use any equipment or process, which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity shall not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- G. The business shall be conducted only within the dwelling and may not occupy more than 25 percent of the habitable floor area.
- H. The business shall not involve any illegal activity.

Nonconformity and Associated Definitions: See Article IX.

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

Nursery, Plant Wholesale: The growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs to landscapers, developers, builders, and retail establishments.

Nursery, Retail: See *garden center*.

Nursing Home: See *personal care home*.

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

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

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

Official Zoning Map: The Official Zoning Map of the Borough of Delaware Water Gap, Monroe County, Pennsylvania.

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

Oil and Gas Development: The well site preparations, well site construction, drilling, hydraulic fracturing and/or site restoration associated with an oil and/or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installment and use of all associated equipment, including tanks, meters and other equipment and structures whether permanent or temporary; and the site preparation construction, installment, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of oil and gas, other than compressor stations and natural gas processing plants or facilities performing the equivalent functions, that operate as midstream facilities and which are only authorized consistent with this ordinance as a conditional use.

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

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

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

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

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

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

PA DOT or PennDOT: The Pennsylvania Department of Transportation.

Parcel: See *lot*.

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

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

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

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

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

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

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

Patio: A surfaced area or courtyard or a deck less than one foot above ground elevation designed for outdoor living purposes as an accessory use to a structure, which shall be completely unenclosed except for any side which may adjoin a structure or for any fences or walls less than four feet in height, shrubs or hedges. Outdoor areas which are screened or enclosed by a roof or awning shall be considered to be a structure. (See *porch*.)

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

Permit: A document issued by the proper authority which authorizes the applicant to undertake certain activities in compliance with all the applicable codes and ordinances. (See *certificate of use or zoning compliance*.)

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

Permitted Use: Any use which does not require special action by the Planning Commission, the Zoning Hearing Board or the Borough Council before a zoning permit is granted by the Zoning Officer.

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

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

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

Pipelines and Associated Facilities:

- A. Distribution Pipeline: A natural gas pipeline other than a gathering or transmission line (reference 49 CFR 192.3). A distribution pipeline is generally used to supply natural gas to the consumer and is found in a network of piping located downstream of a natural gas transmission line.

- B. Gas: Natural gas, flammable gas, or gas which is toxic or corrosive. (Reference 49 CFR 192.3) Gases are normally compared to air in terms of density. The specific gravity of air is 1.0. Any gas with a specific gravity less than 1.0 (such as natural gas) will rise and usually disperse. Any gas having a specific gravity greater than 1.0 will fall and collect near the ground or in low lying areas such as trenches, vaults, ditches, and bell holes – such occurrences can be hazardous to human health and safety.
- C. Gas Transmission Pipeline: A pipeline, other than a gathering line, that 1) transports gas from a gathering line or storage facility to a distribution center, storage facility, or large-volume customer that is not downstream from a distribution center; 2) operates at a hoop stress of 20 percent or more of specified minimum yield strength; or, 3) transports gas within a storage field. (Reference 49 CFR 192.3) A gas transmission pipeline includes all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.
- D. Hazardous Liquid: Includes petroleum, petroleum products, anhydrous ammonia, and carbon dioxide. (Reference 49 CFR 195.2)
- E. Hazardous Liquid Pipeline: All parts of a pipeline facility through which an hazardous liquids move in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.
- F. Institutional Use: A nonprofit, religious, or public use, such as a religious building, library; public or private school, hospital, or government-owned or government-operated building, structure, or land used for public purpose.
- G. Petroleum Products: Flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds.
- H. Pipeline: Used broadly, pipeline includes all parts of those physical facilities through which gas, hazardous liquid, or carbon dioxide moves in transportation.
- I. 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.
- J. Pipeline Corridor: The linear area where a transmission pipeline or hazardous liquid pipeline and associated facilities are located, including rights-of-way and easements over and through public or private property.
- K. Transmission Pipeline: When not specified includes both hazardous liquid and gas transmission pipelines. Transmission pipelines carry oil, petroleum products, natural gas, natural gas liquids, anhydrous ammonia, and carbon dioxide from producing regions of the country to markets.

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

Planing Mill: A commercial operation equipped with machinery for cutting, finishing or molding lumber after it has been through a sawmill and is seasoned.

Planning Commission: The Planning Commission of the Borough of Delaware Water Gap, Monroe County, Pennsylvania.

Porch: A structure or part of a structure which is enclosed on one or more sides by a fence or wall which is four feet high or higher or covered by a roof or awning; or a structure which would otherwise be classified as a patio or deck except that it is one foot or more above the ground elevation.

Portable Structure: See *structure, portable*.

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

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

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

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

Public: Something owned, operated, and supported by a government or government agency 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, institutional uses, nursing homes, hospitals, and other uses specifically defined by this ordinance.

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

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

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

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

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

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

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

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

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

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

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

Rehabilitation Center: A facility that provides short-term, primarily in-patient care, treatment, and/or rehabilitation services for persons recovering from illness or injury who do not require hospitalization but not including *drug and alcohol treatment centers*.

Related or Relative: See *family*.

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

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

Research, Engineering or Testing Laboratories: A facility for investigation into the natural, physical, or social sciences, which may include engineering and product development.

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

Resource Recovery Facility: A processing facility that provides for the extraction and utilization of materials or energy from municipal waste (as defined by PA Code Title 25, §271.1).

- A. The term includes a facility that mechanically extracts materials from municipal waste, a combustion facility that converts the organic fraction of municipal waste to usable energy and a chemical and biological process that converts municipal waste into a fuel product.

- B. The term includes a facility for the combustion of municipal waste that is generated offsite, whether or not the facility is operated to recover energy.
- C. The term includes land affected during the lifetime of operations, including, but not limited to, areas where processing activities actually occur, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection, transportation and storage facilities, closure and post-closure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to operation of the facility.
- D. The term does not include:
 - 1. A *composting facility* as defined herein.
 - 2. Methane gas extraction from a municipal waste landfill.
 - 3. A recycling facility as defined herein, an accessory drop-off point or collection center for recycling, or a source separation or collection center for composting leaf waste.

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

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

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

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

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

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

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

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

Retail Home Heating Fuel Distributors: An establishment that delivers kerosene, home heating oil, and propane to individual dwellings or commercial establishments for use on that premises and not for resale, and where the

storage of fuel on the site of the retail home heating fuel distributor does not exceed a combined total of 20,000 gallons. Any such establishment where the storage of fuel on the site exceeds a combined total of 20,000 gallons shall be considered a *bulk fuel storage facility*.

Retaining Wall: A solid or integrated vertical structure in excess of four feet in height designed for the separation or retention of varying ground levels.

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

Roof: The outside top covering of a building.

Row House: See *dwelling, townhouse*.

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

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

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

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

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

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

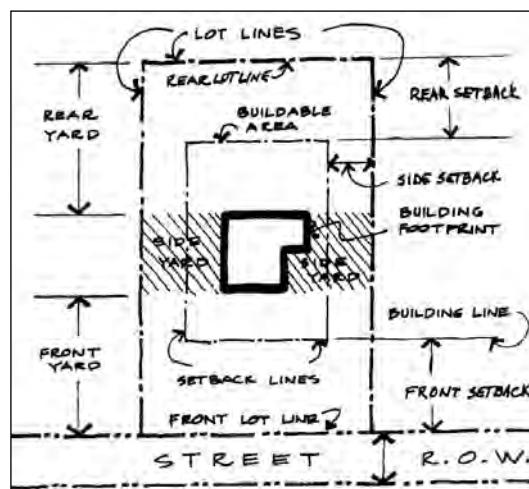
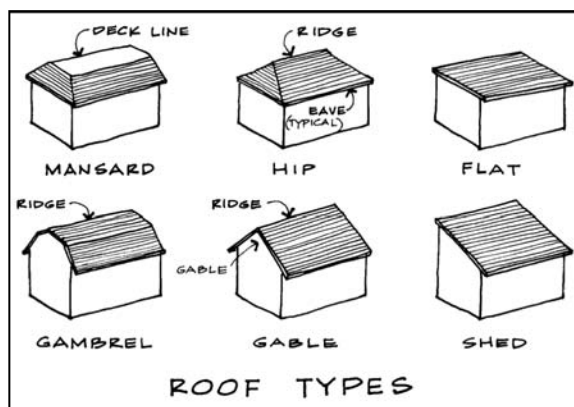
Self-Storage Facility: A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.

Semi-Public Facility or Use: A building or use operated by nonprofit, community-based organizations for the general use of Borough residents, 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 engaged in providing services involving the care of a person or a person's goods or apparel such as cleaning and garment services, beauty and barber shops, shoe repair, dry cleaning and laundries, photographic studios, etc., and which is not otherwise listed as a use in the Schedule of Uses.

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

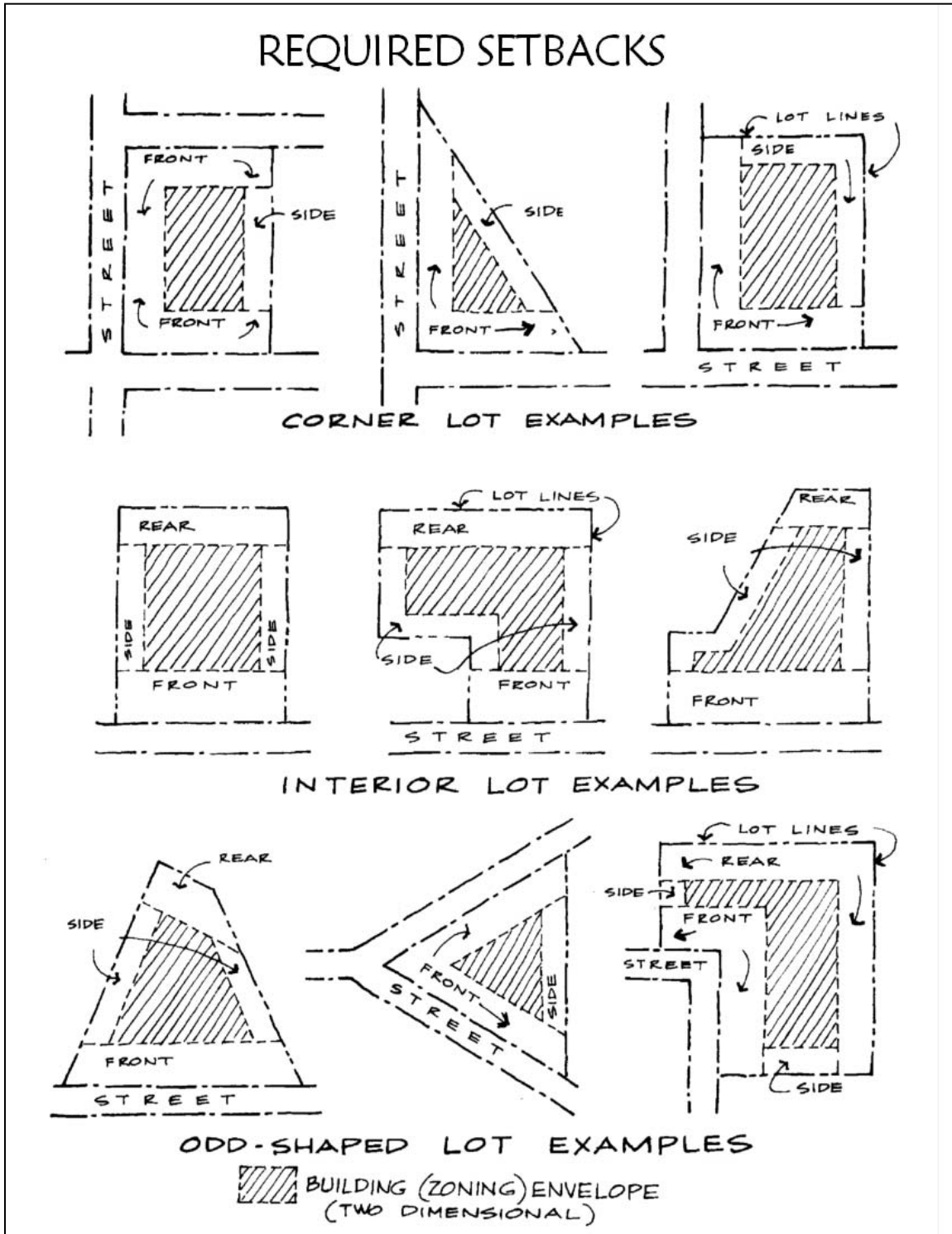
Setback, Rear: The required minimum open space extending the full width of the lot between the principal structure(s), accessory



structures, or other improvements and the rear lot line. See also *yard* and *lot line*.

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

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



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

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

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

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

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

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

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

Short-Term Rental Unit: Granting or allowing the occupancy or possession, in whole or in part, of a dwelling unit for a transient use, for compensation or remuneration of any kind. This definition applies to all types of dwelling units, including (but not limited to) single family, two family and multi-family dwelling units, whether or not otherwise primarily used as permanent residences or seasonal or vacation homes.

Sign: See Article X.

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

Slaughterhouse: A 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 slaughterhouse. Slaughterhouse shall not include a custom butcher shop that does not involve killing of animals which is considered a *retail establishment*.

Slope: The change in elevation over a horizontal distance usually expressed in percent. (See *grade*.)

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

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

Solar Energy Mechanical Equipment: Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.

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

definition shall include the terms passive solar and active solar systems.

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

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

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

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

Solid Waste or Waste: Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities. The term shall also include any garbage, refuse, other discarded material or other waste, including solid, liquid, semi-solid or containing gaseous materials resulting from industrial, mining, agricultural operations, local facilities or any other by-product or effluent from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility or any other material defined by the PA DEP as solid, liquid, municipal, medical, industrial, toxic or hazardous waste.

Solid Waste Facility: Any facility or operation 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. Considered a *solid waste facility* for regulation by this ordinance.

Sorority House: See *fraternity or sorority house*.

Sound Level: The intensity in decibels measured by a sound-level meter satisfying the requirements of American National Standards Institute Specification for Sound-Level Meters S1.4-1971. Sound level is the frequency-weighted sound pressure level obtained with the standardized dynamic characteristic "fast" or "slow" and weighting A, B or C; unless indicated otherwise, the A-weighting is understood. The unit of any sound level is the decibel, having the unit symbol dB.

Sound Level, Equivalent: The level of a constant sound which, over a given time interval and situation, has the same sound energy as a time-varying sound.

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

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

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

State: The Commonwealth of Pennsylvania and its agencies.

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

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

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it. (See *basement*.)

Stream: A natural watercourse. See *watercourse*.

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

Structural Alteration: See *alteration*.

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

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

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

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

Studio: An establishment or workspace 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.

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

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

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

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

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

Tavern: A place where alcoholic beverages are served as a primary or substantial portion of the total trade and where the sale of food may also occur.

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

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

Theater, Indoor: A building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use where patrons are seated in the building, but not including an *adult movie theater*.

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

Townhouse: See *dwelling, townhouse*.

Tract: See *lot*.

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

Transient Use: Occupancy, use or possession of a dwelling unit by persons other than the owner(s) or tenant(s) with a lease for 30 consecutive days or more, of that dwelling unit, and/or the family of such owner(s) or tenants, for a period of less than 30 consecutive days; but excluding temporary stays by unrelated individuals who are guests of such owners/ tenants or the family of such owners/tenants, without the payment of any type of compensation or other remuneration.

Transitional Living Facility (also known as *halfway house*): A facility for individuals after release from an institution (as for mental disorder, drug addiction, or criminal activity) which (1) offers or provides to clients temporary accommodations, meals, supervision at all times when clients are in the facility or on the facility premises, and (2) offers or provides to clients services including counseling, short-term supportive care, case management, mental health services, or treatment services. It is designed to facilitate their readjustment to private life.

Transmission Pipeline: See *pipelines and associated facilities*.

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

Truck Stop: See *travel plaza*.

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

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

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

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

Utility, Public: Any agency or entity that, under public ownership, or under certificate of convenience and

necessity issued by the Pennsylvania Public Utility Commission, or by grant of authority by a governmental agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection, or other similar service.

Variance: Relief granted by the Zoning Hearing Board pursuant to the provisions of this ordinance and Articles VI and IX of the Pennsylvania Municipalities Planning Code.

Vehicle: Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway or upon any land, including, but not limited to, automobiles, trucks, vans, buses, utility trailers, tractors, truck tractors, recreational vehicles, motor homes, travel trailers, motorcycles, snowmobiles, machinery, trailers, farm machinery and implements, and other wheeled equipment; any vehicle requiring a state registration; boats; and aircraft.

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

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

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

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

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

Wall: See *fence or wall*.

Warehouse: A building or group of buildings primarily used for the unloading and indoor storage, transfer, and distribution of products and materials with a use of the processing of materials so as to sort out which finished goods are to be transported to different locations, and the loading and unloading of such goods. A warehouse does not include value-added services between a supplier and its customers, such as breaking down of large orders from a single source into smaller orders, product mixing, packaging, cross-docking, order fulfillment, or order returns, and shall not include the consolidation of several orders into one large order for distribution to several recipients and/or vice versa, or any manufacturing or processing. A warehouse consists only of indoor storage of products and materials.

Warehouse, Ancillary: A building on the same lot as the establishment which uses the building exclusively for the indoor storage, transfer and distribution of products and materials produced on the premises or for the storage of supplies and materials used by the establishment used for the establishment's products or services. Any use which stores products, materials or supplies for another business or enterprise is not considered a *warehouse, ancillary*.

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

Water Extraction/Bottling: Any use which involves the pumping or removal of water from groundwater sources,

with or without bottling, for retail or wholesale sale. Considered *industry* for the purposes of regulation by this ordinance.

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

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

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

Well Site (Oil or Gas): A graded pad designed and constructed for the drilling of one or more oil and/or gas wells.

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

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

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

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

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

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

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

Winery Pub: See *brew/distillery/wine pub*.

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 use*.

Wireless Communications Facility: Any structure or equipment which is intended for commercial or governmental use in transmitting or receiving television, radio, telephone, or other electronic communications, including internal or agency communications, and any such facility in a public right-of-way or not in a public right-of-way.

The definition does not include the following which are not appropriate subjects of this ordinance:

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

Wireless Communications Facility Support Structure/Tower Height: The vertical distance measured from the base of the support structure/tower at grade to the highest point of the structure/tower. If the support structure/tower is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the height.

Wireless Communications Facility Support Tower Structure: Any pole, telescoping mast, tower, tripod, or any other structure which is constructed to support a wireless communications antenna array.

Wireless Communications Facility Antenna Array: One or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omnidirectional antennas (rod), directional antennas (panel) and parabolic antennas (disc). The antenna array does not include the wireless communications facility support structure or tower as defined herein.

Wireless Communications Facility, Stealth Design: Any wireless communication facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened and/or landscaped antenna arrays, equipment facilities and support structures designed to look similar to a support structure, such as a light pole, power pole, or component of a building or a tree.

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

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

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

Zoning Hearing Board: The Zoning Hearing Board of the Borough of Delaware Water Gap.

Zoning Map: The Official Zoning Map of the Borough of Delaware Water Gap.

Zoning Permit: See *permit*.

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

ARTICLE IV DISTRICT REGULATIONS

§13 Designation of Districts

- A. Designation. For the purposes of this ordinance, Delaware Water Gap Borough is hereby divided into the following Zoning Districts:
- | | | | |
|-----|-------------------------------------|------|---|
| S-1 | Conservation and Park District | VC-1 | Village Commercial - Residential District |
| R-1 | Low-Density Residential District | VC-2 | Village Center Business District |
| R-2 | Medium-Density Residential District | I | Industrial District |
- B. District Intent.
- (1) S-1 Conservation and Park District. To recognize the federal ownership of the Delaware Water Gap National Recreation Area and the uses permitted by the National Park Service.
 - (2) R-1 Low Density Residential District. To establish and preserve quiet single-family home neighborhoods, free from incompatible activities which would generate distractive sights, sounds, traffic or would in any way compromise the privacy and serenity of the living environment for the individual residences.
 - (3) R-2 Medium Density Residential District. To establish and preserve an area for single-family, two-family, and limited multi-family uses and manufactured home parks which are protected in the same manner as the R-1 District above.
 - (4) VC-1 Village Commercial - Residential District. To establish and preserve areas for commercial, resort and recreation related facilities which are near major highways. Performance standards are included to and/or buffer the incompatible portion of their activities from any nearby residential uses.
 - (5) VC-2 Village Center Business District. To establish and preserve a compact business-residential center while respecting the historic character of the buildings and the necessary ingredients for a hospitable, residential living environment (as defined in the above R Districts) within the District. The business and service commercial uses permitted will serve residents, travelers, tourists, and vacationers. However, local commercial needs may also be accommodated.
 - (6) I - Industrial District. To establish and preserve areas for industrial, manufacturing, and related uses, and other higher intensity uses which are governed by performance standards to minimize incompatibility problems with other neighboring land uses.
- C. Floodplain Overlay District. The Floodplain Overlay District is hereby created to be coterminous with the areas which are subject to the 100-year flood, as identified in the most current *Flood Insurance Study* and the accompanying *FIRM - Flood Insurance Rate Map* issued by the Federal Emergency Management Agency for the Borough. In addition to all other applicable standards of this ordinance the Borough floodplain regulations in Ordinance No. 306, as amended, shall apply in the Floodplain Overlay District.

§14 Official Zoning Map

- A. Adoption. The location and boundaries of said districts are hereby established as shown on the Official Zoning Map of Delaware Water Gap Borough which is hereby adopted by reference and declared to be a part of this ordinance together with all amendments thereto.
- B. Map Changes. Changes to the boundaries and districts of the Official Zoning Map shall only be made in conformity with the amendment procedures specified by the Municipalities Planning Code.

§15 District Boundaries

- A. Establishment. District boundary lines are intended to follow or be parallel to the center line of streets, streams and railroads, and lot or property lines as they exist on a recorded deed or plan of record in the

County Recorder of Deeds Office and on the County Tax Maps at the time of the enactment of this ordinance, unless such district boundary lines are fixed by dimensions or otherwise as shown on the Official Zoning Map.

- B. Interpretation. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.
- C. Uncertainty. In the event of uncertainty as to the true location of a district boundary line in a specific instance, the Zoning Officer is authorized to determine the correct district boundary in accord with the guidelines of this ordinance. Any decision of the Zoning Officer may be appealed to the Zoning Hearing Board.

§16 District Regulations

District regulations are of two types, the Schedule of Uses and the Schedule of Development Standards, which shall apply to any proposed new use, expansion of an existing use or change of use of any land or structure.

- A. Use Regulations. District Use Regulations are provided in the following Schedule of Uses.

(1) Limitations

- (a) No land and no structure in a particular zoning district shall be used for any use which is not specifically listed on the Schedule of Uses for that particular district, and only in accord with all other requirements of this ordinance. In other words, any use not allowed as a principal permitted use, accessory use, conditional use or special exception, or allowed by the Zoning Hearing Board in accord with §16B within a particular zoning district, shall be deemed to be prohibited within that zoning district.
- (b) If a use which could be included in a more general use is listed as a separate use in any District Schedule of Uses, such use shall be permitted only in the district where it is specifically listed.
- (c) Larger lot sizes, greater setbacks, buffers and other more restrictive standards may be required by other provisions of this ordinance.

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

- (3) Conditional Uses and Special Exceptions. Conditional uses and special exceptions are permitted uses which require individual consideration because of their special characteristics and are referred to the Planning Commission for review and preparation of a recommendation to the Borough Council and Zoning Hearing Board, respectively. Following a public hearing and based on its determination that the proposed use meets the standards of this ordinance, the Borough Council for conditional uses and the Zoning Hearing Board for special exceptions shall approve the issuance of a zoning permit by the Zoning Officer.

- B. Uses Not Specified in Schedule of Uses. This §16B, by special exception, refers to the Zoning Hearing Board a proposed use which is not specifically listed in the schedule of uses of any of the various zoning districts established under this ordinance. The intent is to address a use which was not anticipated at the time this ordinance was adopted and is not allowed anywhere in the Borough. If a proposed use is listed in the schedule of uses for another district, this §16B shall not be applied to allow the use in a district where it is not listed.

- (1) Jurisdiction. Whenever an application is made to the Zoning Officer for such a 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.
- (2) 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:
 - (a) The use is similar to and compatible with the uses listed for the subject zoning district by the Schedule of Use Regulations.
 - (b) The use in no way conflicts with the intent of the zoning district and the general purpose and intent of this ordinance.
 - (c) The use is not permitted in any other zoning district in the Borough.
 - (d) The use where proposed would be consistent with the Borough Comprehensive Plan.
- (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 Borough Planning Commission for review and recommendation.
- (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 Schedule of Uses, incorporating standards in this 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 ordinance and the Pennsylvania Municipalities Planning Code.

§17 Schedule of Uses and Development Standards

SCHEDULE OF USES							
Listed uses shall only be permitted in the noted districts and shall not be included in a more general use classification. P - Permitted by right (Zoning Officer). CU - Conditional use (Planning Commission/ Borough Council). NP - Not permitted. SE - Special exception use (Planning Commission/Zoning Hearing Board). Section references are in addition to all other applicable standards.							
Types of Uses (See definitions in Article III)	See Section	Zoning Districts					
		S-1	R-1	R-2	VC-1	VC-2	I
RESIDENTIAL							
Boarding house or lodging house	-	NP	NP	SE	SE	NP	NP
Conversion apartment (VC-1: only in structures existing at effective date of this ordinance.)	51	NP	NP	SE	SE	SE	NP
Cottage development	32	NP	NP	P	P	P	NP
Dormitory	-	NP	NP	NP	NP	SE	NP
Dwelling occupied by owner, lessee, or manager of commercial use in VC-1, VC-2 or I Districts	27A	NP	NP	SE	SE	SE	NP
Dwelling on second floor or above in VC-1, VC-2 or I Districts	27A	NP	NP	NP	P	P	P
Fraternity house or sorority house	-	NP	NP	NP	NP	SE	NP
Group home	54	NP	P	P	P	P	NP
Group home, institutional	-	NP	NP	NP	NP	P	NP
Manufactured housing park	52	NP	NP	CU	NP	NP	NP
Multi-family dwelling	50	NP	NP	P	P	P	NP

RESIDENTIAL							
Types of Uses	Section	S-1	R-1	R-2	VC-1	VC-2	I
Religious quarters	same as applicable dwelling type						
Single-family detached dwelling	-	NP	P	P	P	P	NP
Two-family dwelling (VC-1: only in structures existing at effective date of this ordinance.)	49	NP	NP	P	SE	P	NP
COMMERCIAL							
Types of Uses	Section	S-1	R-1	R-2	VC-1	VC-2	I
Adult business	88	NP	NP	NP	NP	NP	SE
Amusement arcade	-	NP	NP	NP	NP	SE	NP
Amusement park	91	NP	NP	NP	NP	NP	SE
Animal hospital	see <i>veterinary clinic</i>						
Archery range, indoor commercial	see <i>recreation facility, commercial</i>						
Archery range, outdoor commercial	94	NP	NP	NP	SE	NP	NP
Auction house	-	NP	NP	NP	P	P	NP
Bakeries and confectionaries, retail	-	NP	NP	NP	P	P	NP
Bank	-	NP	NP	NP	P	P	NP
Bed and breakfast inn	95	NP	NP	SE	SE	SE	NP
Billiard hall	see <i>recreation facility, commercial</i>						
Brew/distillery/winery pub	see <i>restaurant</i> according to type						
Bus station	-	NP	NP	NP	P	NP	NP
Bus, limousine or taxi terminal	-	NP	NP	NP	NP	NP	P
Business office	-	NP	NP	NP	P	P	NP
Business services	-	NP	NP	NP	P	P	NP
Camp/retreat	-	NP	NP	NP	CU	NP	NP
Campground or recreational vehicle park	-	P	NP	NP	NP	NP	NP
Car wash	129A	NP	NP	NP	CU	NP	NP
Catering service	-	NP	NP	NP	P	P	NP
Charging station	-	NP	NP	NP	P	P	NP
Conference center	-	NP	NP	NP	P	P	NP
Convenience store	-	NP	NP	NP	P	P	NP
Country club	-	NP	NP	NP	P	P	NP
Crematorium	-	NP	NP	NP	NP	NP	P
Day care center	-	NP	CU	CU	P	P	NP
Drive-in for uses allowed in district	-	NP	NP	NP	SE	NP	NP
Exercise club	-	NP	NP	NP	P	P	NP
Farmer's market	-	NP	NP	NP	P	P	NP
Fireworks (consumer) sales	106	NP	NP	NP	NP	NP	P
Flea market, indoor	see <i>retail business</i>						
Flea market, outdoor	-	NP	NP	NP	NP	NP	CU

COMMERCIAL							
Types of Uses	Section	S-1	R-1	R-2	VC-1	VC-2	I
Funeral home	-	NP	NP	NP	P	P	NP
Gaming establishment	107	NP	NP	NP	NP	SE	NP
Garden center, retail	-	NP	NP	NP	P	P	NP
Golf course	-	NP	NP	NP	P	NP	NP
Golf course, miniature	<i>see recreation facility, commercial</i>						
Golf driving range	<i>see recreation facility, commercial</i>						
Hookah bar/smoking lounge	-	NP	NP	NP	P	NP	NP
Hotel	-	NP	NP	NP	P	P	NP
Kennel	93A	NP	NP	NP	NP	NP	SE
Lumberyard	-	NP	NP	NP	NP	NP	P
Manufactured home sales	-	NP	NP	NP	P	NP	NP
Massage therapy, therapeutic	<i>see service establishment</i>						
Medical clinic	-	NP	NP	NP	P	P	NP
Medical marijuana dispensary	<i>see retail business</i>						
Medical marijuana grower/processor	<i>see manufacturing, light</i>						
Meeting, assembly, or banquet hall	-	NP	NP	NP	P	P	NP
Menagerie	93B	NP	NP	NP	NP	NP	SE
Micro-brewery/distillery	-	NP	NP	NP	P	P	NP
Mobile food service or sales operations	116	NP	NP	NP	CU	NP	NP
Motel	-	NP	NP	NP	P	P	NP
Nightclub	-	NP	NP	NP	P	P	NP
Off-track wagering facility	<i>see gaming establishment</i>						
Office or office building	-	NP	NP	NP	P	P	NP
Outdoor dining	117	NP	NP	NP	P	P	NP
Outdoor entertainment	-	NP	NP	NP	CU	CU	NP
Parking garage or lot as the principal use of a lot	-	NP	NP	NP	P	P	NP
Professional office	-	NP	NP	NP	P	P	NP
Racetrack	119	NP	NP	NP	NP	NP	SE
Recreation facility, commercial (not otherwise listed)		NP	NP	NP	SE	NP	NP
Recreational vehicle park	<i>see campground or recreational vehicle park</i>						
Resort	-	NP	NP	NP	SE	NP	NP
Restaurants	-	NP	NP	NP	P	P	NP
Retail business (not otherwise listed)	-	NP	NP	NP	P	P	NP
Retail home heating fuel distributor ≤ 20,000 gallons storage	-	NP	NP	NP	NP	NP	SE
Retail home heating fuel distributor > 20,000 gallons storage	<i>see bulk fuel storage facility</i>						
Self-storage facility	120	NP	NP	NP	P	NP	P

COMMERCIAL							
Types of Uses	Section	S-1	R-1	R-2	VC-1	VC-2	I
Service establishment	-	NP	NP	NP	P	P	NP
Shooting range, indoor commercial	-	NP	NP	NP	NP	NP	SE
Shooting range, outdoor commercial	-	NP	NP	NP	NP	NP	SE
Short-term rentals	122	NP	NP	NP	SE	SE	NP
Studio	-	NP	NP	NP	P	P	NP
Swimming pool, commercial	-	NP	NP	NP	SE	NP	NP
Tattoo, body piercing, scarifying or branding parlor	-	NP	NP	NP	P	P	NP
Tavern	-	NP	NP	NP	P	P	NP
Theater, drive-in	-	NP	NP	NP	NP	NP	CU
Theater, indoor	-	NP	NP	NP	SE	SE	NP
Travel plaza	-	NP	NP	NP	NP	NP	P
Truck wash	129A	NP	NP	NP	NP	NP	P
Vehicle and equipment rental fully enclosed in building	see retail business						
Vehicle and equipment rental, outdoor storage	-	NP	NP	NP	NP	NP	P
Vehicle and equipment repair	129B	NP	NP	NP	NP	NP	P
Vehicle and equipment sales	129C	NP	NP	NP	SE	NP	P
Veterinary clinic, indoor	-	NP	NP	NP	P	P	NP
Veterinary clinic, outdoor facilities	93A	NP	NP	NP	SE	NP	NP
Wholesale business	-	NP	NP	NP	P	NP	P
Zoo	93B	NP	NP	NP	NP	NP	SE
MANUFACTURING, INDUSTRIAL AND SIMILAR USES							
Types of Uses	Section	S-1	R-1	R-2	VC-1	VC-2	I
Agricultural products processing	-	NP	NP	NP	NP	NP	P
Airport	90	NP	NP	NP	NP	NP	SE
Bituminous concrete batch plant	see industry						
Brewery	see agricultural products processing						
Bulk fuel storage facility	97	NP	NP	NP	NP	NP	CU
Composting facility	-	NP	NP	NP	NP	NP	CU
Concrete batch plant	see industry						
Contractor shop or yard	101	NP	NP	NP	NP	NP	P
Crusher plant	see mineral processing						
Distillery	see agricultural products processing						
Distribution/fulfillment center or truck terminal	104	NP	NP	NP	NP	NP	CU
Explosive plant or storage	105	NP	NP	NP	NP	NP	CU
Firewood processing and sales	-	NP	NP	NP	NP	NP	P
Fireworks plant or storage	105	NP	NP	NP	NP	NP	CU
Grain storage, distribution, processing and milling operations	see agricultural products processing						

MANUFACTURING, INDUSTRIAL AND SIMILAR USES							
Types of Uses	Section	S-1	R-1	R-2	VC-1	VC-2	I
Heliport/helistop	90	NP	NP	NP	NP	NP	SE
Industrial wastewater treatment facility	-	NP	NP	NP	NP	NP	CU
Industry	-	NP	NP	NP	NP	NP	CU
Junk yard	111	NP	NP	NP	NP	NP	CU
Manufacturing, light	-	NP	NP	NP	NP	NP	P
Medical marijuana grower/processor	see <i>manufacturing, light</i>						
Mineral depot	115	NP	NP	NP	NP	NP	CU
Mineral extraction	114	NP	NP	NP	NP	NP	CU
Mineral processing	115	NP	NP	NP	NP	NP	CU
Oil or gas well	see <i>mineral extraction</i>						
Pipeline associated facilities	118	NP	NP	NP	NP	NP	CU
Planing mill	-	NP	NP	NP	NP	NP	CU
Power plant	118	NP	NP	NP	NP	NP	CU
Recycling facility	see <i>manufacturing light</i>						
Research, engineering or testing laboratory	-	NP	NP	NP	NP	NP	P
Resource recovery facility	-	NP	NP	NP	NP	NP	CU
Sawmill	-	NP	NP	NP	NP	NP	CU
Slaughterhouse	122	NP	NP	NP	NP	NP	SE
Solar power generation, commercial	-	NP	NP	NP	NP	NP	P
Solid waste facility	124	NP	NP	NP	NP	NP	CU
Solid waste staging area	see <i>solid waste facility</i>						
Staging area for equipment and material		NP	NP	NP	NP	NP	CU
Storage yard for forest products and minerals	126	NP	NP	NP	NP	NP	CU
Transmission pipeline or hazardous liquid pipeline	128	CU	CU	CU	CU	CU	CU
Truck terminal	see <i>distribution/fulfillment center or truck terminal</i>						
Warehouse	-	NP	NP	NP	NP	NP	CU
Warehouse, ancillary	-	NP	NP	NP	CU	CU	P
Water extraction/bottling	see <i>industry</i>						
Winery	see <i>agricultural products processing</i>						
Wind energy facility	131	NP	NP	NP	NP	NP	SE
Wireless communication facilities	132	NP	NP	NP	NP	NP	SE
Wireless communication facilities, small	132H	NP	NP	NP	P	P	P
Wood chipping operation	see <i>agricultural products processing</i>						
PUBLIC/SEMI-PUBLIC/INSTITUTIONAL							
Types of Uses	Section	S-1	R-1	R-2	VC-1	VC-2	I
Animal shelter	93A	NP	NP	NP	NP	NP	SE
Assisted living facility	-	NP	NP	NP	P	P	NP
Cemetery, not including a crematorium	-	P	P	NP	NP	NP	NP

PUBLIC/SEMI-PUBLIC/INSTITUTIONAL							
Types of Uses	Section	S-1	R-1	R-2	VC-1	VC-2	I
Club/lodge, private	-	NP	NP	NP	P	P	NP
College	-	NP	NP	NP	P	P	NP
Community center	-	NP	NP	NP	P	P	NP
Correctional facility	-	NP	NP	NP	NP	NP	CU
Cultural center	-	NP	NP	NP	P	P	NP
Domestic violence shelter	-	NP	NP	NP	P	P	NP
Drug and Alcohol Treatment Center		NP	NP	NP	SE	NP	P
Emergency services station	-	NP	NP	NP	SE	SE	P
Garage, public parking	-	NP	NP	NP	NP	SE	P
Homeless shelter	-	NP	NP	NP	SE	SE	NP
Hospital	-	NP	NP	NP	SE	NP	P
Nursing home	See personal care home						
Park and ride facilities	-	NP	NP	NP	NP	NP	SE
Personal care home	-	NP	NP	NP	P	P	NP
Place of worship	-	NP	NP	SE	SE	SE	NP
Public building or use (not otherwise listed)	-	NP	NP	SE	SE	SE	P
Public park or playground	-	NP	NP	SE	SE	SE	NP
Recreation facility, public	see public building or use						
Rehabilitation center	-	NP	NP	NP	SE	NP	P
School, public or private, nursery, primary or secondary	-	NP	NP	SE	SE	SE	NP
Semi-public building or use (not otherwise listed)	-	NP	NP	SE	SE	SE	SE
Trade school	-	NP	NP	NP	P	P	P
Transitional living facility	127	NP	NP	NP	SE	NP	SE
AGRICULTURE, FORESTRY AND RELATED USES							
Types of Uses	Section	S-1	R-1	R-2	VC-1	VC-2	I
Animal husbandry, commercial	not permitted per §92						
Concentrated animal feeding operation (CAFO)	not permitted per §92						
Crop production	-	P	P	P	P	P	P
Forestry	-	P	P	P	P	P	P
Greenhouse, plant commercial	-	NP	NP	NP	P	NP	P
Livestock operation	not permitted per §92						
Lumbering or timbering	see forestry						
Nursery, plant commercial	-	NP	NP	NP	P	NP	P
Stable, commercial	not permitted per §92						
Stable, private	not permitted per §92						
Winery, farm	-	NP	NP	P	P	P	NP

ACCESSORY USES							
Types of Uses	Section	S-1	R-1	R-2	VC-1	VC-2	I
Accessory use customary to approved use	28	P	P	P	P	P	P
Accessory use not on lot with principal use	-	SE	SE	SE	SE	SE	SE
Bus shelter	28A	P	P	P	P	P	P
Carport	28A	P	P	P	P	P	P
Daycare, home	-	P	P	P	P	P	P
Deck	28A	P	P	P	P	P	P
Disability ramp or outdoor elevator	28A(6)	P	P	P	P	P	P
Farm stand	-	P	P	P	P	P	P
Fence, wall, planting material	28B	P	P	P	P	P	P
Garage, private	28A	P	P	P	P	P	P
Gazebo	28A	P	P	P	P	P	P
Guard house	28A	P	P	P	P	P	P
Helistop	28I	P	P	P	P	P	P
Home garden, nursery or greenhouse	28D	P	P	P	P	P	P
Home occupation	see §28C						
Hot tub	28E	P	P	P	P	P	P
No impact home-based business	28C(13)	P	P	P	P	P	P
Parking accessory to approved use	29	P	P	P	P	P	P
Patio	28A	P	P	P	P	P	P
Pets, keeping of	92	P	P	P	P	P	P
Playhouse	28A(4)	P	P	P	P	P	P
Porch	28A	P	P	P	P	P	P
Private flea market or similar event	28M	P	P	P	P	P	P
Satellite antenna	28K	P	P	P	P	P	P
Shed	28A	P	P	P	P	P	P
Signs accessory to approved use	See Article XI						
Solar collector, accessory	28O	P	P	P	P	P	P
Swimming pool, private	28E	P	P	P	P	P	P
Temporary uses	See §28G						
Tennis court	28L	P	P	P	P	P	P
Wind energy conversion system, accessory	28N	P	P	P	P	P	P
Yard, lawn, garage, tag or estate sale	28H	P	P	P	P	P	P
ANY USES NOT COMPLYING WITH ORDINANCE STANDARDS	-	NP	NP	NP	NP	NP	NP

SCHEDULE OF DEVELOPMENT STANDARDS							
(Except as a condition for a special exception or conditional use, or as required by other ordinance sections.)							
Standards	S-1	R-1	R-2		VC-1	VC-2	I
			Single-family	Two-family			
Minimum Required Lot Sizes							
Area (square feet)	60,000	14,500	9,500	16,000	22,500	4,500	60,000
Width (feet)	200	100	65	75	100	35	200
Depth (feet)	200	140	100	200	225	125	250
Average Minimum Lot Area per Dwelling Unit							
square feet	60,000	14,500	9,500	8,000	7,500	4,500	--
Minimum Setbacks (feet) (See §28A for accessory structures and §143 for nonconforming lots.)							
Front	50	25	20	20	30	10	50
Rear	50	45	35	25	30	20	20
Each side	40	20	10	10	20	6	6
Distance between buildings: See §27A(4) and §28A(2)(c)							
Maximum Building Height (See §26D for exceptions.)							
Number of stories	2.5	2.5	2.5	2.5	2.5	2.5	3.0
Feet	35	35	35	35	35	35	45
Maximum Coverage (percent)							
Buildings	15	20	25	25	35	45	50
Total impervious lot coverage	20	30	35	40	70	70	80

§18 - §24 Reserved

ARTICLE V SUPPLEMENTAL PROVISIONS

§25 Introduction

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

§26 Deviations from Required Sizes

No part of any structure, whether attached to the principal structure or not; including but not limited to, porches, carports, decks, balconies, chimneys, bay windows or overhangs, shall project into any required setback; and no lot, required setback, or other space shall be so reduced in area or dimension as to make it less than the minimum required by this ordinance except in accord with this §26.

A. Nonconforming Lots of Record. See §143.

B. Access Drives. Access drives serving a permitted use shall be permitted in all required setbacks except as may be otherwise regulated by this ordinance and provided a buffer of five feet is maintained from side property lines and the rear property line if not fronting an alley or street.

C. Front Setback Exceptions.

- (1) Where a vacant lot exists between two improved lots with nonconforming front setbacks, each of which has a building within 25 feet of the property line separating the parcels, a building may be erected on the vacant lot with a front setback not less than the greater front setback of the two adjoining buildings, but not less than 10 feet.
- (2) When an unimproved corner lot is situated adjacent to two (improved lots, the front and side setbacks of the corner lot which abuts the street right-of-way may be reduced to the respective front setbacks of the adjacent lots, but not to less than 10 feet.

D. Height Limitations.

- (1) Appurtenances. Height regulations shall not apply to spires, belfries, cupolas, penthouses (not used for human occupancy), nor to chimneys, ventilators, skylights, utility poles, solar collectors, or related equipment, and ornamental or other necessary mechanical appurtenances normally associated with homes, churches, and similar establishments. Such appurtenances shall however be erected only to such height as necessary to accomplish their intended purpose. Any such structure which exceeds a height of 60 feet shall be considered a conditional use.
- (2) Industrial. Industrial structures, such as silos, grain, storage tanks or similar types of structures, may be erected above the height limits specified in the District Development Standards where the function or process involved requires a greater height. Any such industrial structure which exceeds a height of 70 feet shall be considered a conditional use.
- (3) Towers. Accessory wind turbine generators, commercial wind energy facilities and wireless communications facilities may also exceed the height regulations contained in the District Development Standards but only as provided in §28N, §131 and §132, respectively.
- (4) Other Regulations. The location and height of all structures shall comply with all applicable rules, regulations, standards and criteria of the Federal Aviation Administration and PennDOT Bureau of Aviation.

E. Projections into Required Setbacks. Projections into required yards may be permitted as follows, except that no such projection shall be located closer than eight feet to any side or rear lot line or 25 feet to any front lot line, except as provided for existing non-conforming lots.

- (1) Fire escapes, uncovered stairs and landings, canopies, eaves, or other architectural features not required for structural support may project into the required side, front or rear yard not more than a total of three feet.
 - (2) See §28A for accessory structures.
 - (3) Patios may be located in the required setback not closer to any property line than the following:
 - (a) Side and rear property lines – five feet
 - (b) Front property line – 10 feet except that patios constructed on existing nonconforming lots may line up with and be as wide as the principal structure on the lot.
- F. Reduction of Required Area or Space. The area or dimension of any existing lot, setback, parking area or other space shall not be reduced to less than the minimum required unless specifically permitted by this ordinance.
- G. Marquees and Awnings. Marquees and awnings which are designed to provide shelter or which are designed to enhance the appearance of a nonresidential or multi-family building may project out over a public sidewalk for a distance of up to six feet, but in no case beyond the curb line. If a sign or symbol is attached to the marquee or awning then Article XI shall also apply.

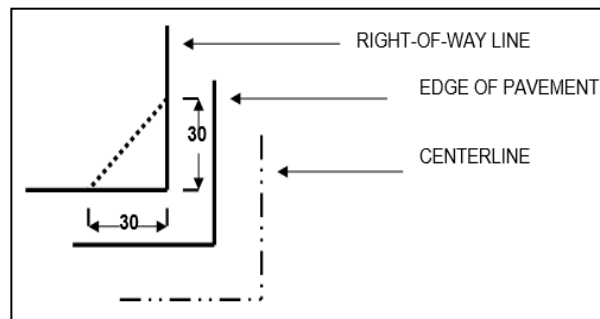
§27 Miscellaneous Provisions

A. Two or More Uses or Buildings on a Lot.

- (1) Development Standards. Except for lot size as permitted by this §27A, two or more principal buildings or uses located on a parcel in single ownership shall conform to all the requirements of this ordinance which would normally apply to each building or use if each were on a separate district lot, including but not limited to setbacks, parking and lot coverage, and sewage disposal requirements.
- (2) Residential Density. For the purposes of density of dwellings, lot size shall be increased to maintain the density required by this ordinance. For example, the parcel size required for three single-family dwellings on one parcel would be determined by multiplying the minimum lot size for one (dwelling by a factor of three.
- (3) Nonresidential Uses. In the case of nonresidential uses, there shall be no limit on the number of uses or structures on a single parcel provided all other standards of this ordinance are satisfied. This shall not apply to adult businesses, junkyards, solid waste facilities, or other uses with a special minimum parcel size requirement listed in this ordinance, in which case the parcel size shall be increased to provide for the minimum land area for each use on the parcel.
- (4) Structure Separation. Principal structures located on the same lot shall be separated by a distance at least equal to twice the required district side setback. (See §28A for accessory structures.)

B. Street Frontage. A building shall be permitted only upon a lot with frontage on a public road right-of-way or private road right-of-way with access to a public road.

- C. Clear View at Street Intersections. No obstruction to vision (other than an existing building, post, sign, column, or tree) exceeding 30 inches in height above the street level shall be erected, planted or maintained on any lot within the triangle formed by the street intersection, created by the right-of-way line of each street extended to a point, and a line drawn between two points on the right-of-way line of each street each located thirty 30 feet from the street intersection. All plant materials shall be kept trimmed to ensure



uninterrupted vision for motor vehicle traffic.

- D. Corner Lot Setbacks. Each setback of a lot which abuts a street shall be equal in size to the front setback required for the district. Any other setbacks may be considered side setbacks.
- E. Through Lots. Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the widest street shall be deemed the street upon which the property fronts.
- F. Reserved.
- G. Pervious Surfaces and Lot Coverage.
- (1) Pervious surfaces proposed in the development of a lot shall be reviewed by the Zoning Officer and, if found acceptable, approved on a case-by-case basis.
 - (2) The percentage of the pervious surface to be counted as lot coverage shall be based upon actual field performance data provided by the manufacturer.
 - (3) A detailed design and surface specifications shall be submitted to the Zoning Officer and the Zoning Officer shall be notified three days prior to construction so that the Zoning Officer may observe the installation.
 - (4) Pervious surface design, installation, testing, maintenance and cleaning shall be performed in accord with generally accepted practice, manufacturer standards and any applicable professional/manufacturer association standards or required installer certification.
 - (5) Upon completion, initial permeability testing shall be performed in the presence of the Zoning Officer and a written report shall be submitted to the Zoning Officer documenting the testing method and results.
 - (6) The pervious surface shall be tested annually for permeability with a written report submitted to the Zoning Officer. If the permeability is reduced to a level of 75 percent of the initial rate, the owner shall restore the permeability to the initial rate using accepted cleaning methods or reinstallation.
 - (7) The maintenance of the pervious surface shall be governed by a written and recorded agreement between the landowner and the Borough in a form prescribed by Resolution of the Borough Council.
 - (8) Approved pervious surfaces shall not be replaced with any impervious surface material.

§28 Accessory Structures and Uses

- A. Accessory Structures. All accessory structures, unless otherwise permitted by this ordinance, shall conform to the minimum setbacks established in Article IV.
- (1) Attached Accessory Structures. An accessory structure attached to a principal building shall be considered a part of the principal building and shall conform to the setbacks for principal structures.
 - (2) Unattached Structures Accessory to Residential Buildings. Structures accessory to residential buildings which are not attached to a principal structure shall not be higher than 15 feet or one and one-half (1.5) stories and may be erected within the required rear and side setbacks of a principal structure provided they conform with the following:
 - (a) Distance from Side Lot Line. Not less than 10 feet from the side lot line, except in the case of corner lots where the side setback as specified in §27D shall be maintained.
 - (b) Distance from Rear Lot Line. Not less than 10 feet from the rear lot line, except where abutting an alley where the setback shall not be less than 10 feet from the alley.
 - (c) Distance from Principal Structure - Not less than 10 feet from a principal structure.

- (3) Unattached Structures Accessory to Non-Residential Buildings. Such accessory structures shall comply with front and side setback requirements for the principal structure and the minimum rear setback shall be 20 feet.
- (4) Playhouses. Child playhouses shall be considered accessory structures and shall comply with the requirements. However, a permit shall not be required for a child playhouse under 100 square feet in total floor area.
- (5) Utilities. Well houses and other accessory structures housing/supporting utilities and electricity generators, whether or not housed in a structure, shall comply with this §28A.
- (6) Disability Ramps and Outdoor Elevators. Temporary ramps or temporary outdoor elevators accessory to single-family dwellings or two-family dwellings to provide access for a disabled person shall not be required to meet required setbacks provided the landowner provides a written agreement that the ramp or elevator will be removed when the person needing the it no longer occupies the dwelling. A permit shall be required.
- (7) Construction Standards. The structure shall be either prefabricated or custom built. A manufactured house, box or other type trailer, any unit which was originally designed with wheels and axle(s), truck body, cargo container, or other similar unit not originally designed for accessory residential storage shall not be used as an accessory building in any district except the I District.

B. Fences, Walls and Planting Materials.

- (1) General Requirements.
 - (a) Any person intending to erect a fence or wall shall, before work is commenced, make application to the Zoning Officer as required below and by this ordinance and no work on such a fence shall be commenced before receipt of a permit.
 - (b) Fences may be either a *natural living fence* or a *fabricated materials fence* as defined herein.
 - (c) Fences or walls exceeding the height limitations set forth herein shall be subject to the accessory structure requirements of §28A, except as otherwise required by this ordinance.
 - (d) Well-maintained and safe trees, shrubs or hedges and other appropriate plant material, which do not constitute a natural living fence as defined herein, and which are designed to enhance the livability and attractiveness of any lot may be located in any yard or court, provided that they do not encroach on adjoining properties or uses.
- (2) Location of Fences. Fabricated material fences may be located within any front, rear or side setback area, except that no fence shall be placed closer than six inches to any property line or closer than one foot from any sidewalk or right-of-way which is open for use by the general public.
- (3) Height of Fences. The height of all fences shall be as set forth in the following Height of Fences Table.
- (4) Obstruction to Vision. No fence shall be constructed or maintained in the vicinity of any street intersection or driveway entrance which provides an obstruction to vision, thereby creating potential vehicular safety hazards. An obstruction to vision is defined as any fence which obstructs vision between a height of two to ten feet above the center line grade of the adjoining street or streets, within a distance of 75 feet from the point of intersection of intersecting streets and 50 feet from the point of intersection of a driveway with a street.
- (5) Removal of Unsafe or Nuisance Fences. Any fence which obstructs vision as defined above or which impedes vehicular or pedestrian traffic or which causes a fire hazard, restricts safe access, unduly restricts light or air and/or affects public or traffic safety, or which creates a nuisance as determined by the Zoning Officer shall be removed. The Zoning Officer shall have the authority to direct the removal of such unsafe or nuisance fences or to direct the trimming or modification of any natural living fence or of any other vegetation so as to eliminate the unsafe or nuisance conditions.

HEIGHT OF FENCES AND WALLS		
Type of Fence or Wall and Location	Maximum Height (Feet) Located on Parcels Used Predominantly for:	
	Residential or Open Space Use	Non-Residential or Resort Uses
Fabricated Materials Fence or Wall Located in:		
Front Setback Area	4	6(a)
Side Setback Area	6	6(a)
Rear Setback Area	6	6 except that chain link fences may be 8 ft. (a)(b)
Natural Living Fence Located in:		
Front Setback Area	4	8(a)
Side Setback Area	6	8(a)
Rear Setback Area	10	12(a)
Note: Any fabricated material fence or wall exceeding the height limitations established in this table, unless permitted under footnote (a) below, shall be considered to be an accessory structure subject to the provisions of §28A.		
Footnotes:		
(a) Special situations requiring security, complete prevention of access or the provision of buffers to protect adjoining uses may have a higher fence if approved by the Zoning Hearing Board as a special exception. The Board shall determine that such additional height is necessary to meet these objectives and also to protect the public safety and general welfare.		
(b) Chain link fences which are eight feet or more high may also be topped with barbed wire where necessary to prevent access and provide security.		

(6) Swimming Pool Fences. Private outdoor swimming pools shall be protected with a fence as set forth in §28E.

(7) Fence Materials and Construction.

(a) The following fences or fencing materials are specifically prohibited:

- Barbed wire, except on a permitted chain link fence which is at least eight feet high in a nonresidential area.
- Short, pointed fences except for wooden picket fences which are usually three to four feet in height.
- Canvas fences.
- Cloth fences.
- Electrically charged fences.
- Poultry fences.
- Turkey wire.
- Temporary fences such as snow fences and expandable fences and collapsible fences, except during construction of a building or special Borough-approved events.

(b) All chain link fences erected shall be erected with the closed loop at the top of the fence.

(c) All entrances or gates shall open into the property.

(d) All fences or walls must be erected so as not to encroach upon a public right-of-way or easement.

(e) If the fence is wood cover on wood frame, the framework must face onto the interior of the lot, unless the fence is so designated as to provide equal frame and cover area to adjoining yards.

(f) If the fence is open metal mesh, supported by posts and frames of either pipe or wood, the posts and frames must be on the interior of the mesh.

(g) If the fence is of masonry construction, a finished surface must be provided on the exterior side.

- (8) Application for Fence. All applicants for permits to construct a fence or wall shall submit the following information to the Zoning Officer:

- (a) Completion of a form supplied by the Zoning Officer.
- (b) A plan or sketch showing the proposed location of the fence or wall and the materials to be used, including sufficient information to determine conformance with the requirements of this ordinance.
- (c) The required fee.
- (d) Natural living fences shall only require a permit if their initial height is over six feet.

- C. Home Occupations. It is the intent of this §28C to regulate the operation of home occupations so that the average neighbor, under normal circumstances, will not be aware of the existence of the home occupation. The burden of proof shall be on the applicant to demonstrate that the standards will be met. Based upon the potential nuisances of a proposed home occupation not specifically permitted by this section, the Zoning Hearing Board may determine that a specific type or intensity of use is unsuitable to be a home occupation or that the proposed lot area or setbacks are not adequate. The following standards shall apply:

- (1) Incidental and Secondary. The home occupation must be conducted entirely inside a building and shall be clearly incidental and secondary to the use of the dwelling as a residence.
- (2) Total Area. The home occupation(s) may be conducted in the dwelling and/or an accessory building, but the total area of all areas used for all home occupations on the premises shall not exceed 40 percent of the gross floor area of the dwelling unit including basement.
- (3) Display. No outdoor display or display visible from outdoors, or outdoor storage of materials, goods, products, supplies, or equipment used in the home occupation(s) shall be permitted.
- (4) Exterior. There shall be no evidence visible from outside the dwelling (show windows, business displays, advertising, etc.) that the residence is being operated as a home occupation except for a sign, if permitted, and required parking area.
- (5) Employees. The home occupation shall be conducted only by members of the family residing in the dwelling and not more than one person other than residents of the dwelling shall be employed on the premises.
- (6) Parking. Off-street parking shall be provided on the premises as required by this ordinance to prevent parking on any public or private street right-of-way. A minimum of two additional off-street parking spaces shall be provided for all home occupations.
- (7) Nuisances; Noise.
 - (a) No home occupation use shall generate nuisances such as traffic, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than what is usually experienced in the residential neighborhood.
 - (b) A home occupation shall not involve noise which will be audible to neighboring residents between the hours of 6:00 p.m. and 7:00 a.m. The Borough may also require the applicant to use insulation to minimize any audible noise or may disapprove the application where, in their opinion, the proposed activity will involve unreasonable noise.
- (8) Retail or Wholesale Sale. No goods or items for retail or wholesale sale shall be permitted except for items produced on the premises or goods and items incidental to the operation of an approved home occupation. The total display and/or storage area limited to indoors and not more than two hundred (200) square feet.
- (9) Traffic. The use shall not create any adverse impact on existing traffic or circulation patterns in the neighborhood nor cause a substantial increase in the volume of traffic in the neighborhood. For the

purposes of this ordinance, a twenty (20) percent increase shall be considered substantial.

- (10) Sign. One sign not more than two square feet for each face shall be permitted in accord with Article XI.
 - (11) Performance Standards. Article VII, Part 2, Performance Standards, shall also apply to home occupations.
 - (12) Prohibited Uses. The following uses shall not be permitted as home occupations: commercial stables, commercial kennels or motor vehicle or small engine repair shops, retail or wholesale sales, restaurants, crematoria, funeral parlors, or other uses not meeting the requirements of this §28C.
 - (13) Accessory Uses. The following types of uses with no nonresident employees shall be permitted as accessory uses in all districts:
 - (a) Professional offices for individual practitioners
 - (b) Custom dressmaking or tailoring.
 - (c) Foster family care for not more than four children simultaneously.
 - (d) Day care that provides care for six or fewer children at any one time who are not relatives of the care giver.
 - (e) Tutoring for not more than four children simultaneously.
 - (f) Mail order or sales businesses not involving customer contact on the premises or wholesale brokering not involving stock on the premises.
 - (g) Businesses involving the use of personal computers for sales or services, and which do not involve customer contact on the premises
 - (h) Single chair beauty shops and barbershops.
 - (i) No-impact home-based businesses as defined in Article III.
 - (14) Special Exception. All applications for home occupations not specifically enumerated as permitted in §28C(13), excluding those prohibited by §28C(12), shall be considered special exceptions.
- D. Home Gardening, Nurseries and Greenhouses. Home gardening and accessory structures used for nurseries or as greenhouses are permitted accessory to residential uses provided they do not involve the outdoor storage of equipment and supplies. . No zoning permit shall be required for home gardening.
- E. Private Outdoor Swimming Pools and Hot Tubs.
- (1) A single, private outdoor, in-ground or above-ground, swimming pool and a single hot tub per dwelling unit is permitted as an accessory use provided that such swimming pool is for the private use of the occupants of the principal structure or for their guests.
 - (2) Pools and associated patios and decks shall only be permitted in required side and rear setbacks and the minimum side and rear setback for the pool water shall be six feet and the minimum side and rear setback for patios and decks shall be two feet.
 - (3) All swimming pools shall comply with PA UCC requirements.
- F. Reserved.
- G. Temporary Uses.
- (1) Definition. A use accessory to another permitted principal use that operates at a fixed location for a temporary period.
 - (2) Zoning Permit Required. No temporary use shall be established unless a zoning permit evidencing the compliance of such use with the provisions of this §28G and other applicable provisions of this ordinance shall have first been issued.
 - (3) Particular Temporary Uses Permitted. The following are temporary uses which are subject to the

following specific regulations and standards, in addition to the other requirements specified in this ordinance.

(a) Contractor's Office and Construction Equipment Sheds.

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

(b) Real Estate Sales Office.

- [1] Permitted in any district for any new approved subdivision. The office may not contain sleeping or cooking accommodations. A model home may be used as a temporary sales office.
- [2] Maximum length of permit shall be two years.
- [3] The office shall be removed upon completion of the development of the subdivision.
- [4] Required water supply and sanitary facilities shall be provided.

(c) Temporary Shelter.

- [1] When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a manufactured house or recreational vehicle located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations.
- [2] Required water supply and sanitary facilities per PA DEP requirements and electrical service per the PA Uniform Construction Code shall be provided.
- [3] Maximum length of permit shall be 12 months, but the zoning officer may extend the permit for a period or periods not to exceed 60 days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least 15 days prior to expiration of the original permit.
- [4] Prior to issuance of any occupancy permit for the new or rehabilitated residence, the manufactured house shall be removed from the property, or the recreational vehicle shall be removed from the property or be discontinued as the temporary shelter.

(4) Temporary Uses by Conditional Use. For temporary structures or uses that are not specifically permitted by right by this ordinance, and other than customary accessory uses and other than those uses that were lawfully occurring on a periodic basis prior to the adoption of this ordinance, a temporary permit may be issued by the Borough Council as a conditional use for a structure or use that would not otherwise be permitted, subject to the following additional provisions:

- (a) Duration. The Borough Council shall establish a limit on the duration of the use. In the case of a special event, except under special circumstances, this should be a maximum of seven days in any 60 day period. The Borough Council may grant a single approval once for numerous occurrences of an event.
- (b) Statement from Owner. The applicant shall present a statement from the owner of record of the land accepting responsibility to ensure that the use or structure is removed once the permit expires.

- (c) Removal. Such structure or use shall be removed completely upon expiration of the permit without cost to the Borough. If the structure or use is not removed in a timely fashion after proper notification, the Borough may remove the use or structure at the cost of the person who owns the land upon which the structure or use is located.
- (d) Conditions. The temporary use or structure shall be compatible with adjacent uses and clearly be of a temporary nature.
- (e) Fee. The Borough Council may waive and/or return the required application fee if the applicant is an Internal Revenue Service recognized and well-established nonprofit organization, and the applicant clearly shows that the proposed use is temporary and will be used to clearly and primarily serve a charitable or public service purpose.
- (f) Nonprofit. Only a well-established and Internal Revenue Service-recognized nonprofit organization proposing a temporary use to clearly and primarily serve a charitable or public service purpose shall be eligible to receive approval for a temporary commercial use in a district where that use is not permitted.
- (g) Special Events. For a special event that will attract significant numbers of the public, the Borough Council may deny the use if it determines that the following will not be generally appropriate: sanitary and water service, traffic control, off-street parking and protection of the public health and safety.

(5) Additional Regulations

- (a) Documentation must be provided to the Borough that adequate arrangement for temporary sanitary facilities has been made.
 - (b) All uses shall be confined to the dates specified in the permit.
 - (c) Hours of operation shall be confined to those specified in the permit.
 - (d) Access and parking for the exclusive use of the facility shall be provided, and a stabilized drive to the parking area shall be maintained with a minimum of six inches or as otherwise needed, of bank-run gravel or equal material.
- H. Yard, Lawn, Garage, Tag or Estate Sale. Yard, lawn, garage, tag, or estate sales shall not exceed more than three (3) consecutive days and not more than three times per year.
- I. Helistops as an Accessory Use. Helistops as accessory uses, in addition to all other applicable requirements, shall comply with the following standards: (This section shall not apply to helicopter land sites for emergency services.)
- (1) Allowed only in the I District as a special exception.
 - (2) The applicant shall document compliance with all applicable state and federal regulations.
 - (3) The runway and/or landing pad shall be a minimum of 250 feet from any residential district or any existing dwelling not located on the parcel for which the airport and/or heliport is proposed.
- J. Reserved.
- K. Satellite Antennas. All private satellite antennas shall be considered structures and shall maintain the setbacks required for accessory structures; however, a permit shall not be required for such antennas 30 inches or less in diameter. No building-mounted satellite antenna shall extend beyond the perimeter of the building or extend more than four feet above the height of the building.
- L. Tennis Courts. A tennis court accessory to a residential use shall only be located a in a rear or side yard and shall not be closer to a property line than 10 feet.

- M. Private Flea Markets and Similar Events. Private flea markets, craft fairs, bazaars, celebration, and similar community events conducted by a service, nonprofit, religious or charitable organization are permitted as accessory uses provided that the same are conducted upon lands owned by such organizations or conducted upon land situated in a commercial district leased to such organization. Any such organization may not conduct a private flea market for more than seven successive days and not more than two such periods in any one calendar year.
- N. Wind Turbines, Accessory. Wind turbines shall be permitted as a conditional use in all zoning districts as an accessory use. In addition to the general conditions stated in § 116-176, wind turbines shall comply with the following specific conditions:
- (1) The wind turbine shall be independent of any structure and shall be located a minimum distance of 110 percent times the turbine height from any property line.
 - (2) No part of the wind turbine shall be located within or above any required front, side or rear setback.
 - (3) The minimum height of the lowest position of the wind rotor shall be 25 feet above the ground, and the maximum turbine height shall be 100 feet.
 - (4) Audible sound from a wind turbine shall not exceed 55 dBA as measured at any location on any property other than the lot on which the wind turbine is located. Methods for measuring and reporting acoustic emissions from wind turbines 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*.
 - (5) Wind turbines shall not be climbable up to 15 feet above the ground surface.
 - (6) To the extent applicable, the wind turbine shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended, and the regulations adopted by the Department of Labor and Industry.
 - (7) The design of the wind turbine shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
 - (8) Wind turbines shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
 - (9) All electrical components of the wind turbine shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
 - (10) Wind turbines shall be a nonobtrusive color such as white, off-white or gray. However, at the request of the applicant, the Borough Council may approve any color or colors which reduce the visual impact of the wind turbine.
 - (11) Wind turbines shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
 - (12) Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, which sign shall have an area of less than 200 square inches.
 - (13) On-site transmission and power lines shall, to the maximum extent practicable, be placed underground.
 - (14) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted

transformers and substations.

- (15) 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 10 feet from the ground.
- (16) The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind turbine.
- (17) When a building is necessary for storage cells or related mechanical equipment, the building must not exceed 150 square feet in area and 15 feet in height, and must not be located within any required front, side, or rear setback.
- (18) The resultant energy harnessed from the wind shall primarily be used on the property on which the wind turbine is located.
- (19) The wind turbine shall comply with all other applicable regulations and requirements as set forth in this ordinance. However, land development approval shall not be required under the Subdivision and Land Development Ordinance for a single wind turbine.
- (20) The landowner shall, at his/her expense, complete decommissioning of the wind turbine 12 months after the end of the useful life of the wind turbine. It shall be presumed that the wind turbine is at the end of its useful life if no electricity is generated for a continuous period of 12 months.
- (21) Decommissioning of the wind turbine shall include removal of the wind turbine, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities. Disturbed earth shall be graded and reseeded, unless the landowner requests, in writing, that the access roads or other land surface areas not be restored.
- (22) The wind turbine shall be subordinate to and located on the same lot occupied by the principal use to which it relates.

O. Solar Energy Systems, Accessory. It is the purpose of this regulation to promote the safe, effective and efficient use of solar energy systems installed to reduce the on-site consumption of utility supplied energy and/or hot water as a permitted accessory use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. A solar energy system shall be permitted in any zoning district as an accessory to a principal use herein and subject to specific criteria as set forth below. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.

The installation and construction of a solar energy system, and any upgrade, modification, or structural change that materially alters the size or placement of an existing solar energy system shall comply with the provisions of this Ordinance.

- (1) A solar energy system is permitted in all zoning districts as an accessory to a principal use.
- (2) A solar energy system shall provide power for the principal use and/or accessory use of the property on which the solar energy system 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) A solar energy system connected to the utility grid shall provide written authorization from the local utility company to the Borough acknowledging and approving such connection.
- (4) A solar energy system may be roof mounted or ground mounted, subject to any design or building permit requirements of the Borough.
- (5) 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, may not exceed the maximum principal building height or accessory building height specified for the building type in the underlying

zoning district. In no instance shall any part of the solar energy system extend beyond the edge of the roof.

- (6) A ground mounted system shall not exceed the maximum building height for accessory buildings.
- (7) The surface area of a ground mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
- (8) A ground mounted system or system attached to an accessory building shall not be located within the required front yard setback.
- (9) The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
- (10) All mechanical equipment associated with and necessary for the operation of the solar energy system shall comply with the following:
 - (a) Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other noninvasive plant species which provides a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of this ordinance may be used.
 - (b) Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.
 - (c) Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- (11) Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.
- (12) Solar panels shall not be placed in the vicinity of any airport in a manner that would interfere with airport flight patterns. Acknowledgment from the Federal Aviation Administration may be necessary.
- (13) All power transmission lines from a ground mounted solar energy system to any building or other structure shall be located underground.
- (14) A solar energy system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the prevailing sign regulations.
- (15) A solar energy system shall not be constructed until a building/zoning permit has been approved and issued.
- (16) The design of the solar energy system shall conform to applicable industry standards. A building permit shall be obtained for a solar energy system per the Pennsylvania Uniform Construction Code (UCC), Act 45 of 1999, as amended, and the regulations adopted by the Department of Labor and Industry. All wiring shall comply with the applicable version of the National Electric Code (NEC). The local utility provider shall be contacted to determine grid interconnection and net metering policies. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certifying organization and any such design shall be certified by an Engineer registered in the Commonwealth of Pennsylvania.
- (17) The solar energy system shall comply with all applicable Borough Ordinances and Codes so as to ensure the structural integrity of such solar energy system.
- (18) Before any construction can commence on any solar energy system the property owner must acknowledge that he/she is the responsible party for owning and maintaining the solar energy system.
- (19) If a ground mounted solar energy system is removed, any earth disturbance as a result of the removal of the ground mounted solar energy system shall be graded and reseeded.

- (20) If a ground mounted solar energy system has been abandoned (meaning not having been in operation for a period of six months) or is defective or is deemed to be unsafe by the Zoning Officer, the solar energy system shall be required to be repaired by the owner to meet federal, state and local safety standards, or be removed by the property owner within the time period allowed by the Zoning Officer. If the owner fails to remove or repair the defective or abandoned solar energy system, the Borough may pursue a legal action to have the system removed at the owner's expense

§29 Off-Street Parking and Loading

This §29 shall apply to all new and expanded uses and to changes of use and all such uses shall be provided with parking and loading areas adequate to meet the needs of the use.

A. Availability and Use of Facilities.

- (1) Availability. The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term *parking space* includes either covered garage space or uncovered parking lot space located off the public right-of-way.
- (2) Location of Parking. Required off-street parking spaces shall be on the same lot with the principal use served, except as approved in §29K.
- (3) Continuing Obligation of Parking and Loading Spaces. All required numbers of parking spaces and off-street loading spaces shall be available if the use or building which the spaces serve still exists, and such spaces shall not be reduced in number below the minimum required by this ordinance.
- (4) Non-Parking Use. Required off-street parking, loading, and unloading facilities and access ways shall not be used for any other purpose, including, but not limited to, sales, display or storage areas, or the parking of any vehicles for which the area was not approved (e.g., parking of tractor trailers in required passenger vehicle areas).
- (5) Existing Parking. Any parking spaces serving such pre-existing structures or uses at the time of the adoption of this ordinance shall not in the future be reduced in number below the number required by this ordinance. If a new principal nonresidential building is constructed on a lot, then any existing parking on such lot that serves such building shall be reconfigured to comply with this ordinance, including, but not limited to, required parking and areas reserved for additional parking if needed, requirements for channelization of traffic from adjacent streets, channelization of traffic within the lot, minimum aisle widths, paving and landscaping.
- (6) Driveways, Garages and Carports. Driveways, garages and carports not in the public right-of-way may be considered parking spaces.

B. Site Plan; Design.

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

vehicles for which use is intended and stalls shall be a minimum of 10 feet by 20 feet with aisles of not less than 24 feet unless designed as required above.

- C. Illumination. All driveways, aisles, maneuvering spaces, vehicular service areas, and spaces between or around buildings, designed for use by more than four cars other than those accessory to a single dwelling, shall be illuminated according to §67.
- D. Public Rights-of-Way. Parking, loading and unloading of vehicles shall not be permitted on public right-of-ways, except in designated areas and in accord with municipal parking regulations. No parking area shall be designed which requires or encourages parked vehicles to be backed into a public street.
- E. Parking and Loading in VC-2 District. In the VC-2 Village Center Business District, no additional off-street parking or loading and unloading areas shall be required for any proposed, expanded or changed nonresidential use.
- F. Number of Spaces. The number of parking spaces required by this §29F shall be considered the minimum and maximum requirements unless modified in accord with this §29F. Fractional numbers of parking spaces shall be increased to the next whole number. For uses not specifically provided in the Table, the Zoning Officer shall determine the required number of spaces based upon the similarity of the proposed use to the uses provided.
 - (1) Parking Required for Nonresidential Uses. The number of spaces required by this §29F shall be considered to the minimum and maximum requirements unless modified in accord with this §29F.
 - (a) Parking Demand Table. Off-street parking spaces shall be provided and maintained in accord with the latest edition of Parking Generation published by the Institute of Transportation Engineers. The parking provided for the proposed use shall be based on the most similar use and unit of calculation listed in the latest edition of Parking Generation as determined by the Zoning Officer.
 - (b) Land Uses WITH 85th Percentile Data Listed in the Parking Demand Table
 - [1] Constructed. The number of paved parking spaces constructed shall conform to the Average Peak Period Demand as noted in the Parking Demand Table.
 - [2] Reserved. Space shall be reserved to allow for expansion to the 85th Percentile, as listed in the Parking Demand Table, unless a reduction is approved in accord with §29F(4).
 - (c) Land Uses WITHOUT 85th Percentile Data Listed in the Parking Demand Table
 - [1] Constructed. The number of paved parking spaces constructed shall be the Average Peak Period Demand or 85 percent of the Peak, whichever is reported in the Parking Demand Table.
 - [2] Reserved. Space shall be reserved to allow for expansion to 115 percent of the number of spaces required by §29F(1)(c)[1] unless a reduction is approved in accord with §29F(4).
 - (2) Parking Required for Residential Uses. Off-street parking spaces shall be provided and maintained for each dwelling unit as follows:
 - (a) Single-family Dwellings. Two (2) per dwelling unit plus one per two bedrooms rounded to the next highest number.
 - (b) Two-family Dwellings. Two per dwelling unit plus one per two bedrooms rounded to the next highest number.
 - (c) Multi-family Dwellings. Two per dwelling unit located with the unit plus 0.25 space per dwelling unit rounded to the next highest number. No dwelling unit shall be less than 250 from a spillover parking area. No spillover parking area shall have less than five spaces.

- (d) Multi-family Senior Citizen and Other Senior Citizen Housing. One per dwelling unit located with the unit plus 0.25 per dwelling unit rounded to the next highest number. No dwelling unit shall be less than 250 feet from a spillover parking area. No spillover parking area shall have less than five spaces.
- (e) Assisted Living Facilities. 0.5 per dwelling unit.
- (3) Borough Required Reduction. In the case of parking for conditional uses and special exceptions, if the Borough Council/Zoning Hearing Board determines that the number of parking spaces required by this §29F is not necessarily required to meet the immediate needs of the proposed use, the Borough may require the number of spaces provided to be reduced by a maximum of 25 percent. The developer shall dedicate sufficient and suitable area to future parking to meet the normal standards in this §29F.
- (4) Applicant Proposed Reduction/Increase. The required number of parking spaces may be reduced or increased subject to conditional use approval by the Borough Council for uses classified as principal permitted uses and conditional uses and by the Zoning Hearing Board for uses classified as special exceptions. The applicant shall provide evidence justifying the proposed reduction or increase of spaces, such as studies of similar developments during peak hours. The applicant shall also provide relevant data, such as number of employees and peak expected number of customers/visitors. Any approval to permit such decrease or increase shall be subject to the following:
 - (a) 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 Comprehensive Plan.
 - (b) Quality of Design. The applicant shall demonstrate to the Borough Council that the proposed decrease will result in an adequate number of parking spaces or the increase will not produce an excess number of 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.
 - (c) Local Conditions. In making its determination the Borough Council or the Zoning Hearing Board 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.
 - (d) Burden; Conditions.
 - [1] If the Borough Council or the Zoning Hearing Board, in its sole discretion, determines that the applicant has met the burden of proof, it may grant a conditional use for the decrease or increase.
 - [2] In no case shall parking be reduced by more than 30 percent nor be increased by more than 20 percent of the minimum parking requirement.
 - [3] If the applicant provides more parking spaces than the minimum required, the additional parking spaces shall not result in the removal of specimen trees.
 - [4] The Borough Council or the Zoning Hearing Board may impose such conditions as will, in its judgment, secure the objectives and purposes of this ordinance, including, but not limited to, reserving parking.
- (5) Form of Reservation. Each parking reservation shall be in a form acceptable to the Borough Solicitor that legally binds current and future owners of the land to keep the reserved parking area in open space and, if the Borough determines it is necessary, to provide the additional parking in the time and manner as stipulated in the reservation document. Proof of recording of the agreement shall also be provided to the Borough before the issuance of a zoning permit for the project.

- (6) Reserved Parking Disturbance and Stormwater. The reserve parking areas shall remain undisturbed or shall be landscaped but shall be included in the calculations of lot coverage area and for stormwater management and for the requirement of a NPDES permit. The stormwater facilities shall be constructed in accord with the approved sequencing design as parking areas are constructed.
- (7) Multiple Uses. For projects involving more than one use and/or structure the total number of parking spaces required shall be determined by summing the number of spaces for each individual use.
- (8) Handicapped Parking. Parking for the handicapped shall be provided in accord with current Pennsylvania regulations governing accessible and useable buildings and facilities and the spaces shall count as part of the spaces required for the use by this §29.

G. Off-Street Loading and Unloading Areas.

- (1) Required. In connection with any building or structure, which is erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, off-street loading and unloading berths shall be provided as specified in this §29G. For the purposes of this section, the words "loading" and "unloading" are used interchangeably.
- (2) Number. Each use shall provide off-street loading facilities sufficient to accommodate the maximum demand generated by the use and the maximum sized vehicle, in a manner that will not routinely obstruct traffic on a public street. If a reasonable alternative does not exist, traffic may be obstructed during off-peak hours for loading and unloading along an alley, rear service lane or parking area. Loading areas shall not be used to satisfy parking requirements.
- (3) Location. All required loading areas shall be located on the same lot as the use to be served. No loading area for vehicles of more than two-ton capacity shall be located closer than 100 feet from any residential district. No loading area shall be located within 50 feet of a property line unless the lot is less than 200 feet wide, in which case such setback may be reduced to not less than 25 feet at the discretion of the Borough. No loading facilities shall be constructed within any required setback areas. Loading facilities shall be located on either the side or rear of the building and screened in accord with §60.
- (4) Access. Each required off-street loading area shall be designed with appropriate means of vehicular access to an interior drive in a manner which will least interfere with traffic movements and shall be subject to the approval of the Borough. Such access shall have paved surfaces to provide safe and convenient access during all seasons.
- (5) Repair and Service. No storage of any kind, nor motor vehicle repair work of any kind, except emergency work, shall be permitted within any required loading area.
- (6) Hours of Operation. Where the use requiring loading and unloading activities is located within 500 feet of a residential use or district, the hours of operation for loading or unloading activities shall be prohibited between the hours of 11:00 p.m. and 6:00 a.m.
- (7) Fire Lanes. All buildings shall be accessible to emergency vehicles and shall meet applicable requirements and all West Hazleton fire-related codes.

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

- (1) Width. Unless otherwise required by Penn DOT for access to a state road, the width of the driveway/access way onto a public street at the right-of-way shall comply with the most current Institute of Transportation Engineers design standards for the type and volume of vehicles anticipated and shall meet applicable requirements and all West Hazleton fire-related codes.

- (2) Controlled Access. Each entrance and exit shall be clearly defined with curbing, fencing, landscaping or vegetative screening so as to prevent access to the area from other than the defined entrance and exit.
 - (3) Highway Occupancy Permit. All new uses shall be required to obtain a highway occupancy permit from the Borough or PA DOT. In the case of a change in use or the expansion of an existing use, a highway occupancy permit or a revised highway occupancy permit shall be required if there will be increase in average daily traffic based on the most recent edition of the International Traffic Engineers Traffic Generation Manual. Where a use accesses the public right-of-way via a private road, the highway occupancy permit requirement and criteria shall be applied at the public right-of-way intersection.
 - (4) Interior Travelways. The applicant shall demonstrate that travelways within the property are adequate to safely and efficiently serve vehicles which are reasonably expected to visit the property. Turning radius templates developed by the American Association of State Highway Transportation Officials (AASHTO) shall serve as the design standard.
 - (5) Curbing. Access drives and landscaping shall be defined with concrete curbing, or such alternate material as may be approved by the Borough.
- I. Parking and Loading Area Setbacks. Unless other provisions of this ordinance require a greater buffer, all proposed or required parking and loading areas (not including parking decks) and parallel circulation and service lanes serving any commercial, industrial, institutional or multi-family use shall be separated from any public road right-of-way by a landscaped buffer not less than 10 feet in width and five feet in width along other property lines.
- (1) Roads and Property Lines.
 - (2) Uses Prohibited. The buffer area shall be maintained in natural vegetative ground cover and shall not include:
 - (a) Paving except for approved driveway/access way crossings
 - (b) Fences unless integral to landscaping
 - (c) Parking, storage or display of vehicles
 - (d) Items for sale or rent
 - (3) Uses Permitted. The buffer area may include the following:
 - (a) Permitted freestanding signs
 - (b) Pervious storm water facilities
 - (c) Approved driveway/access way crossings
 - (4) Buildings. Parking spaces serving principal nonresidential buildings and multi-family dwellings shall be located a minimum of five feet from any building wall, unless a larger distance is required by another ordinance provision. This distance does not apply at vehicle entrances into or under a building.
- J. Grading and Drainage; Paving.
- (1) Grading and Drainage. Parking and loading facilities, including driveways, shall be graded and adequately drained away from building areas, to prevent erosion and to avoid increased or altered flow of stormwater runoff into streets or onto adjacent properties.
 - (2) Grade. All areas provided for the parking of vehicles shall have a minimum grade of 0.5 percent and a maximum grade of six percent.
 - (3) Paving. Except for single -family homes, all portions of required or proposed parking areas, loading areas and access ways (except for landscaped areas) shall be surfaced with a minimum of 2.5 inches of compacted asphalt paving on a six-inch compacted stone base or equivalent as determined by the Zoning Officer. (See §27G for use of pervious surfaces.)

K. Off-Site or Shared Parking.

- (1) Off-Site. Required parking may be provided on a different lot than on the lot on which the principal use is located, provided the parking is not more than 400 feet from the principal use lot. Off-lot parking areas shall be permitted only in a district where the principal use is permitted. Both parcels shall be under the same control, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by covenants of record filed in the office of the County Recorder of Deeds requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.
- (2) Shared Parking. In cases where two principal uses share a common property line, shared parking facilities may be utilized. The arrangement for share parking shall be provided by deed restriction for the portion of each parcel included in the shared arrangement. The shared parking area may span the common property line thereby eliminating the required setback. The standards in §29F for number of spaces to be provided shall apply to shared parking. To the extent that principal uses operate at different times, the same spaces may be credited to both uses. (Example: If a church parking lot is generally occupied only to ten percent of capacity on days other than a Sunday, another development not operating on a Sunday could make use of the unused church lot spaces on weekdays.)

L. Changes to Access and Parking Areas and Loading/Unloading Areas. A zoning permit shall be required for any changes to any access (including new curb cuts) and parking areas and loading/unloading areas.M. Shopping Carts. Establishments furnishing carts or mobile baskets shall provide definite areas on the site for the storage of the said carts. Storage areas shall be clearly marked and designed for the storage of shopping carts and/or mobile baskets.N. Snow Storage and Removal. All plans for proposed parking areas shall include details for adequate snow storage and removal.O. Landscaping. All improved off-street parking areas not entirely contained in a garage or building shall comply with the buffering and landscaping requirements of §60 and §61, respectively.**§30 Reserved****§31 Reserved**

**ARTICLE VI
RESIDENTIAL DEVELOPMENT**

§32 Cottage Housing Development (Developer's option in R-1 and R-2 Districts.)

A. Intent and Age Restrictions.

- (1) Authorization; Zoning Districts. This section authorizes Cottage Housing Development (CHD) as a permitted use in R-1 and R-2 Districts in accord with this §32.
- (2) Description. Cottage Housing is a type of housing appropriately sized for smaller households which encourages efficient use of land, affordability, and energy conservation. Cottage Housing allows for a higher density development than is normally allowed and is made possible by smaller home sizes, clustered home sites and parking and design standards.
- (3) Age Restrictions. Dwelling units in a cottage development shall be restricted to occupancy for at least one person 55 years of age or older and with no person less than 19 years of age pursuant to the Housing for Older Persons Act of 1995, as may be amended. However, not more than 30 percent of the units may be restricted to occupancy for at least one person 45 years of age or older and with no person less than 19 years of age.

B. Definitions. The definitions in this §32B shall supplement those in Article III.

- (1) Cluster. A group of four to twelve 12 cottages, arranged around a common open space.
- (2) Common Open Space. An area improved for passive recreational use or gardening owned and maintained commonly through a homeowners' or condominium association or similar mechanism.
- (3) Cottage. A single family detached dwelling unit that is part of a cottage housing development.
- (4) Cottage Housing Development (CHD). One or two clusters of cottages developed under a single land development plan, or as part of another land development plan.
- (5) Footprint. The gross floor area of a cottage's ground-level story.

C. Water Supply and Sewage Disposal. CHD shall only be permitted in areas served by central water supply and central sewage disposal.

D. Density; Units per Cluster.

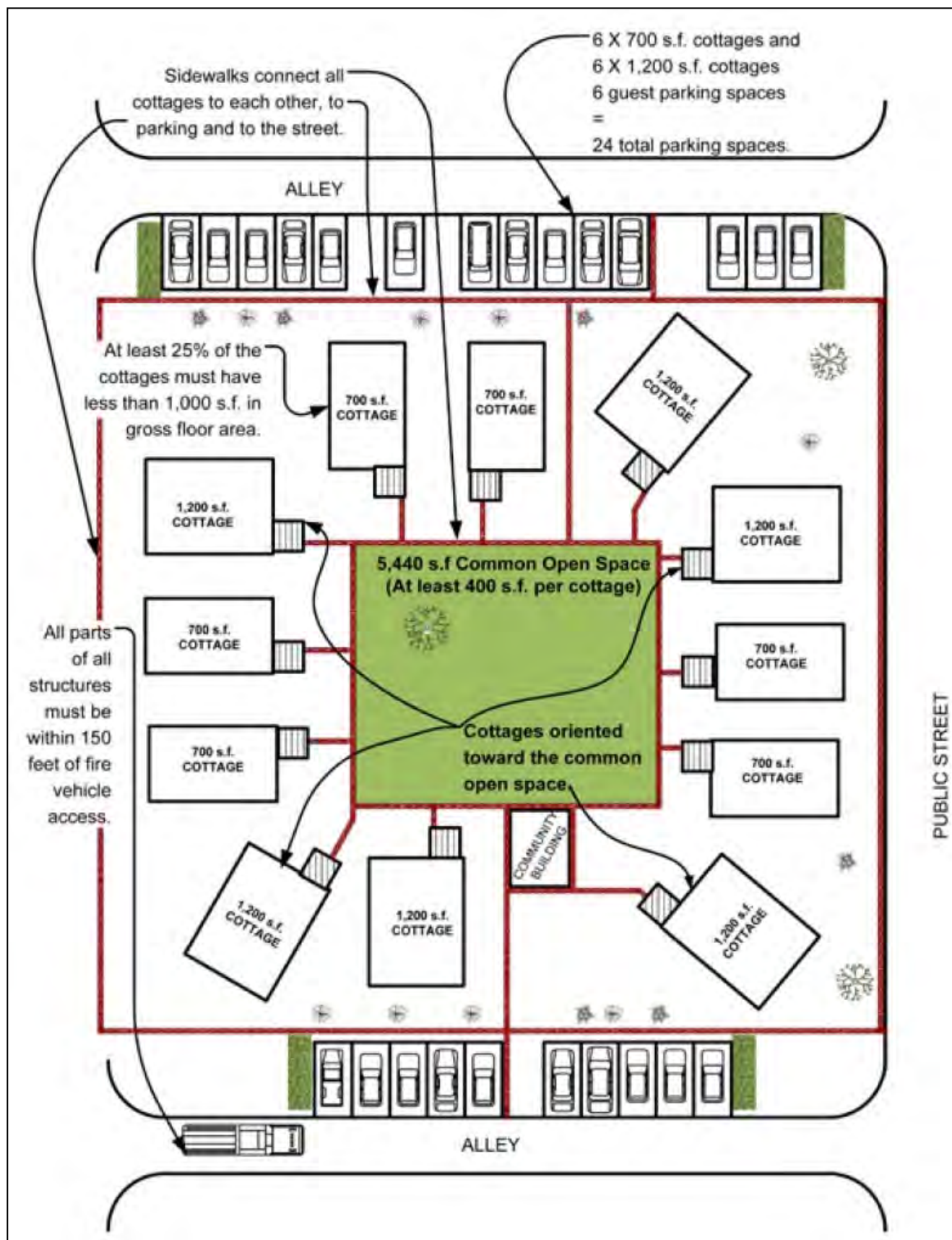
- (1) Density. Cottages may be built at up to twice the underlying zoned density for single-family detached housing.
- (2) Units per Cluster. A CHD is composed of clusters of cottages.
 - (a) Minimum units per cluster: 4
 - (b) Maximum units per cluster: 12
 - (c) Maximum clusters per CHD: 2

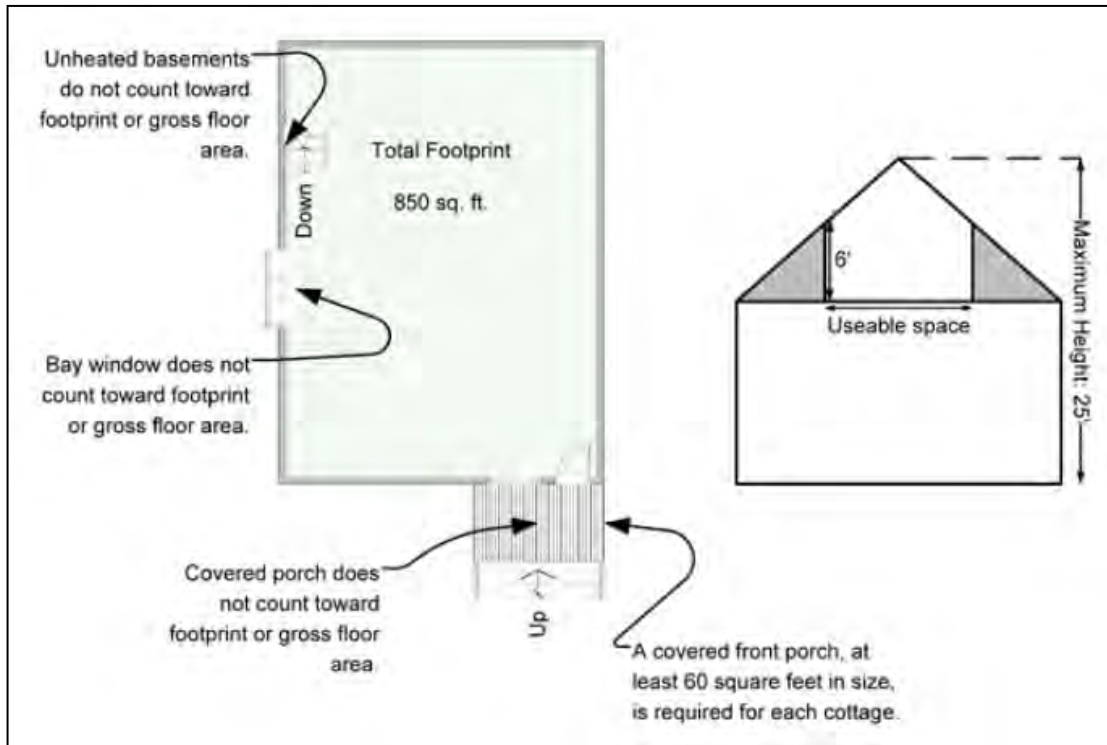
E. Community Assets.

(1) Common Open Space

- (a) Each cluster of cottages shall have common open space to provide a sense of openness and community for residents.

(Diagrams are illustrative only.)





- (b) Each cluster shall include at least 400 square feet of common open space per cottage in the cluster.
- (c) Each area of common open space shall be in one contiguous and useable piece.
- (d) To be considered as part of the minimum open space requirement, an area of common open space must have a minimum dimension of 30 feet on all sides.
- (e) The common open space shall be at least 3,000 square feet in area, regardless of the number of units in the cluster.
- (f) Required common open space may be divided into no more than two separate areas per cluster.
- (g) At least two sides of the common open space shall have cottages along its perimeter. The cottages shall front on the open space either directly or across a sidewalk or pathway.
- (h) Parking areas, required setbacks, private open space and driveways do not qualify as common open space.
- (i) Any Borough requirements for contributions to off-site recreation facilities shall be reduced for the CHD by the amount of common open space included in the development.

(2) Community Building

1. Community buildings are permitted in CHDs.
2. Community buildings shall be clearly incidental in use and size to dwelling units.
3. Building height for community buildings shall be no more than one story.

F. Common Ownership. Community buildings, parking areas and common open space shall be owned and maintained commonly by the CHD residents through a condominium association, a homeowners' association, or a similar mechanism, and shall not be dedicated to the Borough.

G. Design

(1) Cottage Size

- (a) The gross floor area of each cottage shall not exceed 1,400 square feet.
- (b) At least 25 percent of the cottages in each cluster shall have a gross floor area less than 1,000 square feet.
- (c) Cottage areas that do not count toward the gross floor area or footprint calculations are:
 - [1] Interior spaces with a ceiling height of six feet or less, such as in a second-floor area under the slope of the roof;
 - [2] Basements;
 - [3] Architectural projections such as bay windows, fireplaces or utility closets no greater than 24 inches in depth and six feet in width;
 - [4] Attached unenclosed porches;
 - [5] Garages or carports;
- (d) The footprint of each cottage shall not exceed 850 square feet.

(2) Unit Height - The maximum height of cottage housing units shall be 25 feet.

(3) Orientation of Cottages

- (a) Each dwelling unit shall be clustered around a common open space. Each unit shall have a primary entry and covered porch oriented to the common open space.
- (b) Lots in a CHD are not required to abut a public street.
- (c) Each unit abutting a public street (not including alleys) shall have a facade, secondary entrance, porch, bay window or other architectural enhancement oriented to the public street.

(4) Cottage Setbacks

- (a) The minimum setbacks for all structures (including cottages, parking structures and community buildings) in a CHD shall be:
 - [1] 10 feet from any public right-of-way.
 - [2] 10 feet from any other structure.
- (b) Cottages shall be no more than 25 feet from the common open area, measured from the facade of the cottage to the nearest delineation of the common open area.
- (c) No part of any structure in the CHD (including, but not limited to, cottages, parking structures and community buildings) shall be more than 150 feet, as measured by the shortest clear path on the ground, from fire department vehicle access.

(5) Porches

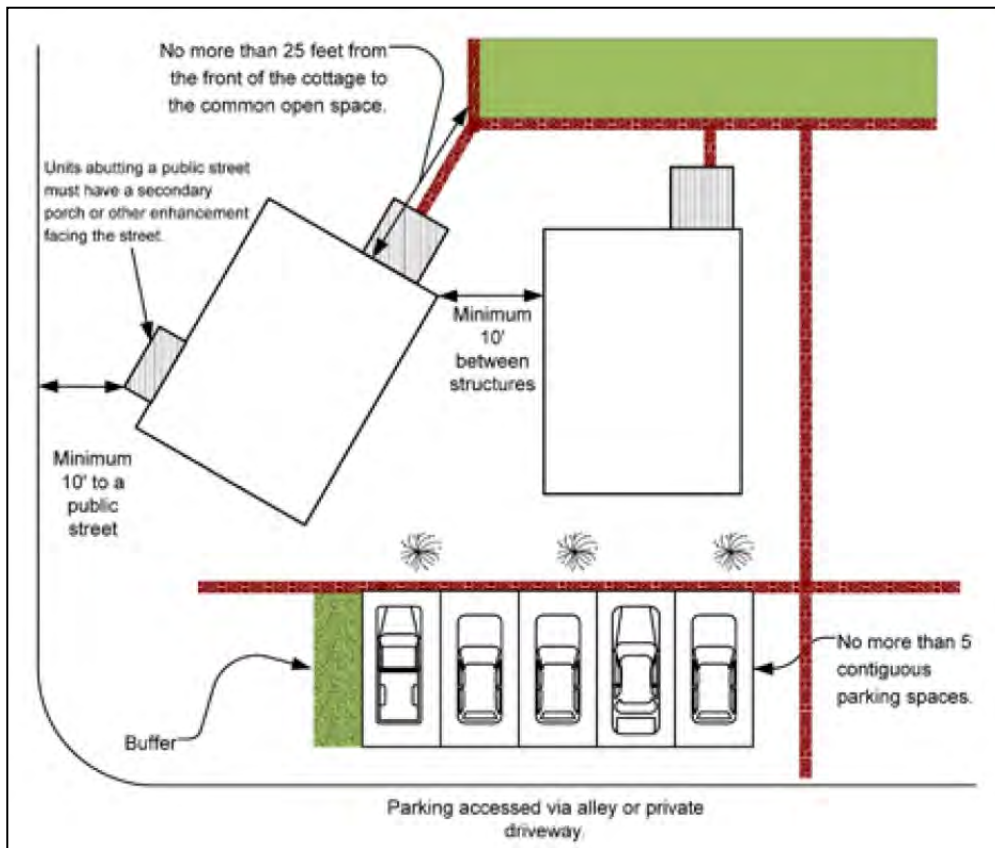
- (a) Cottage units shall have covered front porches. The front porch shall be oriented toward the common open space.
- (b) Covered porches shall have at least 60 square feet in floor area.

- (6) Basements - Cottages may have basements.

H. Parking

(1) Minimum Number of Off-Street Parking Spaces

- (a) Units up to 700 square feet: one space per dwelling unit.
- (b) Units 701-1,000 square feet: 1.5 spaces per dwelling unit, rounded up to the next whole number.
- (c) Units with more than 1,000 square feet: two spaces per dwelling.
- (d) The CHD shall include additional guest parking. A minimum of 0.5 guest parking spaces per dwelling unit, rounded up to the next whole number, shall be provided for each cottage cluster. Guest parking may be clustered with resident parking; however, the spaces shall include signs clearly identifying them as reserved for visitors.



(2) Parking Design

- (a) Parking shall be separated from the common area and public streets by landscaping and/or architectural screening. Solid board fencing shall not be allowed as an architectural screen.
- (b) Parking areas shall be accessed only by a private driveway or a public alley.
- (c) The design of garages and carports-including roof lines-shall be similar to and compatible with that of the dwelling units within the CHD.

(d) Parking areas shall be limited to no more than five contiguous spaces.

I. Walkways

- (1) A CHD shall have sidewalks along all public streets.
- (2) A system of interior walkways shall connect each cottage to each other and to the parking area, and to the sidewalks abutting any public streets bordering the CHD.
- (3) Walkways and sidewalks shall be at least four feet in width.

§33 to §48 Reserved

§49 Two-Family Dwellings

Where permitted by the Schedule of Uses, two-family dwellings shall comply with the requirements of this §49 and other applicable standards in this ordinance.

- A. Common Property Line. In cases where a two-family dwelling is a duplex involving a common (i.e. party) wall and common property line, said wall shall be located on the common property line separating the adjoining lots. The area of each lot shall comply with the Schedule of Development Standards in Article IV. Existing two-family dwelling units with a common wall may be subdivided along the wall without a setback variance.
- B. Single Parcel. In cases where the two-family dwelling consists of two dwelling units constructed with one unit located on the second floor above a first-floor dwelling unit the lot size shall comply the Schedule of Development Standards in Article IV. If such a two-family dwelling is proposed on two or more separate lots of record, said lots shall be combined into one lot prior to the issuance of a Zoning Permit.
- C. Conversions -- See §51.

§50 Multi-Family Dwellings

Multi-family dwellings are permitted in certain districts to provide the opportunity for the development of a variety of housing types in the Borough.

- A. Project Design Process and Procedure.
 - (1) Subdivision and Land Development. Multi-family projects shall also subject to the Subdivision and Land Development Ordinance.
 - (2) Site Plan. A proposed site plan showing all necessary information to include at a minimum, location of all buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Borough. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
- B. Bulk and Density Standards; Parcel Configuration. The bulk and density factors listed in the Multi-Family Dwelling Standards Table shall apply to multi-family dwellings and projects. without the application of any density bonuses. All land proposed for a specific multi-family dwelling project shall be part of the same parcel and contiguous.

MULTI-FAMILY DWELLING STANDARDS				
PROJECT STANDARDS	Quadrplexes	Townhouses	Garden Apartments	Apartment Buildings
Minimum size for project parcel	based on all applicable standards			
Density				
Maximum number of dwelling units per building				
Setbacks	same as the zoning district			
Maximum building height (feet)				
Maximum lot coverage				

C. Design Criteria. The following design criteria shall apply to multi-family projects:

- (1) Road Standards. Access roads through the development shall comply with the street requirements of the Subdivision and Land Development Ordinance. Direct access of individual parking spaces to a road shall not be permitted, and any such access drive shall remain private.
- (2) Building Separation. All principal multi-family structures shall be separated by a distance as may be required by any applicable building code, but in no case less than 20 feet.
- (3) Landscaped Buffers. Buffers shall be provided in accord with the landscaping requirements of the Subdivision and Land Development Ordinance.
- (4) Pedestrian Access. Walkways of such design and construction as approved by the Borough shall be provided from all buildings and/or units to their respective parking area and shall meet the requirements for sidewalks as set forth in the Subdivision and Land Development Ordinance.
- (5) Trash Storage. Exterior storage areas for trash and rubbish shall be screened from public view and shall be contained in covered, vermin-proof containers. Interior storage areas for trash shall always be kept in an orderly and sanitary fashion.
- (6) Architectural Renderings. Preliminary architectural renderings, models or photos for multi-family dwelling projects shall be provided at the time of submission of the conditional use application. The exterior appearance of the building(s) shall be unified in type, design, and exterior wall treatment, and so constructed and maintained, to retain the residential character of the neighborhood. Fire escapes, when required, shall be in the rear of the building and shall not be located on any wall facing a street unless any building, fire or other code so requires.
- (7) Single-Family Attached/Townhouses: Facade Changes. A minimum of two changes in the front wall plane with a minimum offset of four feet shall be provided for every attached grouping of townhouses in one building. This can be met by varying setbacks among different dwellings or varying setbacks along the front of a dwelling, or dwellings set back farther than attached private garages.

D. Non-Residential Use. Non-residential uses and home occupations which employ other than unit residents shall not be permitted in a multi-family dwelling. Such ancillary facilities as laundry areas, service buildings, recreational facilities and the like for the use of the residents of the project shall be permitted.

E. Common Property Ownership and Maintenance. In cases where the ownership of common property is involved, evidence of arrangements for the continuous ownership and maintenance of same shall be provided by the developer for approval by the Borough in accord with the Subdivision and Land Development Ordinance. The developer shall also submit evidence of compliance with the PA Condominium Law or an attorney's opinion that said Law does not apply to the subject project.

- F. Lighting. Lighting shall be provided sufficient in number and intensity to provide for the safe movement of vehicles and pedestrians. Lighting shall not reflect toward public streets or cause any annoyance to surrounding properties.

§51 Multi-Family or Two-Family Conversions

Any conversion of a building to multi-family or two-family dwelling units shall be permitted only within a district in which a new building for similar occupancy would be permitted under this ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such district.

§52 Manufactured Homes (Mobile Homes)

- A. Manufactured Homes on Individual Lots. A manufactured home placed upon single-family lot outside of a manufactured home park shall meet the following requirements:
- (1) The manufactured home shall comply with all applicable Uniform Construction Code requirements.
 - (2) The manufactured home shall have the wheels, axles and hitches removed prior to placement.
 - (3) The manufactured home shall comply in all respects with the requirements set forth in this ordinance for single-family residences in the various districts.
- B. Manufactured Home Parks. Manufactured home parks and manufactured homes in a manufactured home park shall meet the requirements of the Subdivision and Land Development Ordinance.

§53 Reserved

§54 Group Homes

Group homes shall be permitted in any lawful single-family dwelling unit in accord with the Schedule of Uses, this §54 and other applicable standards of this ordinance.

- A. Supervision. There shall be adequate supervision by person(s) trained in the field for which the group home is intended and as required by state regulations.
- B. Certification. The use shall be licensed or certified under an applicable County, State or Federal program for group housing, if applicable. A copy of any such license or certification shall be filed with the Borough and shall be required to be shown to the Zoning Officer in the future upon request. The group home shall notify the Borough within 14 days if there is a change in the type of clients, the sponsoring agency, the maximum number of residents or if an applicable certification/license expires, is suspended or is withdrawn.
- C. Registration. 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.
- D. Counseling. Any medical or counseling services provided on the lot shall be limited to residents and a maximum of three nonresidents per day.
- E. Parking. One off-street parking space shall be provided for each employee on duty at any one time, and every two residents of a type reasonably expected to be capable of driving a vehicle.
- F. Appearance. If the group home is in a R-1 or R-2 District, the building shall be maintained and/or constructed to ensure that it is closely similar in appearance, condition and character to the other residential structures in the area. No exterior signs shall identify the type of use.
- G. Bulk and Density. The construction of new group homes shall comply with the minimum lot size and other bulk and density requirements applicable to single-family residential dwellings and shall not be permitted on lots of nonconforming size.

- H. Number of Residents. A maximum of eight persons shall reside in a group home, including the maximum number of employees/supervisors and/or care providers routinely in the group home at any point in time.
- I. Visitors. 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.
- J. Contact Information: The name, telephone number, and email address of the facility supervisor shall be provided by January 15th of each year and at any time there is a change in any of the contact information.

§55 Functional Families

- A. Purpose. This §55 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.
- B. 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 §176D and, among others, the following considerations:
 - (1) Proposed occupants:
 - (a) Share a strong bond or commitment to a single purpose (e.g., religious orders);
 - (b) Are not legally dependent on others not part of the functional family;
 - (c) Can establish legal domicile as defined by Pennsylvania law;
 - (d) Share costs of food, rent or ownership, utilities and other household expenses;
 - (e) Prepare food and eat together regularly;
 - (f) Share in the work to maintain the premises;
 - (g) Legally share in the ownership or possession of the premises; and
 - (h) Share the entire dwelling unit or act as separate roomers.
 - (2) Whether the household has stability akin to a permanent family. The criteria used to make this determination may include, among others, the following:
 - (a) The length of stay together among the occupants in the current dwelling unit or other dwelling units;
 - (b) The presence of minor, dependent children regularly residing in the household;
 - (c) Whether the household is a temporary living arrangement or a framework for transient living; and,
 - (d) Whether the composition of the household changes from year to year or within the year.
 - (3) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.
- C. 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.

§56 Reserved

§57 Reserved

ARTICLE VII STANDARDS

Part 1 Design Standards

§58 Design of Commercial Establishments and Nonresidential Uses.

- A. **Intent.** It is the intent of this §58 to provide standards for the design of commercial establishments and nonresidential uses (referred to as *commercial establishments*) to assure the compatibility of the nonresidential development with the surrounding character of the Borough. This shall be accomplished by:
- (1) Siting buildings, parking areas and other facilities and improvements based upon the specific topography of development site
 - (2) Designing buildings with consideration of architectural style and type of construction material in keeping with the surrounding landscape and development pattern;
 - (3) Providing safe and convenient access from the public right-of-way based on the existing area-wide traffic circulation pattern and the expected traffic generated by the proposed use;
 - (4) Designing parking areas to complement patterns of traffic and pedestrian flow and to provide adequate off-street parking for patrons
 - (5) Maintaining to the greatest extent possible natural vegetation and provide landscaping as an integral part of the overall design of the proposed use and parking areas;
 - (6) Considering the impact of stormwater, noise, odor, traffic and lighting on surrounding land uses and providing buffers to minimize adverse impacts; and,
 - (7) Being consistent with any design guidelines adopted by the Borough.
- B. **Land Development.** Any proposed nonresidential building shall be considered a *land development* as defined by the Pennsylvania Municipalities Planning Code and the Subdivision and Land Development Ordinance unless excluded by definition. Such buildings shall comply in all respects with all the requirements for plan submission and content for land developments contained therein, as well as the information which follows. The Borough may also require any additional information, studies or reports as it deems necessary to meet the intent of this and other Borough Ordinances. The following shall be provided:
- (1) Location, widths, and names of all existing or prior platted streets and utility rights-of-way, parks, and other public open spaces, permanent buildings and structures, houses or permanent easements, and zoning and municipal boundary lines, within 200 feet of the tract;
 - (2) A traffic and pedestrian flow chart showing circulation patterns from the public right-of-way and within the confines of the land development;
 - (3) Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes;
 - (4) Location, arrangement, and dimensions of automobile parking space, width of aisles, width of bays, angle of parking;
 - (5) Location, arrangement, and dimensions of truck loading and unloading spaces and docks;
 - (6) Location and dimensions of pedestrian entrances, exits, walks;
 - (7) Location, height, and materials of walls, fences, screen plantings, and other landscaped areas; and,
 - (8) Preliminary architectural drawings for all buildings; and,

- (9) Location, size, height, and orientation of all signs other than signs flat on building facades.
- C. Site Design Process. The applicant shall demonstrate to the Borough by the submission of the necessary land development site plans, that the commercial establishment has been designed as follows:
- (1) Mapping of environmentally sensitive areas to identify all areas of the site which will remain undisturbed, along with noting site development practices which will be used to assure non-disturbance
 - (2) Locating the building site.
 - (3) Locating required buffers.
 - (4) Laying out street access, parking/loading areas, and other required or proposed improvements.
 - (5) The site proposed for any multiple-occupant commercial establishment shall be held in single ownership or in unified control; and the applicant shall provide to the Borough evidence of said ownership and/or control.

Part 2 Performance Standards

§59 Intent and Applicability and Affidavit

- A. Intent and Applicability. The intent of this Part 2 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 Part 2 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.
- B. Affidavit.
- (1) With the exception of residential uses, the applicant for a Zoning Permit for any other principal or accessory use shall include with such application an affidavit acknowledging his understanding of the performance standards in this Part 2 and applicable to such use and affirming his agreement to conduct or operate such use at all times in conformance with such standards.
 - (2) The Right to Know Law protects certain information submitted in connection with a zoning permit from public disclosure by the Borough. §708(3) of the Right to Know Law, 65 P.S. 67.708(3), exempts, "A record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system, which may include ... (iii) building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems, structural elements, technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage and gas systems." Additionally, §708(11) of the Right to Know Law, 65 P.S. 67.708(11), exempts, "A record that constitutes or reveals a trade secret or confidential proprietary information." An applicant for a zoning permit may designate application material submitted to the Borough meeting the exemption criteria of the Right to Know Law as confidential. Such confidential information shall thereafter be protected from public disclosure by the Borough to the extent permitted by law.
 - (3) Regardless if a use is required to comply with the procedure specified in this §59B, every use shall comply with all performance standards.

§60 Setbacks and Buffers

Unless otherwise regulated by this ordinance, where a nonresidential use is proposed contiguous to any existing

residential dwelling and where a S-1, VC-1, VC-2 or I District adjoins any R-1 or R-2 3 District the minimum size of the abutting setback shall be increased by 50 percent and a landscaped buffer not less than five feet in width shall be provided in accord with this §60. Storage of equipment, supplies, products or any other materials shall not be permitted in any front setback or side setback.

In the case of conditional uses and special exceptions, landscaped buffers may be required by the Borough in any setback in order to assure the protection of adjoining uses by providing visual barriers that block the glare of lights; reduce noise; serve as a protective barrier by blocking physical passage to dangerous areas; and reduce air pollution, dust and litter; and, to otherwise maintain and protect the 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 15 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 not less than six feet in height will be formed within three years of planting. In lieu of the plantings, a solid fence six feet in height may be approved by the Borough.
- 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 to a height of not less than four feet; 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, 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 property owner to maintain all buffers in good condition and replace any dying or dead plants or deteriorating landscape material.

§61 Landscaping

A landscaping plan for the proposed project shall be submitted by the developer for review and approval by the Borough. Where the project involves landscaping of more than 0.5 acre the plan shall be prepared by a qualified registered landscape architect, professional planner or registered professional engineer. Landscaping shall be considered an improvement for the purposes of regulation by the Subdivision and Land Development Ordinance. 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 feet in width.
- C. Plants shall be species which are native to Pennsylvania or are suitable for local growing conditions and which are not included on the Invasive Plants list maintained by the PA Department of Conservation and Natural Resources.
- D. Where landscaping is required to serve as a buffer (e.g., between the project and adjoining properties or between buildings and parking areas) the plants used shall be of the evergreen type and of adequate size to provide an effective buffer within five years of project approval or in accord with the time frame as may be established as a condition of approval for conditional uses, special exceptions or variances.

- E. 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.
- F. All areas in and around parking areas shall be landscaped.
- G. Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.
- H. Artificial landscape materials shall not be used in place of live trees, shrubs and vegetative ground cover.
- I. All trees to be planted shall have a trunk diameter of at least one inch as measured one foot above the ground.
- J. Ground cover shall be spaced to allow for complete fill-in within one year of the date of planting.
- K. Adequate soil preparation in accord with accepted landscape industry practices shall be required.
- L. All landscaping shall be maintained in good growing condition by the property owner and free of weeds, debris and brush.

§62 Operations and Storage

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 conducted within a building except as follows:

- A. Retail Sales Area. One outdoor retail sales area meeting the required setbacks for the district shall be permitted not to exceed 30 percent of the lot area.
- B. Outdoor Dining. Permitted in accord with §117.
- C. Conditional Use/Special Exception.
 - (1) Outdoor storage for other uses may be approved as a conditional use for a use listed as conditional use by the Schedule of Uses and as a special exception for a use listed as a special exception.
 - (2) In the case of a use listed as a principal permitted use by the Schedule of Uses, outdoor storage shall be considered a conditional use.
 - (3) Larger setbacks and/or buffers to afford protection to adjoining uses and any public road rights-of-way may be required.
- D. Storage in Setback and Parking Areas. Storage of equipment, supplies, products or any other materials shall not be permitted in any required setback or parking areas.
- E. Vehicles, Trailers, Containers. Storage of materials, supplies or products in motor vehicles, truck trailers or other containers normally used to transport materials shall only be permitted in I Districts.

§63 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.

§64 Radioactivity or Electric Disturbance

No activities shall be permitted which emit dangerous radioactivity, electrical disturbance or electromagnetic radiation adversely affecting the operation of any person or any equipment other than that of the creator of such disturbance. All applicable Federal regulations shall apply.

§65 Noise**A. Definitions.**

- (1) 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).
- (2) 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).
- (3) 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. It is a composite of all sounds from sources, both near and far.
- (4) 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 because of its operation. A collection of equipment may not necessarily be connected or related, if they may be operated simultaneously.
- (5) Suspect Source. A Noise Source that may be in violation of this §65 identified by the nature of sounds or a correlation with the times of operation and the alleged violation.

B. Limits.**(1) 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 10 dBA above the Ambient Noise Level.
 - (b) An increase in excess of 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 §65B(3).
- (2) 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 accord with §65C for a continuous two-week period no more than two years prior to the start of construction of such project.
 - (3) Maximum Noise Level. Notwithstanding any of the foregoing provisions of this §65B, 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.

Maximum Sound Levels					
Period	Receiving Land Limits (dBA)				
	Existing Dwelling	Zoning District			
		R-1, R-2, R-3	C-1, C-2, H-R	C-3, OS	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.	50	50	55	60	70
Monday-Friday, 9:00 p.m.-7:00 a.m.					

C. Measurements.

- (1) 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.
- (2) Methods. All measurements shall be taken using the FAST response time and A-weighting.
- (3) 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.
- (4) 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 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".

D. Investigation of Complaints.

- (1) 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.
- (2) 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 make a reasonable effort to 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.

(3) Background Noise Level.

- (a) The Zoning Officer, or the Zoning officer's designee, 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, or the Zoning officer's designee, 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.

(4) 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 15 minutes. If manual measurements are being taken, the measurements shall be recorded every 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.

(5) 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 minutes and need not be any longer than 15 minutes.
- (b) If manual measurements are being taken, the measurements shall be recorded every 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.
- (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 Zoning Officer's designee, (or the independent professional, if engaged by the owner/operator of the Suspect Source) shall include:

- (1) The instrument manufacturer, model, type, serial number, and laboratory re-certification date of the sound level meter and the field calibrator.
- (2) The level of the field calibration after making any adjustment of the sound level meter.
- (3) 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.
- (4) 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.
- (5) A description of the Suspect Source in operation, sufficient to allow someone to recreate the conditions of the test.
- (6) 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.
- (7) The time at which noise level measurements were started and stopped.
- (8) The time at which the operation of the Suspect Source was started and stopped, and when measurements were started and stopped.
- (9) 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
- (10) 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
- (11) A list of witnesses or other persons present during the measurements.
- (12) Any additional comments from the complainant, witnesses or the operator/owner of the suspect equipment or sources.

F. Studies for Proposed Use.

- (1) Compliance with Standards. Applicants for a specific proposed use shall be required to demonstrate that the proposed use will not violate the standards in this §65 by providing reasonable documentary evidence, which may include:
 - (a) 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
 - (b) Environmental noise measurements from similar operations and sites (same number and types of equipment, comparable topography and prevailing weather conditions).
- (2) Loudspeakers. The applicant shall provide specifications for any proposed exterior loudspeakers and

detail how compliance will be attained.

- (3) 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 §65 and/or any zoning approval.

G. Exceptions. The standards in this §65 do not apply to:

- (1) Radiated noise levels for vehicles or other operations subject to state or federal preemption.
- (2) The operation of lawn mowers, leaf blowers, string trimmers, chain saws, and other small yard maintenance equipment between sunrise and sunset.
- (3) Emergency equipment and signals.
- (4) Emergency operations of any kind, including, but not limited to, road repairs, utility repairs, response to accidents, injuries, fires, flooding, or hazardous material spills.
- (5) Short duration activities, such as construction or repair of facilities or infrastructure.
- (6) Discharge of firearms.

§66 Vibration

Operating or permitting the operations of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at 50 feet from the source if on a public space or public right-of-way shall be prohibited. For the purposes of this section, *vibration perception threshold* means the minimum ground-or- structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

§67 Lighting and Glare

The standards of this §67 shall also apply to residential and agricultural uses. 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 applicant shall provide the specifications of the proposed lighting and its arrangement on the site.

A. Purpose. To set standards for outdoor lighting to:

- (1) Provide for and control lighting in outdoor places where public health, safety and welfare are potential concerns;
- (2) Protect drivers and pedestrians from the glare of non-vehicular light sources;
- (3) Protect neighbors, the environment and the night sky from nuisance glare and light trespass from improperly selected, placed, aimed, applied, maintained or shielded light sources; and,
- (4) Promote energy efficient lighting design and operation.

B. Applicability.

- (1) This §67 shall apply to all uses within the Borough where there is exterior lighting that is viewed from outside, including, but not limited to, residential, commercial, industrial, public and private recreational/sports and institutional uses, and sign, billboard, architectural and landscape lighting.
- (2) Exemptions. The following lighting applications are exempt from the requirements of this §67:
 - (a) Lighting within public right-of-way or easement for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public right of way or easement when the

purpose of the luminaire is to illuminate areas outside the public right of way or easement.

- (b) Lighting for public monuments and statuary.
- (c) Underwater lighting in swimming pools and other water features.
- (d) Low voltage landscape lighting.
- (e) Repairs to existing luminaires not exceeding 25 percent of the number of total installed luminaires.
- (f) Temporary lighting for theatrical, television, performance areas and construction sites.
- (g) Temporary lighting and seasonal decorative lighting provided that individual lamps are less than 10 watts and 70 lumens.
- (h) Emergency lighting, as may be required by any public agency while engaged in the performance of their duties, or for illumination of the path of egress during an emergency.

C. Standards.

- (1) Illumination Levels. Lighting shall have illuminances, uniformities, and glare control in accord with the recommended practices of the Illuminating Engineering Society of North America (IESNA) unless otherwise directed by the Borough.

- (2) Luminaire Design.

- (a) Horizontal Surfaces

- [1] For the lighting of predominantly horizontal surfaces such as, but not limited to, parking areas, roadways, cul-de-sacs, vehicular and pedestrian passage areas, merchandising and storage areas, automotive-fuel dispensing facilities, automotive sales areas, loading docks, , active and passive recreational areas, building entrances, sidewalks, bicycle and pedestrian paths, and site entrances, luminaires shall be aimed straight down and shall meet IESNA full-cutoff criteria.
 - [2] Luminaires with an aggregate rated lamp output not exceeding 500 lumens, e.g., the rated output of a standard non-directional 40-watt incandescent or 10-watt compact fluorescent lamp, are exempt from the requirements of this paragraph. In the case of decorative street lighting, luminaires that are fully shielded or comply with IESNA cutoff criteria may be used.

- (b) Non-horizontal Surfaces

- [1] For the lighting of predominantly non-horizontal surfaces such as, but not limited to, facades, landscaping, signs, billboards, fountains, displays and statuary, when their use is specifically permitted by the Borough, luminaires shall be shielded and shall be installed and aimed so as to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway.
 - [2] Luminaires with an aggregate rated lamp output not exceeding 500 lumens, e.g., the rated output of a standard non-directional 40-watt incandescent or 10-watt compact fluorescent lamp, are exempt from the requirements of this §67C(2)(b).

- (3) Control of Glare.

- (a) All lighting shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
 - (b) Directional luminaires such as floodlights and spotlights shall be so shielded, installed and aimed that they do not project their output into the windows of neighboring residences, adjacent uses, past the

object being illuminated, skyward or onto a public roadway or pedestrian way. Floodlights installed above grade on residential properties, except when motion-sensor actuated, shall not be aimed out more than 45 degrees from straight down. When a floodlight creates glare as viewed from an adjacent residential property, the floodlight shall be required to be re-aimed and/or fitted with a shielding device to block the view of the glare source from that property.

- (c) Barn lights, also known as dusk-to-dawn lights, when a source of glare as viewed from an adjacent property, shall not be permitted unless effectively shielded as viewed from that property.
- (d) Reserved
- (e) Parking facility and vehicular and pedestrian-way lighting (except for safety and security applications and all-night business operations), for commercial, industrial and institutional uses shall be extinguished after the close of business or facility operation. When safety or security lighting is proposed for after-hours illumination, it shall not be in excess of 25 percent of the number of luminaires or illumination level required or permitted for illumination during regular business hours. When it can be demonstrated to the satisfaction of the Borough that an elevated security risk exists, e.g., a history of relevant crime, an appropriate increase above the 25 percent limit may be permitted as a conditional use.
- (f) Luminaires shall be automatically controlled using a programmable controller with battery power-outage reset, which accommodates daily and weekly variations in operating hours, annual time changes and seasonal variations in hours of darkness. The use of photocells is permitted when in combination with the programmable controller to turn luminaires on at dusk and for all-night safety/security dusk-to-dawn luminaire operation when such lighting is specifically approved by the Borough in accord with §67C(3)(e). The use of motion detectors is permitted.
- (g) Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily using such means as cutoff luminaires, shields and baffles, and appropriate application of luminaire mounting height, wattage, aiming angle and luminaire placement.
- (h) Light Spillover.
 - (1) Residential. The illumination projected from any use onto a residential use or permanent open space shall at no time exceed 0.1 initial footcandle, measured line-of-sight at any time and from any point on the receiving residential property. This shall include glare from digital or other illuminated signs
 - (2) Nonresidential. The illumination projected from any property onto a non-residential use shall at no time exceed one initial footcandle, measured line-of-sight from any point on the receiving property
- (i) Height. Except as permitted for certain recreational lighting and permitted elsewhere in this paragraph, luminaires shall not be mounted in excess of 20 feet above finished grade (AFG) of the surface being illuminated. Luminaires not meeting full-cutoff criteria, when their use is specifically permitted by the Borough, shall not be mounted in excess of 16 feet AFG. Mounting height shall be defined as the distance from the finished grade of the surface being illuminated to the optical center of the luminaire. Where proposed parking lots consist of 100 or more contiguous spaces, the Borough may, at its discretion, based partially on mitigation of potential off-site impacts, permit a luminaire mounting height not to exceed 25 feet AFG. For maximum mounting height of recreational lighting, see §67D.
- (j) The United States, state and other official flags may be illuminated from dusk to dawn. All other flags shall not be illuminated past 11:00 p.m. Flag lighting sources shall not exceed 7,000 aggregate lamp lumens per flagpole. The light source shall have a beam spread no greater than necessary to illuminate the flag.
- (k) Under-canopy lighting for such applications as gas/service stations, hotel/theater marquees, fast-

food/bank/drugstore drive-ups, shall be accomplished using flat-lens full-cutoff luminaires aimed straight down and shielded in such a manner that the lowest opaque edge of the luminaire shall be below the light source and its light-directing surfaces, at all lateral angles around the luminaire. The average illumination intensity in the area directly below the canopy shall not exceed 20 maintained footcandles and the maximum density shall not exceed 30 initial footcandles.

(l) Soffit lighting around building exteriors shall not exceed 15 initial footcandles.

(m) The use of white strobe lighting for tall structures such as smokestacks, chimneys and radio/communications towers is prohibited during hours of darkness except as required by the Federal Aviation Administration.

(4) Installation.

(a) Electrical feeds for lighting standards shall be run underground, not overhead, and shall be in accord with the National Electric Code (NEC) Handbook.

(b) Poles supporting luminaires for the illumination of parking areas and located within the parking area or directly behind parking spaces, or where they could be hit by snow plows or wide-swinging vehicles, shall be protected by being placed a minimum of five feet outside paved area or tire stops, or placed on concrete pedestals at least 30 inches high above the pavement, shielded by steel bollards or protected by other effective means.

(c) Pole mounted luminaires for lighting horizontal surfaces shall be aimed straight down and poles shall be plumb.

(d) Poles and brackets for supporting luminaires shall be those specifically manufactured for that purpose and shall be designed and rated for the luminaire and mounting accessory weights and wind loads involved.

(e) Pole foundations shall be designed consistent with manufacturer's wind load requirements and local soil conditions involved.

(5) Maintenance. Luminaires and ancillary equipment shall be maintained to meet the requirements of this ordinance.

(6) Billboards and Signs. The lighting of new or relighting of existing billboards and signs shall require a permit, which shall be granted when the Zoning Officer is satisfied that excessive illumination, light pollution, glare and light trespass have been adequately mitigated, and shall be subject to the following requirements:

(a) Externally illuminated billboards and signs shall have luminaires mounted at the top of the billboard or sign and aimed downward. The luminaires shall be designed, fitted and aimed to shield the lamp and its reflective surfaces from off-site view and to place the light output onto and not beyond the sign or billboard. Lighting shall be by linear fluorescent unless it can be demonstrated to the satisfaction of the Borough that such a mounting arrangement is not possible. At no point on the face of the sign or billboard and at no time shall the illumination exceed 30 vertical footcandles during hours of darkness.

(b) Internally illuminated signs shall have a dark field and light message. The aggregate output of the light sources shall not exceed 500 initial lumens per square foot of sign face per side.

(c) The illumination of a billboard within 400 feet of a residential use shall not be permitted.

(d) Rotating, traveling, pulsing, flashing or oscillating light sources, lasers, beacons, searchlights or strobe lighting shall not be permitted.

(e) The use of highly reflective signs that creates nuisance glare or a safety hazard shall not be permitted.

D. Recreational Uses. The nighttime illumination of outdoor recreational facilities for such sports as baseball, basketball, soccer, tennis, track and field, and football typically necessitate higher than normally permitted luminaire mounting heights and aiming angles, utilize very high-wattage lamps and potentially produce unacceptable levels of light trespass and glare when located near residential properties. Permission to illuminate such facilities shall be granted only when the Borough is satisfied that the health, safety and welfare rights of nearby property owners and the Borough as a whole have been properly protected. When recreational uses are specifically permitted by the Borough for operation during hours of darkness, the following requirements shall apply:

- (1) Racetracks and such recreational venues as golf driving ranges and trap-shooting facilities that necessitate the horizontal or near horizontal aiming of luminaires and projection of illumination, may be permitted by conditional use. A visual impact analysis shall be required in accord with §67D(6).
- (2) A proposed illuminated recreational facility located within a R-1 or R-2 District or sited on a nonresidential property located within 1,000 feet of a property in a R-1 or R-2 District shall be considered a special exception.
- (3) Sporting events shall be timed to end at such time that all lighting in the sports facility, other than lighting for safe exit of patrons, shall be extinguished by 10:00 p.m. except in the occurrence of extra innings, overtimes or make-up games.
- (4) The Borough reserves the right to limit the number of illuminated sporting events per week or season.
- (5) Maximum mounting heights for recreational lighting shall be in accordance with the following:

(a) Basketball.....	20 feet
(b) Football	70 feet
(c) Soccer	70 feet
(d) Lacrosse.....	70 feet
(e) Baseball and softball	
1) 200-foot radius.....	60 feet
2) 300 -foot radius.....	70 feet
(f) Miniature golf.....	20 feet
See driving range in §67D(1)	
(g) Swimming pool aprons.....	20 feet
(h) Tennis.....	20 feet
(i) Track	20 feet
(j) All uses not listed	20 feet

(6) Visual Impact Plan. To assist the Borough in determining whether the potential impacts of proposed lighting have been suitably managed, applications for illuminating recreational facilities shall be accompanied not only with the information required by §67E, but also by a Visual Impact Plan that contains the following:

- (a) Plan views containing a layout of the recreational facility and showing pole locations and the location of residences on adjoining properties.
- (b) Elevations containing pole and luminaire mounting heights, horizontal and vertical aiming angles and luminaire arrays for each pole location.
- (c) Elevations containing initial vertical illuminance plots at the boundary of the site, taken at a height of 5-foot line-of-sight.
- (d) Elevations containing initial vertical illuminance plots on the windowed facades of all residences facing and adjacent to the recreational facility. Such plots shall demonstrate compliance with the light trespass and glare control requirements of §67C(3).
- (e) Proposed frequency of use of the facility during hours of darkness on a month-by-month basis and proposed time when the sports lighting will be extinguished.

(f) A narrative describing the measures proposed to achieve minimum off-site disturbance.

E. Plan Submission. Lighting plans shall be submitted for Borough review and approval for subdivision and land development, conditional use, variance, zoning permit and special exception applications. The submitted information shall include the following:

- (1) A plan or plans of the site, complete with all structures, parking spaces, building entrances, traffic areas (both vehicular and pedestrian), existing and proposed trees, and adjacent uses that might be adversely impacted by the lighting. The lighting plan shall contain a layout of all proposed and existing luminaires, including but not limited to area, architectural, building entrance, canopy, soffit, landscape, flags and signs, by location, orientation, aiming direction, mounting height, lamp, photometry and type.
- (2) A 10'x10' illuminance grid (point-by-point) plot of maintained horizontal footcandles overlaid on the site plan, plotted out to 0.0 footcandles, which demonstrates compliance with the light trespass, illuminance and uniformity requirements as set forth in this ordinance. When the scale of the plan, as judged by the Borough, makes a 10'x10' grid plot illegible, a more legible grid spacing may be permitted.
- (3) Light-loss factors, IES candela test-filename, initial lamp-lumen ratings and specific lamp manufacturer's lamp ordering nomenclature, used in calculating the plotted illuminance levels.
- (4) Description of the proposed equipment, including luminaire catalog cuts, photometrics, glare reduction devices, lamps, on/off control devices, mounting heights, pole foundation details, pole protection means and mounting methods.
- (5) Landscaping plans shall contain luminaire locations, demonstrating that the site lighting and landscaping have been coordinated to minimize conflict between vegetation and intended light distribution, both initially and at vegetation maturity.
- (6) When requested by the Borough for conditional uses or special exceptions, the applicant shall also submit a Visual Impact Plan in accord with §67D(6).
- (7) Plan Notes. The following notes shall appear on the Lighting Plan:
 - (a) Post-approval alterations to lighting plans or intended substitutions for specified lighting equipment on the approved plan shall be submitted to the Borough for review and approval prior to installation. Requests for substitutions shall be accompanied by catalog cuts of the proposed equipment that demonstrate the proposed substitution is equal to or exceeds the optical quality and maintainability of the specified luminaires; and shall be accompanied by a lighting plan, including a point-by-point plot, which demonstrates that proposed substitutions will result in a lighting design that equals or exceeds the quality of the approved plan.
 - (b) The Borough reserves the right to conduct post-installation inspections to verify compliance with ordinance requirements and approved Lighting Plan commitments, and if deemed appropriate by the Borough, to require remedial action at no expense to the Borough.
 - (c) All exterior lighting, including building-mounted lighting, shall meet IESNA full-cutoff criteria unless otherwise specifically approved by the Borough.
 - (d) Installer shall notify Borough to arrange for inspection and approval of all exterior lighting, including building-mounted lighting, prior to its installation.

F. Compliance Monitoring.

- (1) Safety Hazards. If the Zoning Officer determines that a lighting installation creates a safety hazard, an enforcement proceeding shall be initiated.
- (2) Nuisance Glare and Inadequate Illumination Levels. If the Zoning Officer determines that a lighting installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient

illumination levels or otherwise varies from the requirements of this ordinance, enforcement proceedings shall be initiated.

G. Non-Conforming Lighting. A nonconforming lighting fixture or lighting installation shall be made to conform with the applicable requirements of this §67 when:

- (1) It is deemed by the Zoning Officer to create a safety hazard;
- (2) It is replaced, abandoned, or relocated;
- (3) There is a change in use; or,
- (4) Minor corrective action is deemed appropriate by the Zoning Officer to bring the fixture or installation into conformance with the requirements of this ordinance. Minor corrective action shall be defined as having a cost not to exceed 25 percent of the cost of the replacement of the fixture or installation.

H. Definitions. Words and phrases used in this §67 shall have the meanings set forth in this §67H. Words and phrases not defined in this §67 but defined in Article II shall be given the meanings set forth in Article II. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

Architectural Lighting - Lighting designed to reveal architectural beauty, shape and/or form and for which lighting for any other purpose is incidental.

Footcandle - The amount of illumination the inside surface of a 1-foot radius sphere would receive if there were a uniform point source of one candela in the exact center of the sphere. The footcandle is equal to one lumen per square foot and is measurable with an illuminance meter (light meter).

Full Cutoff - Attribute of a luminaire from which no light is emitted at or above a horizontal plane drawn through the lowest light-emitting portion of the luminaire and no more than 10 percent of the lamp's intensity is emitted at or above an angle 10 degrees below that horizontal plane, at all lateral angles around the luminaire. A full-cutoff luminaire, by definition, also is fully shielded.

Fully Shielded - A luminaire with opaque top and sides, capable of emitting light only in the lower photometric hemisphere as installed.

Glare - Light entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or loss in visual performance and visibility.

IESNA. Illuminating Engineering Society of North America

Lamp - A generic term for a source of optical radiation, often called a "bulb" or "tube."

LED - Light Emitting Diode.

Lighting System - On a site, all exterior electric lighting and controls.

Light Trespass - Light emitted by a luminaire or installation, which is cast beyond the boundaries of the property on which the lighting installation is sited.

Lumen - As used in the context of this ordinance, the light-output rating of a lamp (light bulb).

Luminaire - The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s) when applicable, together with the parts designed to distribute the light (reflector lens, diffuser) to position and protect the lamps, and to connect the lamps to the power supply.

Luminaire, Shielded Directional - A fully shielded luminaire with an adjustable mounting device allowing aiming in a direction other than straight downward.

§68 Odors

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

§69 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.

§70 Surface and Groundwater Protection

All activities involving the possible contamination or depletion of surface or groundwater shall be provided with adequate safety devices to prevent such contamination or depletion. In cases where any earth disturbance will result in the excavation of bedrock, the Township 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 mitigation actions shall be provided by the developer. The Township may require a plan to be submitted for review and approval and may require security for ensuring mitigation actions. Monitoring wells and water quality testing may also be required by the Township. The developer shall also provide details about the use of groundwater and any processes that could result in the depletion of groundwater supplies. No use shall be permitted which would result in the depletion of groundwater supplies. The developer shall provide documentation of compliance with PA DEP, Delaware River Basin Commission, and U.S. Environmental Protection Agency regulations.

§71 Stormwater Management and Soil Erosion and Sedimentation Control

- A. Stormwater. A stormwater management plan and soil erosion control plan shall be required for review and approval. Said plan shall be prepared and implemented pursuant to the standards contained in the Subdivision and Land development Ordinance and County Conservation District and PA DEP requirements.
- B. Soil Erosion and Sedimentation Control. Soil erosion and sedimentation controls shall be provided in accord with County Conservation District and PA DEP requirements.

§72 Waste Materials

No liquid, solid, toxic, or hazardous waste shall be stored or disposed of in any commercial, residential or other 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 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 stormwater 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.

§73 Handicapped Access

Access for handicapped persons to all uses shall be provided in accord with all applicable state and federal requirements.

§74 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 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 not be permitted.

§75 Security

In cases where deemed necessary by the Borough (e.g., correctional facilities), 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 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.

§76 Water Supply

All uses shall be provided with an adequate and safe water supply as demonstrated by approval by the Borough Water Authority.

§77 Sewage Disposal

Sewage disposal shall be provided by a system meeting the needs of the proposed use and the requirements of the Borough Sewer Authority and PA DEP.

§78 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.

§79 Waste Containers

All commercial, residential and other uses shall provide adequate waste containers to store waste until disposal and to prevent litter.

- A. Screening. All trash dumpsters shall be screened as needed to screen the dumpster from view from public streets or dwellings on abutting lots. A solid wooden fence, brick wall, evergreen plants or structure designed to be architecturally compatible with the principal building shall be used for such screening.
- B. Setback from Dwellings. Any solid waste container with a capacity of five cubic yards or more shall be kept a minimum of 15 feet from any property line and any street right-of-way.
- C. Food Sales. Any use that involves the sale of ready-to-eat food for consumption outside of a building shall provide at least one outdoor solid waste receptacle for customer use at a convenient location outside of the main exit door of the property. The operator of such use shall be responsible for regular emptying and maintenance of such receptacle.
- D. Enclosed Containers. Solid waste receptacles stored outdoors shall be adequately enclosed and covered to control the attraction of rodent and insects.

§80 Other Regulations

The Zoning Officer, Planning Commission, Borough Council or the Zoning Hearing Board, as the case may be, shall 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.

Part 3 Environmental Protection

§81 Environmental Assessment

The intent of this §81 is to provide the identification of environmental and community impacts and means of mitigation of impacts of development projects in the Borough. The Borough Council, Planning Commission, or Zoning Hearing Board may, based upon the nature of a project and potential impacts on the Borough, require the developer to prepare and submit to the Borough an environment assessment (EA) for the following types of developments and uses:

- (1) Industrial parks.

- (2) Industrial uses.
- (3) Junkyards.
- (4) Mineral extraction including oil and gas wells.
- (5) Mineral processing.
- (6) Agricultural products processing.
- (7) Solid waste facilities and staging areas.
- (8) Warehouses and trucking terminals.
- (9) Concentrated animal feeding operations.
- (10) Transmission pipelines and hazardous liquid pipelines.
- (11) Pipeline compressor stations, metering stations or operation/maintenance facilities.
- (12) Any nonresidential use involving the initial or cumulative disturbance of 87,120 or more square feet of soil surface areas.
- (13) Any nonresidential use involving the initial or cumulative construction, installation and/or placement of 43,560 square feet or more of buildings, structures or other impervious surface areas.

The requirements of this §81 may be applied to any other proposed conditional use or special exception, which for reasons of location, design, existing traffic or other community or environmental considerations, as determined by the Borough, warrants the application of the study required contained herein to determine what conditions should be required to mitigate any adverse effects of the proposed use. The Borough Council, Planning Commission, or Zoning Hearing Board may waive certain components of the EA should such components be deemed unnecessary for certain uses.

- A. Purpose of EA. The purpose of this EA is to disclose the environmental and community consequences of a proposed action for consideration by the Borough for the determination of approval or denial of the project, and, if the project is approved, for the establishment of conditions of approval. This requirement is made in order to protect the natural environment and community.
- B. Contents of EA. An environment assessment shall include a description of the proposed use including location relationship to other projects or proposals, with adequate data and detail for the Borough to assess the impact. The EA shall also include a comprehensive description of the existing environment and community and the probable future effects of the proposal. The description shall focus on the elements of the environment and community most likely to be affected as well as potential regional effects and ecological interrelationships.

At a minimum, the EA shall include an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts; and said proposal shall comply with all other standards included in this ordinance and other Borough Ordinances:

- (1) Soil Types.
 - (a) U.S.D.A. Soil Types (show on map)
 - (b) Permeability of soil on the site.
 - (c) Rate of percolation of water through the soil for each five acres.
- (2) Surface Waters.
 - (a) Distance of site from nearest surface water and head waters of streams.
 - (b) Sources of runoff water.
 - (c) Rate of runoff from the site.
 - (d) Destination of runoff water and method of controlling downstream effects.
 - (e) Chemical additives to runoff water on the site.
 - (f) Submission of an erosion and sediment control plan meeting the requirements of the PA DEP and the County Conservation District.
 - (g) Said information shall be set forth in a stormwater management plan meeting the requirements of the Subdivision and Land Development Ordinance.
- (3) Ground Cover Including Vegetation and Animal Life.
 - (a) Extent of existing impervious ground cover on the site.

- (b) Extent of proposed impervious ground cover on the site.
- (c) Type and extent of existing vegetative cover on the site.
- (d) Extent of proposed vegetative cover on the site.
- (e) Type of animal life and effect on habitat.

(4) Topographic and Geologic.

- (a) Maximum existing elevation of site.
- (b) Minimum existing elevation of site.
- (c) Maximum proposed elevation of site.
- (d) Minimum proposed elevation of site.
- (e) Description of the topography of the site and any special topographic features, and any proposed changes in topography.
- (f) Surface and subsurface geology

(5) Groundwater.

- (a) Average depth to seasonal high water table.
- (b) Minimum depth to water table on site.
- (c) Maximum depth to water table on site.
- (d) Quality

(6) Water Supply.

- (a) The source and adequacy of water to be provided to the site.
- (b) The expected water requirements (gallons per day) for the site.
- (c) The uses to which water will be put.

(7) Sewage Disposal.

- (a) Sewage disposal system (description and location on the site, of system).
- (b) Expected content of the sewage effluent (human waste, pesticides, detergents, oils, heavy metals, other chemical).
- (c) Expected daily volumes of sewage.
- (d) Affected sewage treatment plant present capacity and authorized capacity.

(8) Solid Waste.

- (a) Estimated quantity of solid waste to be developed on the site during and after construction.
- (b) Method of disposal solid waste during and after construction.
- (c) Plans for recycling of solid waste during and after construction.

(9) Air Quality and Odor.

- (a) Expected changes in air quality and odor due to activities at the site during and after construction.
- (b) Plans for control of emissions affecting air quality and odor.

(10) Noise.

- (a) Noise levels, above existing levels, expected to be generated at the site, (source and magnitude), during and after construction.
- (b) Proposed method for control of additional noise on site during and after construction.

(11) Land and Water Surface Use and Community Character.

- (a) Past and present use of the site with attention to storage or disposal of toxic or hazardous waste.
- (b) Adjoining land uses and values and character of the area.
- (c) Type and concentration of existing watercraft uses.

- (12) Critical Impact Areas. Any area, condition, or feature which is environmentally sensitive, or which if disturbed during construction would adversely affect the environment. Critical impact areas include, but are not limited to, stream corridors, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, areas of high water table, and mature stands of native vegetation and aquifer recharge and discharge areas
- (13) Historic Resources. Identification of structures or sites of historic significance and probable effect of project.
- (14) Transportation Network. Existing network traffic volumes and capacities and need for improvements required by the project. In the case of PennDOT roads a copy of the traffic study required by PennDOT shall be submitted and in the case of Borough roads, the study shall be conducted in accord with PennDOT requirements.
- (15) Law Enforcement. Existing law enforcement capabilities of the Borough and State; and assess the impact of the proposed development on said law enforcement agencies along with actions proposed to mitigate any burdens created by the development.
- (16) Community Facilities and Services. Existing community facilities and services and how the proposed use will effect those facilities and services, including projected needs for additional facilities and services.
- (17) Additional Requirements. In addition to the above requirements the Planning Commission and/or Borough Council or the Zoning Hearing Board may require such other information as may be reasonably necessary for the Borough to evaluate the proposed use for its effect on the community.

C. Additional Considerations. The following shall also be addressed:

- (1) A description of alternatives to the proposed use.
- (2) A statement of any adverse impacts which cannot be avoided.
- (3) Environmental protection measures, procedures and schedules to minimize damage to critical impact areas during and after construction.
- (4) A list of all licenses, permits and other approvals required by municipal, county or state law and the status of each.
- (5) A listing of steps proposed to minimize environmental damage to the site and region during and after construction.

D. Qualifications. The EA shall be prepared by a professional architect, landscape architect, planner, engineer or other qualified individual whose qualifications have been previously approved by the Borough Council or the Zoning Hearing Board as the case may be.

E. Procedures for Evaluating the Environment Assessment Shall be as Follows.

- (1) Upon receipt of the application the Borough shall forward the EA to the Borough Engineer and any other Agency or firm which the Borough may desire for consultation.
- (2) The above-mentioned Agencies shall review the applicant's EA and shall report its comments to the Planning Commission and Borough Council or Zoning Hearing Board.
- (3) The Planning Commission and/or Borough Council or Zoning Hearing Board may require the opinion of experts in their review of the EA.
- (4) Copies of the EA shall be on file and available for inspection in the Borough office.
- (5) The Planning Commission shall evaluate the proposed project and the EA and recommend action on same to the Borough Council or Zoning Hearing Board.

§82 Special Conservation Standards

All uses permitted by this ordinance shall be subject to the following special conservation performance standards which shall apply to any lands that are characterized as steep slopes, wetlands or flood plains, except that these provisions do not apply where the applicant proposes to join two existing parcels into a single parcel, or to subdivide a parcel from one parcel and join that with an adjoining tract of land, and where no new development is proposed on the resulting lots. The procedures and standards are as follows:

A. Steep Slope Areas.

- (1) General Requirements. Steep slopes shall be defined as slopes of 25 percent or more as determined by the Zoning Officer, from United States Geological Survey topographic maps or USDA NRCS maps. In cases where the slope cannot be specifically determined by said means, the Zoning Officer may require the applicant to provide certification from a Qualified Professional of the slope in question. Slope shall be measured at the points where any earth will be disturbed or where structures or other improvements are proposed.
- (2) Development on Steep Slopes. Any use or development of such steep slope areas shall be considered a conditional use, and in reviewing applications for use of sites partially or wholly included within an area identified as steep-sloped, the Borough Council and Planning Commission shall be satisfied that the following performance standards have been or will be met:
 - (a) An accurate map prepared by a Qualified Professional has been submitted showing property boundaries, building and drive locations, contours at two foot intervals and any areas to be graded. The proposed location of other factors shall also be shown including streams, wetlands, areas subject to landslides and extent of vegetative cover.
 - (b) A clearing, grading and drainage plan has been prepared showing existing and proposed ground surfaces, plans for drainage devices, plans for walls or cribbing, etc., map of the drainage area affected, computation of the amount of runoff expected, an erosion control plan and schedule for completion of work.
 - (c) The applicant shall demonstrate that the proposed development cannot be accomplished on areas of the lot where the slope is less than 25 percent.
 - (d) No finished grade where fill is used shall exceed a slope of three feet horizontal to one foot vertical.
 - (e) Where fill is used to later support structures, a minimum compaction of 90 percent of maximum density shall be achieved.
 - (f) Soils characterized by the Natural Resource Conservation Service as highly susceptible to erosion shall be avoided.
 - (g) Roads and utilities shall be installed along existing contours to the greatest extent possible.
 - (h) Any steep slope areas also characterized by seasonal high water tables shall be avoided.
 - (i) Removal of, or disturbance to, existing vegetation on the site shall be minimized. The proposed impacts on existing vegetation shall be evaluated in terms of the potentially detrimental effects on slope stability, erosion potential, transpiration and recharge of stormwater, aesthetic and traditional characteristics of the landscape, and existing drainage patterns. Mitigation measures may be required by the Board as it deems appropriate.
 - (j) In cases where structures are proposed, the applicant shall submit plans to the Zoning Officer detailing how the limitations of slope will be mitigated by the design of the structure(s).

B. Wetlands.

- (1) Identification.

- (a) Delineation. If the Borough reasonably anticipates that wetlands may be present or may be impacted by the proposed development, the Borough may require wetlands, as defined and regulated by the Pennsylvania Department of Environmental Protection, the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service to be delineated and shown on any application proposing a new use or expanded use of land.
 - (b) Applicant Responsibility. The Applicant shall be responsible for said delineation and supply to the Borough a written report from the individual, partnership, corporation or other entity which performed the wetlands delineation fully describing the methodology used. Notwithstanding receipt of such delineation and report, the Borough may require the Applicant to submit, at no cost to the Borough, an additional wetlands delineation of the site and report as to methodology, from a second source for purposes of verification. In the event of discrepancy between delineations, the Applicant shall obtain a jurisdictional determination.
 - (c) Jurisdictional Determination. The Borough may also require that the applicant obtain a Jurisdictional Determination from the U.S. Army Corps of Engineers.
 - (d) Certification of No Wetlands. If no wetlands are present, the applicant shall provide a certified statement to that effect.
- (2) State and Federal Regulations. Any approval under this ordinance shall be conditioned upon compliance with federal and state wetland regulations. The Borough Council may refuse to approve a plan for recording or delay the issuance of permits until an applicant documents such compliance.
- (3) Liability. No zoning approval granted by the Borough shall in any manner be construed to be an approval of compliance by the Applicant with any State or Federal wetland regulations; and the Borough shall have no or responsibility to the applicant or any other person for compliance with said regulations.

C. Lake and Pond Buffer.

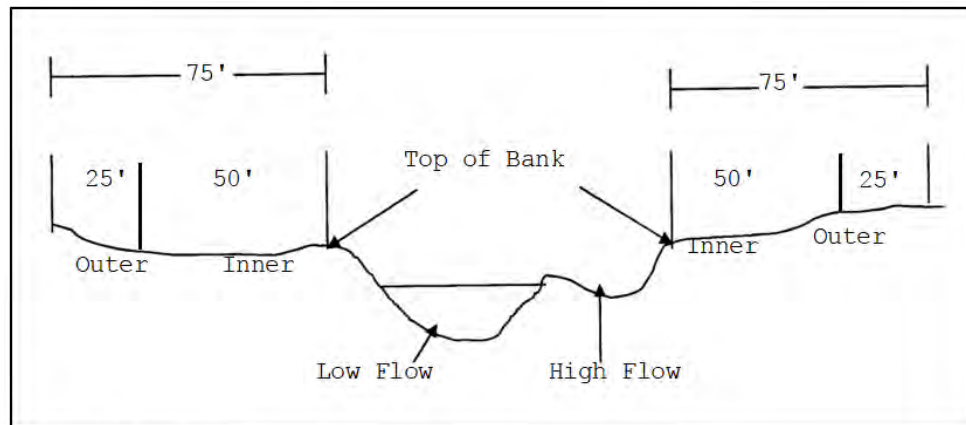
- (1) Lake and Pond Buffer Required. A buffer of 50 feet in width, measured perpendicular to and horizontally from the edge of the water body, shall be maintained from the edge of all lakes and ponds.
- (a) Unpaved trails and stormwater conveyance facilities required by the Borough shall be permitted.
 - (b) Vegetation shall not otherwise be disturbed except for buffer maintenance and restoration, or the correction of hazardous conditions.
 - (c) Residential accessory structures, boat docks and accesses, and tree trimming for lake front views shall be permitted provided that no more than 35 percent of the buffer area is affected.
 - (d) No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted.
- (2) Minimum Required Lot Size. See the definition of *lot area, required minimum* for the required deduction of lakes and ponds.

D. Stream Buffer.

- (1) Stream Buffer Required. A buffer of 75 feet in width, comprised of a 50-foot inner buffer and a 25-foot outer buffer, shall be maintained along all streams. (See *Stream Buffer Diagram*.)
- (a) Inner Buffer - Measured perpendicular to and horizontally from the edge of the stream for 50 feet.

[1] Encroachments and obstructions as defined and approved by DEP, stormwater conveyance facilities required by the Borough, and unpaved trails shall be permitted.

- [2] Vegetation shall not otherwise be disturbed except for buffer maintenance and restoration, or the correction of hazardous conditions.
- [3] No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted except as permitted by the Borough Floodplain Ordinance.



Stream Buffer Diagram

- (b) Outer Buffer. Measured perpendicular to and horizontally from the edge of the inner buffer for 25 feet.

- [1] Encroachments and obstructions as defined and approved by DEP, stormwater conveyance facilities required by the Borough, and unpaved trails shall be permitted.
- [2] In areas of the outer buffer which are not wetlands, vernal pools or slopes of more than 15 percent, stormwater management facilities which improve the quality of the stormwater discharge shall be permitted unless prohibited by other Borough or state requirements.
- [3] Crop production and non-clear-cut forestry enterprises (e.g., selective regeneration harvest) shall be permitted in accord with this ordinance.
- [4] Vegetation shall not otherwise be disturbed except for buffer maintenance and restoration, or the correction of hazardous conditions.
- [5] No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted except as permitted by the Borough Floodplain Ordinance.

- (2) Minimum Required Lot Size. See the definition of *lot area, required minimum* for the required deduction of streams.

E. Floodplain. Floodplain shall be governed by the Borough floodplain regulations.

§83 Reserved

§84 Grading Operations

The grading of a lot, parcel or any site involving cuts and/or fills shall comply with the following:

- A. Special Exception. Any excavations for the removal of topsoil or other earth products may be permitted only as a temporary special exception by the Zoning Hearing Board.

- (1) Such excavations shall be adequately drained to prevent the formation of pools of water.

- (2) Temporary ponds may be permitted by the Board if those ponds are part of a plan and/or permit for soil erosion and stream sedimentation control as per approved plans.
- (3) The Board may require that such an excavation be enclosed by a fence if it is deemed to be a menace to the public health, safety and welfare.
- B. Building or Structure. Unless specifically permitted by the Board, 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. Dumping. The dumping of earth, gravel, rock or other materials not subject to decay, noxious or offensive odors may be permitted in any zone or any vacant land provided that:
 - (1) The existing grade shall not be raised above the grade of the nearest road.
 - (2) Hazardous or nuisance conditions are not created and that an unsightly appearance or unstable slopes are not created.
 - (3) Industrial or other operations requiring the dumping of such materials above the grade of the nearest road may be permitted by the Board as a special exception if the Board determines that such dumping is not a menace to the public health, safety or welfare or a nuisance to nearby residential areas.

§85 Traffic Impact Study (TIS)

- A. Intent. Traffic impact studies may be required for certain activities to enable the Borough to assess the effect on the transportation system in and around the Borough and to:
 - (1) Ensure that proposed uses do not adversely affect the transportation network.
 - (2) Identify any traffic problems associated with site access.
 - (3) Determine traffic problems on private, Borough, County or State roads in the project traffic study area.
 - (4) Assist in the protection of the safety of the motoring public, air quality, and energy conservation.
- B. TIS Requirement.
 - (1) Thresholds. A TIS may be required for:
 - (a) All proposals that are projected to generate 150 or more trip-ends per project peak hour or 1,500 trip-ends or more per day based on the latest edition of *Trip Generation* published by the Institute of Transportation Engineers.
 - (b) Additions to a use, changes of use and replacements of nonconforming uses that increase the total traffic (i.e., existing plus new traffic) above the peak hour or daily thresholds in §85B(1)(a).
 - (c) Any use or expansion of a use when the Borough determines existing traffic conditions, or the capacity of existing streets and/or intersections warrant a TIS.
 - (2) Other Projects. The Borough may also, based upon the nature of a project and potential impacts on the Borough, require the developer to prepare and submit to the Borough a TIS for the following types of developments and uses:
 - (a) Industrial parks.
 - (b) Industrial uses.
 - (c) Junkyards.
 - (d) Mineral extraction including oil and gas wells.
 - (e) Mineral processing.
 - (f) Agricultural products processing.
 - (g) Solid waste facilities and staging areas.
 - (h) Warehouses and trucking terminals.
 - (i) Concentrated animal feeding operations.

- (j) Transmission pipelines and hazardous liquid pipelines.
- (k) Pipeline compressor stations, metering stations or operation/maintenance facilities.
- (l) Any nonresidential use involving the initial or cumulative disturbance of 87,120 or more square feet of soil surface areas.
- (m) Any nonresidential use involving the initial or cumulative construction, installation and/or placement of 43,560 square feet or more of buildings, structures or other impervious surface areas.
- (n) Any drive-in use.

The requirements of this §85 may be applied to any other proposed conditional use or special exception, which for reasons of location, design, existing traffic or other community or environmental considerations, as determined by the Borough, warrants the application of the study required contained herein to determine what conditions should be required to mitigate any adverse effects of the proposed use. The Borough Council, Planning Commission, or Zoning Hearing Board may waive certain components of the TIS should such components be deemed unnecessary for certain uses.

C. Professional Requirements. The TIS shall be prepared by a registered professional engineer or transportation planner with verifiable experience in preparing such studies.

D. Study Methodology.

- (1) State Roads. In cases where PennDOT requires a TIS for access to a state road, a separate TIS shall not be required by the Borough. If PennDOT does not require a TIS and the traffic from the proposed use meets or exceeds the peak hour or daily thresholds, a TIS using PennDOT methodology shall be required.
- (2) Borough Roads. If a TIS is required for access to a Borough road, the TIS shall be prepared in accord with PennDOT methodology.

§86 Reserved

§87 Reserved

ARTICLE VIII STANDARDS FOR SPECIFIC USES

In addition to all other applicable standards in this ordinance, the standards in this Article VIII, which may include larger lot sizes, increased setbacks, and other standards more restrictive than established by other sections, shall apply to the uses as provided in the following sections. The omission from a section of a reference to other applicable requirements shall not exempt compliance with such requirements.

§88 Adult Businesses

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

- (1) Health Concerns. The concern over sexually transmitted diseases is a legitimate health concern which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.
- (2) Behavior. Certain employees of sexually oriented business regulated by this ordinance as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.
- (3) Sexual Acts. Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this ordinance as adult bookstores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.
- (4) Unhealthy Conditions. Offering and providing such space, encourages such activities, which create unhealthy conditions.
- (5) Sexual Activities. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- (6) Communicable Diseases. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, non B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.
- (7) Unhealthy Conditions. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (8) Bodily Fluids. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view *adult* oriented films.
- (9) Accountability. Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to

ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

- (10) Externalities. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- (11) Operational Characteristics. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- (12) Reason for Control. The Borough desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime; preserve the quality of life, preserve property values and the character of the surrounding community.

B. Intent. It is the intent of this §88 to:

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

C. Standards. The following standards shall apply to adult businesses:

- (1) Setback. Adult businesses shall not be located less than 500 feet from any:
 - (a) Place of worship.
 - (b) Public or private school or college.
 - (c) Public recreation building or facility.
 - (d) Public library.
 - (e) Public museum.
 - (f) Child day care center.
 - (g) Commercial enterprises catering primarily to persons less than 18 years of age.
 - (h) Gaming establishment.
 - (i) Any R-1 and R-2 Districts.
- (2) Similar Businesses. Adult businesses shall not be located within 500 feet of any other adult business.

- (3) Measurement. The setbacks established in this §88 shall be measured from the nearest edge of the building used for the adult business to the nearest edge of the building used for a use from which the required setback applies. In the case of a required setback use without a building, the setbacks shall be measured from the nearest edge of the building used for the adult business to the nearest point of any structure associated with the use from which the setback applies. The measurement shall be made in a straight line without regard to intervening structures or objects.
- (4) Enlargement. An existing, lawful nonconforming adult business may be expanded as a conditional use once in total floor area beyond the floor area that lawfully existed in such use at the time of adoption of this provision of this ordinance, but only in accord with the limitations of this ordinance.
- (5) Limit of One Use. It shall be a violation of this ordinance for any person to cause or permit: the operation, establishment, or maintenance of more than one adult business in the same building, structure, or portion thereof, or an increase of floor area of any adult business in any building, structure, or portion thereof that contains another adult business.
- (6) Nonconformity. Any adult business lawfully operating on the date of enactment of this ordinance that is in violation of any of the provisions of this §88 shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, altered or extended, except as permitted in §88C(4). The use may be changed to a conforming use. However, under no circumstances shall a non-conforming use as defined and regulated by this ordinance be changed to any other type of adult business.
- (7) Location of New Neighboring Uses. An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant of a conditional use permit, a use from which an adult business is required to provide a setback under §88C(1) is developed within the required setback distance.
- (8) Lighting. Overhead lighting shall be provided to illuminate all improved areas of the property; and said lighting shall be in compliance with all requirements of this ordinance.
- (9) Visibility. Any building, structure, or room used and occupied as an Adult Business shall be windowless or have an opaque covering over all windows or doors of any area in which materials, merchandise, film, service, or entertainment are exhibited or displayed, and no sale materials, merchandise, film, or offered items of service or entertainment shall be visible from outside the structure.
- (10) Signs. Exterior signs shall comply with the provisions of Article XI however, business identification signs shall be limited to a maximum of 20 square feet and signs attached to the building facade shall be limited to a maximum total of 10 square feet. Content of such signs shall be limited to only the text of the name of the business and the hours of operation. No sign shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise, film, service, or entertainment offered therein.
- (11) Entrances. Each and every entrance to the structure shall be posted with a notice that the use is an Adult Business, that persons under the age of 18 are not permitted to enter, and warning all others that they may be offended upon entry.
- (12) Physical or Sexual Contact. No use shall include live actual or simulated sex acts or any physical or sexual contact between employees and contractors, entertainers, or dancers, nor between employees, contractors, entertainers or dancers and customers. At an adult live entertainment use or facility, employees, entertainers and dancers shall maintain a minimum distance of three feet from customers.
- (13) Hours of Operation. The use shall not operate between the hours of 2:00 a.m. and 7:00 a.m.
- (14) Viewing Booths. For public health reasons, private or semi-private viewing booths of any kind are prohibited. This specifically includes, but is not limited to, booths for viewing adult movies or nude dancers.

- (15) Garments. All persons within any adult use shall wear non-transparent garments that cover their genitals and the female areola, except within a permitted lawful Adult Live Entertainment Use or Facility.
- (16) State Law Compliance. As a specific condition of approval under this ordinance, the applicant shall prove compliance with all applicable State laws, including, but not limited to, the Pennsylvania Liquor Code, Act 219 of 1990; Act 207 of 1990 (which pertains to obscenity); and Act 120 of 1996 (which pertains to Adult-Oriented Establishments, and which limits enclosed viewing booths among other matters).
- (17) Uses Prohibited. The following shall be prohibited in the Borough: Any use involving activities which constitute violation of 18 PA C.S.A. '5903, as amended, relating to display, sale, lending, distribution or exhibiting of obscene and other sexual materials, or any Ordinance of Delaware Water Gap Borough, whichever is more restrictive.
- (17) Exemption for Modeling Class. Any modeling class which involves a person appearing in a state of nudity and which is operated by or involves any of the following shall be exempt from the provisions of this §88:
- (a) By a proprietary school, licensed by the State, or an academically accredited college or university;
 - (b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;
 - (c) In a structure.
 - [1] which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - [2] where, in order to participate in a class, a student must enroll at least three days in advance of the class; and
 - [3] where no more than one nude model is on the premises at any one time; or
 - (d) By an organization which qualifies under §501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

§89 Reserved

§90 Airports And Heliports

The procedures and standards in this §90 shall apply to all existing and proposed airports and heliports:

- 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:
- (1) Any extension of a runway's length or location;
 - (2) Any change in the height of a runway;
 - (3) 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;
 - (4) Any change of runway direction or alignment;
 - (5) Any change in the status of taxiways or holding areas affecting the location or extent of any airport hazard zones;

- (6) Any change in airport rating category under *67 Pa. Code §471.5* as amended, effecting or altering the location or extent of any airport hazard zone.
- (7) Any other physical, legal or rating change, or change in methods of operation, flight paths or change in instrumentation or technology resulting in a change in the location or extent of any airport hazard zone.

B. Application Contents. The application for conditional use shall contain the following documents and information:

- (1) A full narrative description of the airport and any changes proposed.
- (2) Plans and maps prepared by a registered professional engineer showing the airport and any changes proposed to the airport.
- (3) Plans and maps prepared by a registered professional engineer showing existing and proposed locations of the airport hazard zones.
- (4) Copies of all applications, correspondence, documents, maps or plans submitted to the FAA and the Bureau of Aviation relating to the proposed change or construction, rating change, or other rating, legal or physical change.
- (5) A plan showing how the lands or air rights negatively affected shall be acquired, if necessary.
- (6) A list of the names and addresses of all landowners negatively affected by the proposed airport or change within a height of 75 feet from the surface of said lands by the change in airport hazard zones.
- (7) A list of the names and addresses of all landowners adjoining lands owned or leased by the airport owner.

C. Engineering Review. The Borough Engineer shall review the application and report whether the application to the Planning 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 14 days before the date of the hearing.

E. Criteria to Review. In acting on a conditional use, the Borough Council shall consider:

- (1) The effect upon reasonable use of properties affected by the proposal.
- (2) How the applicant plans to acquire any necessary air rights.
- (3) The character of the flying operations expected to be conducted at the airport.
- (4) The nature of the terrain within the airport hazard zone area.
- (5) The character of the community which is affected by the proposal.
- (6) The effect upon roads, development, transportation routes, and other aspects of the Borough's Comprehensive Plan.
- (7) The provision of hazard lighting and marking.

(8) 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 250 feet from any property line.

§91 Amusement Parks

The standards in this §91 shall apply to all amusement parks.

- A. Structure Height. No ride, structure or other amusement attraction shall be located closer to any setback line than the height of said ride, structure, or amusement.
- B. Hours of Operation. Hours of operation shall be limited to the period between 9:00 a.m. and 11:00 p.m.

§92 Animals and Fowls

In any district the establishment, maintenance and operation of boarding stables, dog kennels, boarding kennels, aviaries or similar facilities for the housing, boarding, service, treatment, care, breeding or sale of animals and fowls is prohibited, except for uses specifically permitted by the Schedule of uses in §17. The provisions of this Section shall not apply to the keeping of pets which are the personal property of persons residing on the premises, provided that such pets shall not create nuisance or health problems.

§93 Animals, Keeping of

TABLE 93				
Type of Use	Minimum Lot Size	Property Line Setback (ft)	Road* Setback (ft)	Existing Building** Setback (ft)
Animal Shelters and Kennels, and veterinary clinics with outdoor animal cages	18,000 sq ft	100	100	200
*Applies to any public or private road right-of-way. **Applies to any existing principal residential or commercial building not located on the project premises.				

- A. Animal Shelters and Kennels, and Veterinary Clinics with Outdoor Animal Cages. This §93A shall apply to animal shelters and kennels, and to veterinary clinics with outdoor animal cages.
- (1) Setbacks. Any structure, outdoor kennels, or animal exercise areas used for the keeping of animals shall meet the setbacks on Table 93.
 - (2) Parking. Adequate off-street parking shall be provided pursuant to this ordinance with one space for each nonresident employee and one space per four animals kept on the premises.
 - (3) Noise Barrier. A noise barrier consisting of a solid fence not less than six feet in height or a dense vegetative planting of not less than six feet in height shall be provided at a distance not to exceed 15 feet and fully encircling all kennel areas or animal exercise areas not enclosed in a building.
 - (4) 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 §93A(1) until disposed of and proof of such disposal shall be provided to the Borough upon request.
 - (5) Nuisances. All animal wastes shall be stored in an area meeting the setbacks in §93A(1) and shall be disposed of properly. The kennel shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property.

- B. Zoos, Menageries, and Wild and Exotic Animals. No individual other than a registered veterinarian in the course of his/her professional duties, or a licensed falconer who keeps and maintains only his/her own birds, is permitted to maintain, keep or possess within the Borough any wild or exotic animal except in an approved menagerie or zoo. Menageries and zoos shall comply with the following requirements:
- (1) All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained.
 - (2) 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.
 - (3) 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.
 - (4) The permit holder shall maintain the premises so as to eliminate offensive odors or excessive noise.
 - (5) The permit holder shall not permit any condition causing disturbance of the peace and quiet of neighbors.
 - (6) 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.
 - (7) The operation shall conform to all applicable local, state and federal laws and regulations.
 - (8) Any building, corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or animal waste storage shall not be located within 100 feet of any adjoining property line and any public or private road right-of-way.
 - (9) The applicant shall provide for adequate disposal of all any waste materials generated on the premises, and a detailed plan for the same shall be included with the zoning application.

§94 Archery Ranges -- Outdoor Commercial

This §94 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 100 feet from any property line and public street right-of-way.
- 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 §94. 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.

§95 Bed and Breakfast Establishments

- A. Parking. Adequate off-street parking, paved per §29, shall be provided in accord with this ordinance with the minimum number of parking spaces provided as follows: one space for each rentable room, one space for each nonresident employee, and two spaces for the dwelling unit.
- B. Number of Rooms. Not more than five rentable rooms shall be provided in the establishment.
- C. Supervision. The owner or manager of the bed and breakfast shall reside on the premises.
- D. Nonconforming Lots. Bed and breakfast establishments shall not be permitted on lots which are nonconforming in minimum area.
- E. Food Services. Food service shall only be provided to overnight bed and breakfast guests.

§96 Reserved**§97 Bulk Fuel Storage Facilities**

Bulk fuel storage facilities shall comply with this §97. The Borough shall establish, as part of the conditional use process, such other conditions such as increased setbacks and construction of dikes as necessary to protect the public health safety and welfare.

- A. Setbacks. Storage tanks, cylinder filling rooms, pumps, compressors and truck filling stations shall be located not less than 150 feet from any property line or any road or street right-of-way line.
- B. Fence. The total tank storage area shall be entirely fenced with an eight-foot high industrial type security fence or have an equivalent protection barrier approved by the Borough.

§98 - §100 Reserved**§101 Contractor Yards and Staging Areas for Equipment/Materials**

The intent of this §101 is to provide standards for access to public roads and setbacks for contractor yards and staging areas for equipment/materials.

- A. Access to Public Roads.
 - (1) Highway Occupancy Permit. Access roads to Borough and State roads shall be in accord with a valid highway occupancy permit.
 - (2) Stabilization. The access road shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto the public road.
 - (3) Weight Limitations. All operations shall comply with all posted weight limits and road bonding regulations.
 - (4) Access Routes; Road Conditions. The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the operation and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use. The Applicant shall also comply with the Borough road bonding requirements.
- B. Setbacks.
 - (1) Property Lines. Contractor yards and staging areas for equipment/materials shall not be less than 50 feet from any property line other than a property line along a public road right-of-way.
 - (2) Public Roads. Contractor yards shall not be less than 50 feet from any public road right-of-way.

- (3) Slope. Contractor yards and staging areas for equipment/materials shall be located on slopes of less than eight percent. Low spots and poorly drained places shall be avoided.

§102 - §103 Reserved

§104 Distribution/Fulfillment Centers, Truck Terminals and Warehouses

The requirements in this §104 shall apply to distribution/fulfillment centers, and truck terminals, and this §104 shall also apply to warehouses.

- A. Ancillary Warehouses and Warehouses with a Gross Floor Area of 10,000 Square Feet or Less. Ancillary warehouses and warehouses with a gross floor area of 10,000 square feet or less shall comply with District standards.
- B. Distribution/Fulfillment Centers and Truck Terminals; and Warehouses with a Gross Floor Area Exceeding 10,000 Square Feet. Distribution/fulfillment centers and truck terminals; and warehouses with a gross floor area exceeding 10,000 square feet shall comply with this §104 and other applicable requirements.

- (1) Lot Area. The minimum lot area shall be 10 acres.
- (2) Road Access Location. All road accesses for trucks, loading/unloading area, principal structures, outdoor storage, or truck parking area shall be a minimum of 150 feet from any residential lot line or any R-1, R-2, or S-1 District.
- (3) Main Access. The facility shall have its main access point(s) within two road miles of at least one ramp of a limited access highway.
- (4) Buffer.
- (a) Undisturbed Area. An undisturbed area of not less than 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 Township 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) Landscaping in Buffer. If any additional landscaping is required as a condition of approval, it shall be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of 25 feet wide.
- (c) Buffer Design. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in The subdivision and land development ordinance.
- (d) Maintenance. It shall be the responsibility of the applicant and/or operator and/or property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- (5) Berm. All tractor-trailer truck parking, outdoor storage and/or loading/unloading areas that are visible from and are within 150 feet of the exterior lot lines of the facility shall be separated from such lot lines by an earthen berm. Such berm shall meet the following conditions:
- (a) Average a minimum of five feet in height above the adjacent average ground level (disregarding any drainage channel) on the outside of the berm.
- (b) Not have a single continuous height, but instead shall vary in height by one foot or two feet in places.
- (c) The top of the berm shall not have a width less than five feet.

- (d) Have a maximum side slope of three horizontal to one vertical.
 - (e) Be covered by a properly maintained all-season natural ground cover, such as an appropriate grass.
 - (f) Shall be located behind any required buffer screening.
- (6) Structure Height. The maximum structure height for the facility shall comply with district standards.
- (7) Spills and Leaks. The use shall include an appropriate system to contain and properly dispose of any fuel, grease, oils, or similar pollutants that may spill or leak.
- (8) Queuing Area. All facilities with gated entrances shall provide for an on-site queuing area for the stacking of a minimum of two tractor-trailers.
- (9) Parking on Public Road. No parking or loading/unloading shall be permitted on or along any public road.
- (10) Vehicular Access. Vehicular access shall be arranged so as to minimize danger and congestion along adjoining roads and to avoid the creation of nuisances to nearby properties.
- (11) Emergency Management.
- (a) Monroe County Emergency Management Agency. The applicant shall provide a copy of an emergency management plan prepared in accord with generally accepted practices for review by the Monroe County Emergency Management Agency and local emergency responders.
 - (b) Monroe County Control Center. The applicant shall coordinate with the Monroe County Control Center to ensure there is adequate radio coverage for emergency responders within the building based upon the existing coverage levels of the Monroe County Control Center Public Safety Radio Communications System at the exterior of the building and shall install enhancement systems if needed for compliance.
- (12) Traffic Study. A traffic study shall be provided in accord with §85. The traffic impact study shall also include a truck routing map identifying anticipated routes to and from the proposed facility to the Township boundary and the facility. The truck routing map shall be consistent with existing truck routing signage and trip distribution data presented in the traffic study and shall identify any new proposed truck routes and necessary truck routing signage.
- (13) Storage of Garbage and Materials. No storage of garbage or refuse other than is routinely produced on site and awaiting regular collection shall be permitted. The bulk storage of materials that are inflammable, explosive, hazardous, or commonly recognized as offensive shall not be permitted.
- (14) Building Use Description. The applicant shall provide a detailed description of the proposed use in each of the following topics:
- (a) The nature of the on-site activities and operations, the types of materials stored, the frequency of distribution and restocking, the duration period of storage of materials, and the methods for disposal of any surplus or damaged materials. In addition, the applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with state and federal regulations.
 - (b) The general scale of the operation, in terms of its market area, specific floor space requirements for each activity, the total number of employees on each shift, anticipated truck traffic, and an overall needed site size.

§105 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 of this Ordinance, the following shall apply.

- A. Setbacks. Setbacks for the facilities shall comply with state and federal regulations. Ancillary facilities such as offices, employee parking, truck parking and loading and accessory structures and uses shall comply with the buffer requirements in §105B.
- B. Buffer.
- (1) Buffer Required. An undisturbed area of not less than 50 feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
 - (2) Buffer in Setback Area. Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of 25 feet wide.
 - (3) Buffer Design. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.
 - (4) Maintenance. It shall be the responsibility of the applicant and/or operator and/or property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- C. Parking and Staging Areas. Adequate vehicle parking and staging areas for all facilities shall be provided on site to prevent parking or staging on any public road right-of-way.
- D. Local, State and Federal Regulations. The facilities shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.
- E. Informational Requirements.
- (1) Application Information. The applicant and/or operator for all facilities shall provide the information required by this §105E, all other application information required by this Ordinance, and all other necessary information to enable the Borough to determine compliance with this Ordinance.
 - (2) Hazardous Materials Inventory. An inventory of hazardous materials, a drawn-to-scale site plan of their locations, and a brief explanation of the hazards involved, are submitted for use by public safety officials.
 - (3) DEP Application Information. A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection (DEP) Rules and Regulations.
 - (4) Conditions. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval in accord with §176 and §603(c)(2) of the Pennsylvania Municipalities Planning Code.
- F. Reporting Requirements. For any facility approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within 15 days of the date of the document or report.

§106 Fireworks (Consumer) Sales

This §106 is intended to be consistent with Pennsylvania law relating to the sale of fireworks.

- A. Definitions - The following definitions shall apply to this §106. Words not defined in this §106A shall be given the meanings set forth in §12. All other words and phrases shall be given their common ordinary meaning unless the context clearly requires otherwise.

APA 87-1 - The American Pyrotechnics Association Standard 87-1: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition, or any subsequent edition.

Consumer Fireworks - Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions for consumer fireworks as defined in APA 87-1 or any successor standard, the sale, possession and use of which is permitted throughout the Commonwealth. The term does not include devices such as ground and hand-held sparkling devices, novelties or toy caps in APA 87-1 or any successor standard, the sale, possession and use of which is permitted at all times throughout the Commonwealth.

Fireworks - Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration or detonation that meets the definition of 1.4G fireworks as set forth in the 2003 International Fire Code, including, but not limited to, those compositions or devices defined in APA Standard 87-1.

Novelties - Articles of trade having amusement value and whose appeal is often transitory, and which is limited to those items for sale described in APA 87-1, §3.2.

- B. Standards. Consumer fireworks shall be sold only from facilities which are licensed by the Department of Agriculture and that meet the requirements of Pennsylvania Act 74 of 2022, as amended, and the other applicable requirements of this ordinance.
- C. Code Enforcement Officer Review. All applications for construction, use or renovation of an existing building for the purpose of selling fireworks shall be reviewed by the code enforcement officer for compliance with all applicable building and fire safety code, and the code enforcement officer's comments and/or report shall be copied to the Borough-designated fire company(ies).
- D. Temporary Structures. The sale of consumer fireworks from temporary structures shall comply with all requirements of Pennsylvania Act 43 of 2017, as amended, §116 (Mobile Food Service Operations and Mobile Sales Operations) and the other applicable requirements of this ordinance.

§107 Gaming Establishments

The requirements in this §107 shall apply to gaming establishments.

- A. Separation. A gaming establishment shall not be permitted within 300 feet of any other separately deeded lot containing a gaming establishment. The distance between any two such facilities shall be measured in a straight line, without regard to intervening structures, from the closest points on each of the exterior lot lines of the separately deeded lots upon which each facility is located.
- B. Setbacks. No gaming establishment shall be located on the same separately deeded lot or within 300 feet of any separately deeded lot which contains any one or more of the following uses. The distance between any such facility and any listed use shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior lot line of the separately deeded lot on which the facility is located to the closest point of the property line of the listed use.
- (1) Children's camp/retreat
 - (2) Child day care facility
 - (3) House of worship or related use, or other similar religious facility
 - (4) Community center
 - (5) Museum

- (6) Parks and playgrounds
- (7) School or any kind of educational institution that provides instructions to minors
- (8) Other lands where minors congregate
- (9) Any residential use

C. One Facility per Building. No more than one gaming establishment may be located within one building or be located on the same separately deeded lot.

§108 - §110 Reserved

§111 Junk Yards

This §111 shall apply to junk yards and changes and expansions of junk yards.

- A. Property Owner Responsibility. It shall be the ultimate responsibility of the property owner of the premises upon which any junk is situated and the owner of any such junk to comply with this ordinance; and to provide for the removal of such junk and remediation of any environmental problems associated with any junk.
- B. Operating Standards. All junk yards shall be established, maintained, and operated in accord with the following standards:
- (1) Federal and State Regulations. Any junk yard located adjacent to a Federal Aid Highway shall comply with all regulations of the Federal Highway Administration, and all junk yards shall meet the licensing and screening requirements of the Commonwealth of Pennsylvania.
 - (2) Fencing. All junk yards shall be completely enclosed by a chain link fence not less than eight feet in height. All fences and gates shall be maintained in good repair and in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence. The foregoing fencing provisions shall be applicable only to that portion of the premises being immediately used for the storage of junk and shall not be applicable to the balance of the property owned or used by said junk yard operator so long as said remaining portion of land is not being used for the storage of junk.
 - (3) Screening. All junk yards shall be screened, to the satisfaction of the Borough, from any adjoining or neighboring property, any public road right-of-way, or any other premises; and, natural vegetative cover shall be maintained in all required setback areas. Vegetative plantings of sufficient height and density, berms, topography or fencing of such design may be used to effect the required screening as determined by the Borough. All screening shall be maintained in such fashion as to continue to provide the required screening.
 - (4) Setbacks. The fence enclosing any junk yard and any structures associated with the junk yard shall be located not less than 50 feet from any public road right-of-way and any property line.
 - (5) Dumping. The area used for a junk yard shall not be used as a dump area for any solid waste as defined by this ordinance.
 - (6) Burning. No burning whatsoever shall be permitted on the premises
 - (7) Water Bodies. No junk yard shall be located less than 200 feet from any body of water, stream, wetland or well.
 - (8) Hazardous Materials. In cases where the junk yard includes 10 or more junk vehicles or where the Borough deems it necessary to meet the intent of this ordinance, and to further protect ground water and surface water, all batteries, coolants, gasoline, diesel fuel, engine oil, any other petroleum products and any other noxious or potentially contaminating materials must be removed from all junk within two working days after arrival to the premises and shall be disposed of in a manner meeting all state and federal requirements. Such liquids and materials, while stored on the premises, shall be kept separately in leak-proof containers at a central location on the premises.

- (9) Water Quality. In cases where the junk yard includes 10 or more junk vehicles or where the Borough deems it necessary to meet the intent of this ordinance, the owner of any junk yard shall be required to monitor the ground and surface water in the vicinity of the junk yard. Water testing shall be conducted every three months on any stream located on the premises or any stream within 500 feet of any area used for the storage of junk if water drainage from the junk yard area is to said stream. For each testing period two samples shall be collected; one sample shall be taken from the stream at a point upstream of the junkyard drainage area and one sample shall be taken from the stream at a point below the junk yard drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Borough, and results shall be provided to the Borough. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the junkyard shall cease operation until such time as the source of the contamination has been identified and corrected in accord with DEP requirements.
- (10) Fire Lanes. Fire lanes of a minimum width of 20 feet shall be maintained so that no area of junk shall span a distance of more than 50 feet.
- (11) Hours of Operation. Any activity associated with the operation of the junk yard that produces any noise audible beyond the property line shall be conducted only between the hours of 7:00 a.m. and 8:00 p.m. During business hours, an adult attendant shall, at all times, remain on the premises
- (12) Stacking of Junk. Junk vehicles or major parts thereof shall not be stacked on top of any other junk vehicle or major part. No junk shall be stacked or piled to a height of greater than six feet.
- (13) Nuisances. All premises shall, at all times, be maintained so as not to constitute a nuisance, or a menace to the health, safety, and welfare of the community or to the residents nearby, or a place for the breeding of rodents and vermin. Within two days of arrival on the premises, all glass shall be removed from any broken windshield, window or mirror, and all trunk lids, appliance doors and similar closure devices shall be removed. Grass and weeds on the premises shall be kept mowed.
- (14) Waste. Waste shall not be stored outside and shall not be accumulated or remain on any premises except temporarily awaiting disposal in accord with this ordinance. No junk yard shall be operated or maintained in violation of any state or federal regulations governing the disposal of any solid or liquid waste
- (15) Fire Resistant Structures. Every structure erected upon the premises and used in connection therewith shall be of fire resistant construction.

§112 - §113Reserved

§114 Mineral Extraction Excluding Oil and Gas Development

- A. Findings. The primary minerals of importance extant in the Borough are sand and gravel, and quarry stone. 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. In addition, the Planning Code now severely limits the range of development and operational standards which can be applied to mineral extraction by local municipalities, with location standards the primary tool available to the Borough. Planning Code §603(l) states that *zoning ordinances shall provide for the reasonable development of minerals in each municipality*. The Code definition of minerals is: *Any aggregate or mass of mineral matter, whether or 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*. 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. These Acts regulate such things as setbacks, dust, noise, blasting, water supply effects, and reclamation.

- B. Intent. The intent of this §114 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.
- C. Use Classification; Mineral Processing a Separate Use.
- (1) Use Classification. Mineral extraction shall be allowed only in those Districts as listed in the Schedule of Uses.
 - (2) Mineral Extraction, Minor. The intent of this §114C(2) is to permit mineral extraction operations limited in area, duration and mechanical operations.
 - (a) Mineral extraction operations with an open face of 10,000 square feet or less which will not result in a total disturbed area of more than two acres on any one parcel over the life of the operation, and which do not involve on-site screening, washing, crushing, and grading, and/or any mineral processing or the use of manufacturing equipment, shall be hereinafter referred to as *mineral extraction, minor*.
 - (b) The duration of the minor mineral extraction process shall not exceed 180 days and reclamation of the entire site shall be completed within one year of the issuance of the zoning use permit.
 - (c) The subdivision of a parcel to qualify for additional *mineral extraction, minor* uses shall not be permitted.
 - (d) *Mineral extraction, minor* uses shall be exempt from the plan submission requirements of this §114; however, said operations shall comply with the operational and rehabilitation standards.
 - (3) Mineral Processing. (See §115 for requirements.)
 - (a) 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 *mineral processing*, a separate and distinct use regulated by this ordinance.
 - (b) Incidental with Extraction Operation. This shall not preclude the incidental screening, washing, crushing, and grading of materials originating on the site as part of a mineral extraction operation.
- D. Standards. In addition to the performance standards in Article VII and all other applicable standards of this ordinance which are not preempted by state statute, mineral extraction shall comply with the following:
- (1) Parcel Size: The minimum parcel size shall be 10 acres for minor mineral extraction and 50 acres for mineral extraction.
 - (2) Setback. A setback of 200 feet shall be maintained between any disturbed area associated with any mineral extraction operation and adjoining properties and public road rights-of-way.
 - (3) Undisturbed Buffer. The required setback areas shall be undisturbed to provide a buffer and shall not be used for parking, storage or any other purpose associated with the operation except landscaping and crossing of access roads.
 - (4) Conditional Use Buffers. In determining the type and extent of the buffer required for conditional uses, the Borough shall take into consideration the design of any project activities and/or structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
 - (a) If required, the landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of 25 feet wide.

- (b) Buffers shall be designed in accord with §60 and the design details shall be included on the site plan. Buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.
- (c) It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- (5) Access Routes; Road Conditions. The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the operation and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.
- (6) Conditions of Approval. If the Borough determines that the standards in Article VII Part 2 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.
- E. Local, State and Federal Regulations. *Mineral extraction* and *mineral extraction, minor* operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations. Applicable laws and rules and regulations include but are not limited to the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law.
- F. Information Requirements for Mineral Extraction. (but not for *mineral extraction, minor*) The applicant shall, at a minimum, provide the information required by this ordinance and the information required for land developments in the Subdivision and Land Development Ordinance. In addition, the applicant shall submit all other information required to enable the Borough to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval.
 - (1) DEP Application Information: The applicant shall provide a copy of all applications and information required by the applicable DEP Rules and Regulations. However, applicants proposing mineral extraction operations qualifying as *small noncoal operations* under DEP regulations shall provide all information required by Chapter 77 Noncoal Mining of DEP Rules and Regulations for operations which are not considered *small noncoal operations*.
 - (2) Surface and Ground Water Protection, Traffic Impact Study and Environmental Impact Statement. The Borough shall require for *mineral extraction* and may require for *mineral extraction, minor*, the applicant to submit details about ground and surface water protection, an Environmental Impact Statement and a Traffic Impact Study.
 - (3) Emergency Response. The Applicant 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.
- G. Reporting Requirements for Mineral Extraction (but not for *mineral extraction, minor*). 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 15 days of the date of the document or report.
- H. Expansion of Nonconforming Operations. Mineral extraction and mineral extraction, minor operations which are nonconforming by location in a zoning district where such operations are not allowed by the Schedule of Uses 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 §114.

§115 Mineral Processing and Mineral Depots

Mineral processing and mineral depots, referred to as *facilities*, shall comply with the requirements of this §115.

- A. Location Requirements. Mineral processing operations and mineral depots shall comply with the following location requirements:
- (1) Setbacks. The following setbacks shall be maintained for any facility:
 - (a) Property Lines, Road rights-of-Way. 100 feet to adjoining properties and public road rights-of-way.
 - (b) Residential Structures. 300 feet to any existing residential structure not located on the project parcel.
 - (2) Buffer
 - (a) An undisturbed area of not less than 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. 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 and shall be a minimum of 20 feet wide.
 - (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.
- 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. Information Requirements. The applicant shall provide the information required by this §115C and all other necessary information to enable the Borough to assess the environmental, community and other public health, safety, and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval. The Applicant shall provide the following:
- (1) Application Information. The information required by this §115, all required application information, and all other necessary information to enable the Borough to assess compliance with this ordinance.
 - (2) Additional Information. The Borough may require the applicant to submit details about ground and surface water protection and an Environmental Impact Statement.
 - (3) DEP Application Information. A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection Rules (DEP) Rules and Regulations.
 - (4) Emergency Response. The Applicant 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.
- D. 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 15 days of the date of the document or report.

§116 Mobile Food Service Operations and Mobile Sales Operations

In addition to all other applicable standards of this Ordinance, the requirements of this §116 shall apply to mobile food service operations and mobile sales operations (referred to as *operations*). Such operations conducted as a temporary event by a public use or a semi-public use are permitted in any District as an accessory use and vendors who travel from site to site (e.g., construction sites or manufacturing plants) selling exclusively to customers employed at the visited site are not subject to this §116.

A. Location.

- (1) Districts - Such operations shall only be permitted in the Districts specified in the Schedule of Uses. Such operations are also permitted in any District as an accessory use to a public or semi-public use.
- (2) Size and Number - A minimum parcel size of 10,000 square feet shall be required and one mobile operation shall be permitted on the site. An additional mobile operation for each additional 10,000 square feet of lot area, up to a maximum of three operations per site shall be permitted.
- (3) Setbacks - The District setbacks for principal structures shall be maintained.
- (4) 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.
- (5) 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.

- (1) 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
- (2) Music or Sound - The use of any sound amplification is prohibited regardless of the intended purpose.
- (3) Signs - Only the following signs shall be permitted and no signs in the public right-of-way or balloons, banners, streamers or other similar devices to attract customers shall be permitted.
 - (a) The total area of all signs, including menus, affixed to the mobile operation (truck, stand, trailer) shall not exceed 20 square feet.
 - (b) One A-frame menu board of up to nine square feet shall be permitted to be placed by the operation within the vending area. The sign may be displayed only during hours of operations.
- (4) Parking and Access - A minimum of five parking spaces shall be provided and parking and access shall comply with §29.
- (5) 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.
- (6) Water Supply - Connection to a water supply shall be permitted in accord with applicable codes and regulations.
- (7) Sewage Disposal - Sewage disposal shall be provided in accord with Borough requirements.
- (8) Trash - Adequate trash receptacles shall be provided, and trash shall be disposed of to prevent the dispersal or accumulation.

§117 Outdoor Dining

Outdoor dining shall be permitted in VC-1 and VC-2 Districts, including Main Street, Broad Street, Delaware Avenue, and Waring Drive subject to the following requirements:

- A. Accessory Use. The outdoor dining use must be accessory to a food service establishment with indoor seating and service on the same property.
- B. Location on Property. The outdoor seating must be on the establishment's property, with no encroachment onto sidewalks, public rights-of-way or other properties and easement areas.
- C. Sidewalk Separation. The seasonal outdoor dining area shall be separated from the sidewalk by planter boxes which shall be 36 - 42 inches in height.
- D. Outdoor Entertainment. No outdoor entertainment, music or public address systems shall be permitted within the outdoor dining area unless otherwise approved as a conditional use.
- E. Lighting. Exterior lighting shall comply with §67.
- F. Signs. No signs other than a menu board shall be permitted in outdoor dining area. The menu board shall not exceed three square feet.
- G. Conclusion of Service. Service must stop by 10:00 p.m., and the area shall be cleared and empty of all patrons and staff by 11:00 p.m.
- H. Outside Cooking. No outside cooking shall be permitted in the outdoor dining area.

§118 Power Plants, Pipeline Compressor Stations, Metering Stations or Operation Maintenance Facilities

Power plants and pipeline compressor stations, metering stations or operation maintenance facilities shall comply with this §118.

A. Purposes.

- (1) To accommodate the need for such uses while regulating their location and number in the Borough in recognition of the need to protect the public health, safety, and welfare.
- (2) To avoid potential damage to adjacent properties through engineering and proper siting of such structures.

B. Standards.

- (1) Building; Noise. All turbines, compressors, engines and any mechanical equipment which requires noise reduction to meet Borough standards shall be located within a fully enclosed building with soundproofing and blow down silencers and mufflers adequate to comply with the noise standards established by §65 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 300 feet of the building(s). The applicant and or operator shall be responsible for establishing and reporting to the Borough the pre-development ambient noise level prior to the issuance of the zoning permit for the station.

- (2) Setbacks and Buffers.

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

- [1] Setbacks. The following setbacks shall be maintained:

- [a] Property Lines, Road Rights-of-Way. 100 feet to adjoining properties and public road rights-of-way.

[b] Existing Dwellings. 500 feet to any existing dwelling.

[2] Buffer.

[a] An undisturbed area of not less than 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.

[b] 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 25 feet wide.

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

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

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

(3) Fencing. A fence may be required around the perimeter of the facility unless the design of the structures adequately provides for safety.

(4) Access; Required Parking. Access to the facility shall be provided by means of a public street or easement to a public street adequate to serve the number and type of vehicles anticipated. The access and parking shall be improved with a dust-free, all weather surface. The number of required parking spaces shall equal the number of people on the largest shift.

(5) Access Routes; Road Conditions. The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the facility and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.

(6) Communications Interference. The applicant shall document that the radio, television, telephone, or reception of similar signals for nearby properties will not be disturbed or diminished, and this may be accomplished by remedial measures instituted by the developer.

(7) Historic Structures. The facility shall not be located within 500 feet of any structure listed on any public historic register.

C. Site Plan. A full land development plan shall be required for all such sites, showing all facilities, fencing, buffering, access, and all other items required for conditional uses by this ordinance and by the Subdivision and Land Development Ordinance.

D. Local, State and Federal Regulations. All facilities and operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

E. Insurance. The applicant shall provide a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the facility.

- F. Informational Requirements. The applicant shall provide the information required by this §118F and all other necessary information to enable the Borough to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval. The Applicant shall provide the following:
- (1) Application Information. The information required by this §118, all required application information, and all other necessary information to enable the Borough to assess compliance with this ordinance.
 - (2) Additional Information. The Borough may require the applicant to submit details about ground and surface water protection, an Environmental Impact Statement, and a Traffic Impact Study.
 - (3) State and Federal Application Information. A copy of all applications and information required by the applicable state and federal agencies.
 - (4) Emergency Response. The Applicant shall submit the name, address and emergency telephone number for the operator of the facility; and shall develop a Emergency Preparedness, Prevention and Control Plan in accord with state and federal requirements and generally accepted practice and submit the Plan for review and comment by the Borough and the County Emergency Management Agency.
- G. Reporting Requirements. For any facility approved by the Borough, the operator shall submit to the Borough copies of all state or federal required or issued documents and reports associated with the operation, within 15 days of the date of the document or report.

§119 Racetracks

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

- A. Setbacks. All areas for the driving, testing and/or maintenance of motor vehicles shall not be less than 100 feet from any property line or public road right-of-way, and shall not be less than 250 feet from any S-1, R-1, R-2, VC-1 or VC-2 District. Greater setbacks and buffers may be required in accord with §60 to address community effects.
- B. Animal Racetracks. In addition to the other standards in this §119, the following additional standards shall apply to animal racetracks:
- (1) The racecourse for any animal race track shall not be less than 100 feet from any property line or public road right-of-way. Greater setbacks and buffers may be required in accord with §60 to address community effects.
 - (2) Any stable building, corral, kennel or other indoor or outdoor area used for the keeping or feeding of animals, concentrated confinement of animals or manure and animal waste storage shall not be less than 100 feet from any property line or public road right-of-way.
 - (3) The Applicant shall provide a plan for manure and animal waste management satisfactory to the Borough Council demonstrating that all manure and animal waste shall be managed and disposed of in accord with applicable local, state and federal regulations.
- C. Buildings. All buildings on the racetrack parcel shall comply with Uniform Construction Code and PA Department of Labor and Industry Standards.
- D. Time Limitations. No motor vehicle race shall be conducted between the hours of 10:00 P.M. and 9:00 A.M. However, the Borough may establish more restrictive time limits as a condition of approval.
- E. Repair Activities. All service and repair activities shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes, and glare; except that minor servicing such as changing tires, sale of gasoline or oil, windshield washing, and other similar normal activities may be conducted outside the said building.

- F. Tire and Part Storage. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening, but in no case shall such outdoor storage exceed 500 square feet in area.
- G. Storage. No vehicles, supplies, parts, or any other material shall be stored in any required setback areas normally required for the district.
- H. Fuel Documentation. Documentation shall be provided that all fuel and fuel storage areas comply with State and Federal requirements.
- I. Fencing and Barriers. Security fencing shall be provided around the facility (excluding parking areas) to prevent intrusion onto the racetrack and related areas. Safety fencing/barriers shall be provided between the racetrack and all areas where spectators, the public or any employee or other person has access.
- J. Safety Plan. A facility safety plan shall be prepared to detail the specific procedures which will be followed to ensure the safety of the public, spectators, employees, and participants which shall, at a minimum, address the following:
 - (1) Design standards of all safety fencing/barriers.
 - (2) Procedures for fuel storage, handling and dispensing.
 - (3) Emergency services, including fire and ambulance, which will be available during events.
 - (4) Disaster/emergency response procedures.
 - (5) Crowd management.
- K. Bond/Insurance. Based on the type and size of the racetrack, the Borough Council may require the Applicant to provide a bond and/or insurance to cover the cost of any environmental clean-up or enforcement action which may be required at the site. The amount of the coverage shall be determined by the Board based on the type and size of the track.

§120 Self-Storage Facilities

Self-storage facilities shall comply with the following standards in this §120.

- A. Bulk Requirements. Minimum lot size, lot width and setbacks, and maximum lot coverage and building height shall conform to district standards.
- B. Setback Areas. There shall be no storage, use or structure within the setback area, with the exception of the access drive(s).
- C. Habitation. No storage unit shall be used for habitation or residential purposes and individual mini-warehouse units shall not be served by a water supply or a sewage disposal system.
- D. Storage Limitations. No storage unit shall be used for any other purpose except storage and shall not be used for any other type of commercial or manufacturing activity. No material, supplies, equipment or goods of any kind shall be stored outside of the warehouse structure, with the exception of the vehicles required for the operation of the warehouse and boats and recreational vehicles and trailers.
- E. Lighting. All facilities shall be provided with adequate outdoor lighting for security purposes; and such lighting shall be so directed as to prevent glare on adjoining properties.
- F. Fire. Water Damage. All storage units shall be fire-resistant and water-resistant.
- G. Materials Stored. All self-storage facility proposals shall include detailed information on the nature and quantity of materials to be stored on the premises. Proposed space rental agreements shall be submitted with the conditional use application and shall provide specific rules and regulations to ensure that the requirements of this §120 are or will be satisfied.

§121 Short-Term Rentals**A. Compliance**

- (1) Short-Term Rental Ordinance - In addition to the other requirements of this ordinance, short-term rentals shall comply with the Borough of Delaware Water Gap Short-Term Rental Ordinance, Ordinance 338-2022 as may be amended. The provisions of this zoning ordinance are not intended to, and do not excuse, any landowner from compliance with the Short-Term Rental Ordinance. Whenever possible, this zoning ordinance and the Short-Term Rental Ordinance should be construed and interpreted as being consistent and not in conflict.
- (2) Short-Term Rental Use is Limited - A short-term rental shall be used for habitation only in accord with the occupancy provisions of the Borough of Delaware Water Gap Short-Term Rental Ordinance, Ordinance 338-2022 as may be amended, and shall not be used for any other use defined and regulated by this zoning ordinance unless such use has been granted a zoning permit. In addition, any activity at a short-term rental involving services such as, but not limited to, catering, entertainment, or tent rental shall require zoning approval separate from approval of any short-term rental.

B. Information Required. In addition to the other information required by this ordinance, the applicant shall include with the application all information required by the Short-Term Rental Ordinance.

C. Meals. Meals shall not be provided to overnight guests of the establishment.

D. Sewage Disposal and Occupancy. Sewage disposal meeting the requirements of the Borough and PA DEP shall be provided. Occupancy shall be limited by the capacity of the sewage disposal system.

E. Nonconforming Lots. Short-term rental units shall not be permitted on lots which are nonconforming in minimum area.

F. Parking. Adequate off-street parking shall be provided in accord with §29.

G. PA Uniform Construction Code. All short-term rental units shall comply with PA Uniform Construction Code requirements, as amended.

§122 Slaughterhouses

Slaughterhouses shall comply with this §123.

A. Parcel Size. A minimum parcel of five acres shall be required.

B. Setbacks.

- (1) Buildings. The minimum setbacks for all buildings shall be 100 feet from property lines and road rights-of-way.
- (2) Animals – Structures which are not fully enclosed, corrals and other areas for the outdoor confinement of animals shall comply with the following setbacks unless state or federal regulations require a greater setback:
 - (a) Up to 499 animals: 100 feet
 - (b) 500 to 999 animals: 200 feet.
 - (c) 1,000 or more animals: 300 feet.

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

D. Wastes. Solid and liquid wastes shall be disposed of in a manner to avoid creating insect or rodent problems, and an insect/rodent abatement plan which shall be prepared. No discharges of liquid wastes and/or sewage shall be permitted into a reservoir, sewage, or storm sewer disposal system, holding pond, stream, or open

body of water, or into the ground unless the discharges are in compliance with the standards of local, state and/or federal regulatory agencies.

- E. Operating Standards. The applicant shall demonstrate that they will meet the operational and management standards as may be set forth in treatises recognized by agricultural authorities or as the same may be produced by the Pennsylvania Department of Agriculture, Department of Environmental Protection, Pennsylvania State University, College of Agricultural Sciences, or similar entity.
- F. Odor. (See also §68.) The applicant shall prepare an odor abatement plan and document the ability to comply with the plan. It is recognized that certain activities do produce odors, but the applicant shall show that odors can be reduced to a minimum or abated. The plan shall include such steps as may be necessary to abate odors or to allow odors at times to minimize interference with the public health, safety and welfare.

§123 Solar Power Generation, Commercial

- A. Purposes. The purpose of this §123 is to:

- A. 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.
- B. Critical Development Areas. Avoid development of land-intensive solar facilities in areas designated for other uses critical to community and economic development.
- C. 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.
- D. Traffic. Reduce traffic impacts by requiring solar facility access to roads with adequate capacity.

- B. Permits; Use Regulations.

- (1) Permits. A permit shall be required for every solar power facility installed in the Borough.
- (2) Associated Use. All other uses ancillary to the facility (including a business office, maintenance depot, etc.) are prohibited from the facility, unless otherwise permitted in the zoning district in which the 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 facility.
- (3) Solar Power Facility as a Second Principal Use. A solar power facility shall be permitted on a property with an existing use subject to the following land development standards:
- (a) The minimum lot area, minimum setbacks and maximum height required by this chapter for the solar power facility shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density, and other requirements.
- (b) The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
- (c) The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed solar power facility and that vehicular access is provided to the solar power facility.

- C. Standards and Design.

- (1) Parcel Size; Location; Setbacks; Lot Coverage
- (a) The minimum parcel size shall be five acres.

- (b) The parcel shall not be more than three miles from a utility substation with the capacity to service the proposed facility.
 - (c) The setback for solar collectors, all structures, equipment containers and any associated mechanical facilities shall be 100 feet from property lines.
 - (d) The maximum lot coverage shall be 75 percent and the area of the solar collectors shall be included in the calculation of lot coverage.
- (2) Height. Solar collectors shall not exceed the principal structure height limitations for the underlying zoning district.
- (3) 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.
- (4) Licenses; Other Regulations. 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.
- (5) Required Parking. Adequate parking shall be required for maintenance workers.
- (6) 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.
- (7) 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.
- (8) Historic Structures. A solar power facility shall not be located within 500 feet of any structure listed on any public historic register.
- (9) 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.
- (10) Uniform Construction Code. To the extent applicable, the solar power facility shall comply with the Pennsylvania Uniform Construction Code.
- (11) 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.
- (12) 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 10 feet from the ground.
- (13) 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.

- (14) Transmission and Power Lines. On-site transmission and power lines shall, to the greatest extent possible, be placed underground.
 - (15) Stray Voltage/Electromagnetic Fields (EMF). The operator shall use good industry practices to minimize the impact, if any, of stray voltage and/or EMF.
 - (16) 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.
 - (17) 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 chapter.
- 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. Decommissioning of a solar power generation facility or any of its solar energy system(s) shall comply with the following, without limitation:
- (1) Notification of Borough. If a facility or any of its solar energy system(s) have not been in operation for a period of six consecutive months, the facility owner or operator shall notify the Borough in writing with the reason(s) for inoperability and their intentions to reestablish operations or plans for decommissioning. The facility owner or operator is required to notify the Borough immediately upon cessation or abandonment of the operation. The facility or one or more of its solar energy systems shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of 12 continuous months.
 - (2) Six months for removal. The facility owner and/or operator shall have six months from cessation or abandonment in which to dismantle and remove the facility including all solar related equipment or appurtenances related thereto, including, but not limited to, buildings, cabling, electrical components, roads, foundations, and other associated facilities from the property and shall comply with §119-32E(7).
 - (3) Engineer decommissioning costs. An independent and certified Pennsylvania professional engineer shall be retained by the facility owner or operator to estimate the total cost of decommissioning without regard to salvage value of the facility solar related equipment. Said estimates shall be submitted to the Borough after the first year of issuance of a certificate of occupancy and every fifth year thereafter.
 - (4) Decommissioning financial security. The facility owner or operator, prior to the issuance of a zoning permit, shall provide financial security with the Borough as payee in an amount approved by the Borough Council, from a company and in a form and content acceptable to the Borough Council, to insure decommissioning and re-vegetation as set forth herein. The security shall remain in place for as long as the facility or its solar energy system(s) exist at the site and until restoration of the site is satisfactorily completed. The facility owner or operator shall be responsible for having the financial security certificate holder describe the status of the bond or letter of credit in an annual report submitted to the Borough. The financial security shall not be subject to revocation, reduction, or termination unless and until approved by the Borough Council based upon the Borough Engineer's and Solicitor's recommendation that decommissioning and re-vegetation have been satisfactorily completed.
 - (5) Landowner responsibility. If the facility owner or operator ~~of~~ or its solar energy system(s) fails to complete decommissioning and re-vegetation within the time period stated herein, then decommissioning and re-vegetation in accordance with this chapter shall become the responsibility of the landowner. The responsibility for decommissioning by facility heirs, successors and assigns shall be established by a recorded document acceptable to the Borough Council.

- (6) Borough intervention. If neither the facility owner or operator, nor the landowner completes decommissioning and re-vegetation within the prescribed periods, then the Borough may take such measures as necessary to complete decommissioning and re-vegetation. The 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 and re-vegetation plan.
- (7) Decommissioning conditions of the zoning permit. If the facility owner or operator ceases operation of the facility or any of its solar energy system(s), or begins, but does not complete, construction of the project, the facility owner and/or operator shall restore the site to its condition prior to any disturbance related to the facility. The site shall be restored to a useful, nonhazardous condition, including but not limited to the following:
- (a) Removal of aboveground and underground equipment, structures, and foundations to a depth of at least three feet below grade. Underground equipment, structures and foundations need not be removed if they are at least three feet below grade and do not constitute a hazard or interfere with agricultural use or other resource uses of the land.
 - (b) Restoration of the surface grade and soil after removal of aboveground structures and equipment.
 - (c) Removal of graveled areas and access roads.
 - (d) Revegetation of restored soil areas with native seed mixes and plant species.
 - (e) For any part of the facility project on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates, or buildings in place or regarding restoration of agricultural crops or forest resource land.

§124 Solid Waste

Solid waste facilities, transfer stations, and staging areas, herein referred to as facilities, shall comply with this §124.

- A. Traffic Study. The applicant shall provide a Traffic Impact Study.
- B. Setbacks. No part of any facility created after the effective date of this ordinance shall be located closer than 150 feet to an existing public right-of-way, property line or stream. The setback areas shall remain unoccupied with no improvements except required fencing and access road(s). A buffer not less than 50 feet in width shall be provided in all setbacks in accord with §60 of this ordinance. Additional buffers and setbacks may be required in accord with this ordinance.
- C. Fencing. All facilities shall be completely enclosed by a chain link fence not less than 10 feet in height. The erection of said fence shall be completed within six months after the effective date of this ordinance for existing facilities and prior to the issuance of a certificate -of-use for a new facility. All gates shall be closed and locked when closed for business. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence.
- D. Storage and Loading/Unloading. Storage of materials, supplies or solid waste in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted. Any solid waste stored for more than three hours shall be stored in an enclosed building. For any facility other than a sanitary landfill, all transfer, loading and unloading of solid waste shall only occur within an enclosed building with negative pressure, and over an impervious surface which drains into a holding tank that is then adequately treated.
- E. Effluent Treatment. The facility shall provide for treatment and disposal for all liquid effluent and discharges generated by the facility due to the storage, loading or unloading, transfer, container or vehicle washing, or other activity undertaken in processing or transporting the solid waste. All such activities shall be conducted only over an impervious surface and all drainage shall be collected for treatment. Any water discharge from the facility after being treated by the wastewater treatment system shall meet all applicable Department of Environmental Protection regulations and Sewer Authority requirements.

- F. Dangerous Materials. No radioactive, hazardous, chemotherapeutic, or infectious materials may be disposed of or stored or processed in any way, except for types and amounts of hazardous substances customarily kept in a commercial business for on-site use. Infectious materials are defined as medical wastes used or created in the treatment of persons or animals with seriously contagious diseases.
- G. Water Quality. The owner of any facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three months on any stream located on the premises or any stream within 500 feet of any area used for the storage or disposal of solid waste if water drainage from the facility is to said stream. For each testing period two samples shall be collected; one sample shall be taken from the stream at a point upstream of the solid waste disposal facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Borough, and results shall be provided to the Borough. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall cease operation until such time as the source of the contamination has been identified and corrected.
- H. Emergency Access. The operator of the facility shall cooperate fully with local emergency services. This should include allowing practice exercises on the site and the provision of all information needed by the emergency services to determine potential hazards. Adequate means of emergency access shall be provided.
- I. Hours of Operation. Under the authority granted to the Borough under State Act 101 of 1988, all such uses shall be permitted to operate only between the hours of 7:00 a.m. to 7:00 p.m. and are not permitted to operate on Sundays, Christmas Eve Day, Christmas Eve, New Year's Day, 4th of July, Labor Day, Memorial Day or Thanksgiving Day. All deliveries of solid waste shall be made during the hours between 7:00 a.m. to 5:00 p.m. and not on Sundays or the above specified holidays.
- J. Nuisances. Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors. The applicant shall prove to the satisfaction of the Borough that the use would not routinely create noxious odors off of the tract. The operator shall regularly police the area of the facility and surrounding street to collect litter that may escape from the facility or truck. The applicant shall provide documentation to the satisfaction of the Borough that proposed facility shall operate in such a manner as to not create a general nuisance, endanger the public health, safety and welfare or inhibit the public's use or enjoyment of their property.
- K. Attendant and Inspections. An attendant shall be present during all periods of operation or dumping. The applicant shall, if granted a Conditional Use Permit, allow access at any time to the facility for inspection by appropriate Borough Officials and provide the Borough with the name and phone number of a responsible person(s) to be contacted at any time in the event of an inspection.
- L. State and Federal Regulations and Reporting. The operation and day-to-day maintenance of the facility shall comply with all applicable State and Federal regulations as a condition of the continuance of any permit of the Borough. Violations of this condition shall also be considered to be violations of this ordinance. All solid waste transfer facilities (as defined by this ordinance) shall be subject to all requirements of 25 PA Code Chapter 279 (as amended) Transfer Facilities, regardless of whether a permit pursuant to said requirement is required. Where a difference exists between applicable State regulations and Borough regulations, it is intended for the purposes of this §124 that the more stringent requirements shall apply. A copy of all written materials and plans that are submitted to DEP by the applicant shall be concurrently submitted to the Zoning Officer.

§125 Staging Areas for Equipment/Materials. See §101.

§126 Storage Yards for Forest Products and Minerals

The intent of this §126 is to provide standards for access to public roads and setbacks for storage yards for forest products and minerals.

A. Access to Public Roads.

- (1) Highway Occupancy Permit. Access roads to Borough and State roads shall be in accord with a valid highway occupancy permit.
- (2) Stabilization. The access road shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto the public road.
- (3) Weight Limitations. All operations shall comply with all posted weight limits and road bonding regulations.
- (4) Use of Public Roads. Felling or skidding on or across any public road shall be prohibited without the express written authorization of the Borough or the Pennsylvania Department of Transportation, as applicable.

B. Setbacks.

- (1) Property Lines. Storage yards shall not be less than 50 feet from any property line other than a property line along a public road right-of-way.
- (2) Public Roads. Storage yards shall not be less than 50 feet from any public road right-of-way.
- (3) Slope. Storage yards shall be located on slopes less than eight percent. Low spots and poorly drained places shall be avoided.

§127 Transitional Living Facilities

Transitional living facilities are permitted in accordance with the Schedule of Uses, this §127, and other applicable standards of this ordinance.

- A. Supervision. Transitional living facility must provide 24 hour / 7 day live- in supervision to ensure clients receive proper, professional care.
- B. Location. A transitional living facility may not be located or established within a 1,000-foot radius of another transitional living facility.
- C. Certification. The transitional living facility must be licensed or certified under an applicable County, State or Federal program for transitional living facilities, as applicable. A copy of any such license or certification must be filed with the Borough and is required to be shown to the Zoning Officer prior to the issuance of a certificate of use and in the future upon request. The facility must notify the Borough within 14 days if there is a change in the type or number of clients, the sponsoring agency, or if an applicable certification/license expires, is suspended, or is withdrawn.
- D. Counseling. Any medical or counseling services provided at the facility are limited to residents of the facility and no more than three staff per day.
- E. Parking. One off-street parking space is required for each employee on duty at any one time, and every one client.
- F. Structure. If the facility is located in an existing dwelling structure, the structure may not have any external alterations except as may be necessary for safety or building code reasons, including fire escapes. No exterior signs may identify the type of use.
- G. Bulk and Density. The construction of a new transitional living facility must comply with the minimum lot size and other bulk and density requirements applicable to the district and may not be permitted on lots of nonconforming size.
- H. Number of Clients. No more than five occupant clients may be served at the facility at once.

- I. Visitors. Employees of the transitional living facility are prohibited from having visitors on the premises, except for visitation necessary for the operation of the facility or in emergencies.
- J. Contact Information: The name, telephone number, and email address of the facility supervisor shall be provided by January 15th of each year and at any time there is a change in any of the contact information.

§128 Transmission Pipelines and Hazardous Liquid Pipelines

- A. Applicability. In addition to all other applicable requirements of this ordinance, the provisions of this §128 shall apply to the siting and construction of any gas transmission line or hazardous liquid pipeline all of which are herein referred to as pipeline facilities) as defined in §128C.
- B. Public Interest and Intent.
 - (1) Public Interest. The requirements of this §128 are established in recognition of the environmental and community effects associated with pipeline facilities. The effects include, but are not limited to, compatibility with nearby land uses related to noise, odor, lighting, quality of surface waters and groundwater, use and enjoyment and value of adjoining property, and future community development.
 - (2) Intent. This §128 is intended to evaluate the proposed pipeline facilities through the Borough and establish setbacks and other siting and operational conditions to minimize environmental and community effects.
- C. Definitions. Words and phrases used in this §128 shall have the meanings set forth in this §128C. Words not defined in this §128C, but defined in Article II, shall have the meanings set forth in Article III. All other words and phrases shall be given their common, ordinary meaning, unless the context requires otherwise.
 - (1) Distribution Pipeline. A natural gas pipeline other than a gathering or transmission line (reference 49 CFR 192.3). A distribution pipeline is generally used to supply natural gas to the consumer and is found in a network of piping located downstream of a natural gas transmission line.
 - (2) Gas. Natural gas, flammable gas, or gas which is toxic or corrosive. (Reference 49 CFR 192.3) Gases are normally compared to air in terms of density. The specific gravity of air is 1.0. Any gas with a specific gravity less than 1.0 (such as natural gas) will rise and usually disperse. Any gas having a specific gravity greater than 1.0 will fall and collect near the ground or in low-lying areas such as trenches, vaults, ditches, and bell holes – such occurrences can be hazardous to human health and safety.
 - (3) Gas Transmission Pipeline. A pipeline, other than a gathering line, that 1) transports gas from a gathering line or storage facility to a distribution center, storage facility, or large-volume customer that is not downstream from a distribution center; 2) operates at a hoop stress of 20 percent or more of specified minimum yield strength; or, 3) transports gas within a storage field. (Reference 49 CFR 192.3) A gas transmission pipeline includes all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.
 - (4) Hazardous Liquid. Includes petroleum, petroleum products, anhydrous ammonia, and carbon dioxide. (Reference 49 CFR 195.2)
 - (5) Hazardous Liquid Pipeline. All parts of a pipeline facility through which a hazardous liquids move in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.
 - (6) Institutional Use. A nonprofit, religious, or public use, such as a religious building, library; public or private school, hospital, or government-owned or government-operated building, structure, or land used for public purpose.

- (7) Petroleum Products. Flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds.
 - (8) Pipeline. Used broadly, pipeline includes all parts of those physical facilities through which gas, hazardous liquid, or carbon dioxide moves in transportation.
 - (9) Pipeline Corridor. The linear area where a transmission pipeline or hazardous liquid pipeline and associated facilities are located, including rights-of-way and easements over and through public or private property.
 - (10) Transmission Pipeline. When not specified includes both hazardous liquid and gas transmission pipelines. Transmission pipelines carry oil, petroleum products, natural gas, natural gas liquids, anhydrous ammonia, and carbon dioxide from producing regions of the country to markets.
- D. Special Exception. Any proposed pipeline facility shall be considered a special exception subject to all applicable requirements of this ordinance and the requirements of this §128.
- E. Hazard Analysis. The Applicant shall submit a comprehensive hazard analysis report prepared by a qualified professional using generally accepted hazard analysis software as determined by the Borough. The report shall include, but not be limited to, the following:
- (1) The applicable state and federal regulations and how the proposed pipeline facility will comply.
 - (2) A description of the pipeline facility and community and environmental characteristics of the proposed corridor and areas within 1,000 feet of the centerline of the proposed pipeline facility.
 - (3) Unusually Sensitive Areas as identified by the National Pipeline Mapping System (NPMS) Pipeline Information Management and Mapping Application (PIMMA).
 - (4) The frequency of community and environmental hazards associated with the type of pipeline facility proposed.
 - (5) The probable consequences of an accidental release for both leaks and ruptures for community and environmental effects.
 - (6) The community and environmental risk of an accidental spill.
 - (7) Measures for risk mitigation and the likelihood and consequences of community and environmental effects.
- F. Environmental Impact Statement. The Applicant shall also submit an Environmental Assessment as required by §81 which shall incorporate the findings of the Hazard Analysis required by §128E.
- G. Traffic Impact Study. The Applicant shall also submit a Traffic Impact Study using current PennDOT methodology.
- H. Performance Standards. The Applicant shall provide a report detailing how the pipeline facility will comply with all of the performance standards in this §128 and Article XII Part 2, the special exception standards in §176D, and other applicable requirements.
- I. Setbacks from Existing Buildings, Uses and Features. Unless another ordinance provision (See §118 for additional standards applicable to pipeline compressor stations, metering stations and operation/maintenance facilities and the more restrictive shall apply.) requires a greater setback or the Zoning Hearing Board determines a greater setback is required to mitigate the community and/or environmental effects of the proposed transmission pipeline, the minimum setbacks in this §128I shall apply to all proposed pipeline facilities and appurtenant structures and operations. The setbacks shall be measured from the centerline of

the transmission pipeline and from the nearest edge of any appurtenant structure or facility to any of the following existing buildings, uses and features:

- (1) Property line or public road right-of-way: 100 feet.
- (2) Dwelling: 300 feet.
- (3) Property owners' association uses: 300 feet.
- (4) Commercial, light manufacturing or industrial building: 300 feet.
- (5) Institutional uses, any use requiring evacuation assistance and places of large public gatherings such as arenas: 500 feet.

J. Noise. All compressors, engines and any mechanical equipment which requires noise reduction to meet Borough standards shall be located within a fully enclosed building with soundproofing and blow down silencers and mufflers adequate to comply with the noise standards established by §65 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 300 feet of the compressor station building(s). The applicant and or operator shall be responsible for establishing and reporting to the Borough the pre-development ambient noise level prior to the issuance of the zoning permit for the station.

K. Fence and Signs.

- (1) All aboveground facilities shall be completely enclosed by a chain link fence six feet in height with at least one secured entrance gate. All gates shall be locked when the operator or its employees are not on the premises. All fences and gates shall be maintained in good repair and in such a manner as not to become unsightly.
- (2) There shall be no advertising of any kind placed on the fence except that the following shall be posted at the entrance gate:
 - (a) Owner/operator name.
 - (b) Name of facility.
 - (c) Borough assigned address.
 - (d) Emergency contact name and phone number and alternate.

L. Informational Requirements. The applicant shall provide the information required by §170, this §128 and all other necessary information to enable the Borough to assess compliance and 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. The Applicant shall also provide the following:

- (1) Construction Schedule. Anticipated construction start and completion date.
- (2) State and Federal Information. A copy of all applications and information required by the governing state and federal agencies.
- (3) Emergency Response. The Applicant 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.
- (4) Site Plan. A plan of the site meeting the requirements for a major subdivision per the Subdivision and Land Development Ordinance and including the location of all facilities and the lighting plan.
- (5) Site Address. The Borough assigned address for the project site.

M. Conditions of Approval. In addition to increased setbacks, the Zoning Hearing Board, in accord with §176C and §912.1 of the Pennsylvania Municipalities Planning Code, shall impose all other reasonable conditions it deems necessary to mitigate community and environmental effects and achieve the purposes of this §128 and this ordinance.

§129 Vehicle Related Uses

Vehicle related uses shall comply with the standards in this §129.

- A. Car and Truck Wash Facilities. All car and truck wash facilities shall be subject to the following specific regulations and requirements:
- (1) The principal building housing the said facility shall be set back a minimum of 60 feet from the road or street right-of-way line and 30 feet from the side or rear property lines.
 - (2) Appropriate facilities for the handling of wastewater from the washing activities shall be provided including, the prevention of water being dripped onto the adjoining road or street from freshly washed vehicles during periods of freezing weather
 - (3) The facility shall have adequate means of ingress and egress to prevent adverse effects to either vehicular or pedestrian traffic. When a wash facility occupies a corner lot, the access driveways shall be located at least 75 feet from the intersections of the front and side street right-of-way lines.
 - (4) The site shall be sufficiently large to accommodate vehicles awaiting washing during peak periods, but in no case shall the waiting area for each stall accommodate less than three automobiles.
 - (5) Any wash facility located within 200 feet of any R-1 or R-2 District shall not operate between the hours of 9:00 p.m. and 7:00 a.m.
- B. Vehicle or Equipment Repair Operations. All vehicle or equipment repair operations shall be subject to the following specific regulations and requirements:
- (1) 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.
 - (2) Only vehicles with current licenses and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored outdoors. If a legitimate, bonafide, service station stores more than four vehicles per interior service stall, it shall comply with the junk regulation set forth in this ordinance. Proof of current license and current registration or ownership of any vehicle will be required upon demand by the Zoning Officer.
 - (3) No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this ordinance.
 - (4) 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 250 square feet in area.
 - (5) Gasoline pumps and other service appliances may be located in the required front setback but shall not be situated closer to the road or street right-of-way line than 30 feet or the PennDOT requirement, whichever is greater. Any above ground storage tanks shall not be placed in the front setback area.
 - (6) No vehicles shall be stored in any required setback areas.
 - (7) Any operation which is primarily intended to serve trucks with three or more axles or tractor-trailer trucks: all areas for fueling and servicing shall be not less than 100 feet from any R-1 or R-2 District.
 - (8) All major repair, welding, auto body, painting and similar work shall be performed within a building with a fume collection and ventilation system that directs noxious fumes away from any adjacent buildings. All such systems shall meet all required state and federal health and safety standards.

C. Vehicle or Equipment Sales Operations. All vehicle or equipment display and sales operations of new and used automobiles, trucks, motorcycles, mobile homes, recreation vehicles, boats, and travel trailers and other vehicles and equipment shall be subject to the following specific requirements:

- (1) All principal and accessory buildings and structures shall be in accord with the setback, building height and lot coverage requirements of the district.
- (2) The outdoor display of new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers shall meet the appropriate front, side and rear setback requirements for the district.
- (3) Activities which are normally accessory to such sales operations, such as engine tuneup and repairs, body repairs, painting, undercoating and other similar activities shall be conducted in accord with the applicable standards in §129B.
- (4) Only vehicles with current license and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored in any exterior area. If a legitimate, bonafide, service station stores more than four vehicles per service stall in exterior areas, it shall comply with the junkyard regulations set forth in this ordinance. Proof of current license and current registration or ownership of any vehicle will be required upon demand by the Zoning Officer.
- (5) No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this ordinance.
- (6) 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 250 square feet in area.
- (7) No vehicles shall be stored in any required setback areas.

§130 Reserved

§131 Wind Energy Facilities

The provisions of this §131 shall apply to wind energy facilities.

A. Purposes.

- (1) To accommodate the need for wind energy facilities while regulating their location and number in the Borough in recognition of the need to protect the public health, safety, and welfare.
- (2) 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.

- (1) Permits. A permit shall be required for every wind energy facility and windmill installed at any location in the Borough.
- (2) 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.
- (3) 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.

- (1) 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.
- (2) 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 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 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 30 feet from the line of lease, license or easement. In any case, no 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 500 feet from any principal residential structure existing prior to the erection of the windmill.
- (3) 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 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.
- (4) Fencing. A fence may be required around windmills and other equipment unless the design of the structures adequately provides for safety.
- (5) 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.
- (6) 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.

- (7) 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 20 feet in width and shall be improved to a width of at least 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.
 - (8) 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.
 - (9) 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.
 - (10) Historic Structures. A wind energy facility shall not be located within 500 feet of any structure listed on any public historic register.
 - (11) 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.
 - (12) 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 of this ordinance. Such towers shall be removed within 18 months of installation.

§132 Wireless Communication Facilities (WCF)

The provisions of this section are intended to be consistent with the rules and regulations of the Federal Communications Commission (FCC) and the Pennsylvania Collocation Act. Any provisions of this §132 that only repeat, summarize, or reference provisions of the FCC or PA Collocation Act shall be deemed to be automatically superseded and replaced by any applicable amendments to the rules and regulations of the FCC or PA Collocation Act provisions.

A. Purposes. By enacting these provisions, the Borough intends to:

- (1) Accommodate the need for Wireless Communications Facilities while regulating their location and number to ensure the provision of necessary services;

- (2) Provide for the managed development of Wireless Communications Facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Borough residents and wireless carriers in accordance with federal and state laws and regulations;
- (3) Establish procedures for the design, siting, construction, installation, maintenance and removal of both wireless communications towers and antennas in the Borough, including facilities both inside and outside the public rights-of-way;
- (4) Address new wireless communication technologies, including but not limited to, distributed antenna systems, data collection units, and other wireless communications facilities;
- (5) Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish, particularly considering the importance of the scenic beauty of the area in attracting visitors for outdoor recreation;
- (6) Protect property values; and
- (7) Promote the health, safety and welfare of the Borough's residents.

B. General Criteria Applicable to All WCFs.

- (1) All WCFs shall be sited, designed, constructed, operated, inspected maintained, repaired, modified, removed and replaced in strict compliance with all current applicable federal and state technical and safety codes.
- (2) Subdivision plan approval shall not be required when a WCF is located on a leased parcel that is less than the entire property.
- (3) All WCFs shall be operated in accordance with all applicable FCC rules regarding interference with public safety communications or the reception of broadband, television, radio or other communications services.
- (4) All WCFs shall include a posted sign at the location. Such signage shall include the ownership, contact name and phone number in the event of an emergency and FCC registration number (if applicable). Such signage shall not include commercial advertising and is subject to approval by the Borough.
- (5) All WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards established by the Borough. The use of a backup generator in emergency situations and periodic maintenance and testing by the wireless communications provider's technicians shall be permitted, where such noise standards may be exceeded on a temporary basis.
- (6) All WCFs shall comply with federal and state laws and regulations concerning aviation safety.
- (7) The storage of unused equipment, materials or supplies is prohibited on any WCF site.
- (8) All WCFs shall employ the most current Stealth Technology available, where appropriate, in an effort to appropriately blend the proposed WCF into the surrounding environment and minimize aesthetic impact. Equipment buildings and cabinets shall be designed to blend into the environment in which they are situated, to the extent practicable.
- (9) An applicant for a WCF shall submit a copy of the license, lease or other form of written agreement/authorization with the property owner confirming that the applicant has standing to file the application and maintain the proposed WCF on the subject lot or property.
- (10) If the applicant is a commercial wireless communications provider, it must demonstrate that it is licensed by the FCC and submit with its application copies of all FCC permits and licenses.
- (11) The applicant shall demonstrate that the proposed WCF will comply with all applicable standards established by the FCC governing human exposure to electromagnetic emissions.

- (12) The applicant shall provide a certificate of insurance issued to the owner/operators of the WCF, evidencing that there is or will be adequate current liability insurance in effect.
 - (13) If use of a WCF is planned to be discontinued, the owner/operator shall provide written notice to the Borough its intent to discontinue use and the date when the use shall be discontinued.
 - (14) All unused or abandoned WCFs and accessory facilities, or portions thereof, shall be removed within six months of the cessation of operations at the Site unless a time extension is approved by the Borough, and any lease of license agreement with the property should so require. If the WCF and/or accessory facility, or applicable portion thereof, is not removed within six months of the cessation of operations at a Site, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF. The owner or operator of the WCF shall notify the Zoning Officer in writing after the WCF, or portions thereof, are no longer in active use.
 - (15) Vehicular access to a WCF shall not interfere with the parking or vehicular circulations for a principal use, if located on the lot or property. However, where appropriate and available, existing parking for the principal or other uses on the lot or property may be utilized.
 - (16) An applicant shall present documentation to the Borough that the property owner has granted an access easement for the proposed WCF, if located on a lot or property.
 - (17) Accessory utility buildings shall only be permitted with a new Tower-Based WCF and shall have a maximum total floor area of 400 square feet (which may be divided among adjacent buildings serving separate companies), have a maximum height of 10 feet and meet principal building setbacks.
 - (18) If an environmental impact study or environmental assessment is required by federal regulations, a copy shall be submitted to the Zoning Officer at the same time it is submitted to the applicable federal agency.
 - (19) All new WCFs, collocations, modifications, repairs, and replacements shall, where applicable, comply with the Borough Building Code and obtain a Building Permit from the Borough Building Code Official.
- C. New Tower-Based WCF. In addition to the provisions of §132B a new tower-based WCF shall also comply with the following:
- (1) Such Tower-Based WCF, located outside the public right-of-way, shall be set back the following distances from lot lines, whichever is greater:
 - (a) A distance from the lot line of a lot occupied by an existing dwelling (or that is approved for a new dwelling) that is greater than the combined total height of the Tower-Based WCF and any associated antenna above the surrounding ground level; or
 - (b) The applicable principal building setback.
 - (2) A new Tower-Based WCF, other than a Tower-Based WCF located within a public right-of-way or on a lot of an emergency services station, shall be set back from all lot lines a minimum distance of the tower height plus the normal required setback.
 - (3) A Tower-Based WCF, located outside the public right-of-way, shall be surrounded by a security fence/gate with a minimum height of eight feet and evergreen plantings or preserved vegetation with an initial minimum height of four feet.
 - (4) The applicant shall provide a written statement sealed by a professional engineer stating that the Tower-Based WCF will meet the structural and wind resistance requirements of the latest published version of the International Building Code, or its successor code.

- (5) The applicant shall describe in writing the policies that will be used to offer space on the proposed Tower-Based WCF to other communications providers, which shall serve to minimize the total number of towers necessary in the region.
- (6) An applicant for a new Tower-Based WCF shall provide evidence to the Borough that they have investigated collocating their facilities on an existing tower and other tall structures and have found such alternative to be unworkable to achieve the coverage or capacity objectives of the applicant. The reasons shall be provided. At an absolute minimum, placement upon existing or approved towers within a one-mile radius shall be considered, in addition to other reasonable opportunities.
- (7) For a Tower-Based WCF located outside of a public right-of-way, a maximum total height of 200 feet above the ground shall apply in a commercial and industrial district and 150 feet in any other district where it may be allowed, unless the applicant proves to the Borough that a taller height is absolutely necessary and unavoidable.
- (8) The Borough may require lighting of an antenna even if it will not be required by the Federal Aviation Administration. Such lighting is intended to provide protection for emergency medical helicopters. Otherwise, towers shall not be artificially lighted beyond what is required by law.
- (9) A new Tower-Based WCF shall only be granted approval in the MU, HI, I, A and OR districts if the applicant proves to the satisfaction of the Borough that there are no suitable locations for the antenna on existing towers and/or within commercial and industrial districts to achieve the coverage or capacity objectives of the applicant.
- (10) A new Tower-Based WCF shall be designed in a manner that minimizes its visual intrusiveness and environmental impacts to the maximum extent feasible. For example, monopole designs are preferred over lattice designs. Self-supporting towers are preferred over towers with guy wires that would require removal of larger numbers of trees.
- (11) A site plan, drawn to scale, shall be submitted with the application showing property boundaries, power location, tower height, guy wires and anchors, existing structures, elevation drawings depicting typical design of proposed structures, parking, fences, landscaping and existing uses on adjacent properties, and listing the name and address of all antenna and equipment to be located at the site as of the date of the application.
- (12) A copy of the Federal Aviation Administration (FAA) response to the submitted Notice of Proposed Construction or Alteration (FAA Form 7460-1) shall be submitted as part of the application, together with proof of compliance with applicable FAA and Pennsylvania Bureau of Aviation regulations/requirements, as well as any applicable airport zoning regulations.
- (13) Vehicular Access
 - (a) An access driveway and one off-street parking space shall be provided to ensure adequate emergency and service access to all Tower-Based WCFs located outside of the public right-of-way.
 - (b) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
 - (c) Where possible, access driveway construction shall at all times minimize ground disturbance and the cutting of vegetation.
 - (d) Access driveway grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.
 - (e) Any required access easement shall be a minimum of 20 feet in width and the access driveway shall be improved with a dust-free, all weather surface, including gravel, to a width of at least 10 feet throughout its entire length.

- (14) If a Tower-Based WCF would be within 150 feet of the center line of a perennial creek, natural gas or propane is recommended for any emergency power source, instead of battery and/or gasoline powered generators.
- (15) A tower/antenna that serves emergency communications by a Borough-recognized police, fire or ambulance organization, and is on the same lot as an emergency services station, shall be permitted by right. Such tower/antenna may also serve commercial purposes.

D. Additional Criteria Applicable to WCFs in the Public Right-Of-Way.

- (1) Schedule of Operations - The Borough shall determine the time, place and manner of siting, design, construction, maintenance, repair, modification, removal and/or replacement of all WCFs located in the public right-of-way, based on public safety, traffic management, physical burden on the PROW and related considerations, unless the WCF is a public utility. For public utilities, the time, place, and manner requirements shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.
- (2) Alteration of a WCF - Within 60 days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF located in the public right-of-way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under any one of the following circumstances:
 - (a) The construction, repair, maintenance or installation of any municipal or other public improvement located in the public right-of-way.
 - (b) The operations of the Borough or other governmental entity in the public right-of-way.
 - (c) Vacation of a street or road or the release of a utility easement.
 - (d) An emergency as determined by the Borough.

No zoning permit is required for such removal, relocation, change or alteration ordered by the Borough.

- (3) Visual Obstruction - All WCFs and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the public right-of-way as determined by the Borough. In no case shall ground-mounted equipment, walls, screening, or landscaping be located within 18 inches of the face of the curb, or in an area in which there are no curbs, within three feet of the edge of the shoulder.
- (4) No new WCF, whether a Tower-Based WCF or WCF on Existing Structure, shall have a combined total height of the tower and antenna in excess of 50 feet.
- (5) Any new tower shall be self-supporting and guy wires shall not be permitted.
- (6) No new tower shall be installed in any area where utilities are located underground. In such areas new towers may only be installed at street intersections.
- (7) The design shall minimize the size of the facilities and spatial effect on the right-of-way and address protection of pedestrian and vehicle safety.
- (8) No Accessory Equipment shall be less than four feet from the edge of the curb or shoulder of any public or private road.
- (9) In addition to the required application and permit fees, each facility in a Borough right-of-way is subject to the Borough's right to fix annually a fair and reasonable compensation to be paid for the use and occupancy of the right-of-way. Such compensation for right-of-way use shall directly related to the Borough's actual right-of-way management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising, and other right-of-

way management activities by the Borough. The owner of each facility shall pay an annual fee to the Borough to compensate the Borough for the Borough's costs incurred in connection with the activities described above. The annual right-of-way management fee for the facility shall be determined by the Borough and authorized by resolution of the Borough Council and shall be based on the Borough's actual right-of-way management costs as applied to such facility.

- (10) Prior to the issuance of a permit, the owner of each individual facility shall, at its own cost and expense, deliver a restoration deposit in an amount determined by the Borough Engineer. The return of the deposit shall be contingent upon the proper restoration of the right-of-way and compliance with the terms and conditions of this ordinance. Upon installation of the facility, the applicant shall notify the Borough that the site is ready for inspection. The Borough Engineer shall inspect the site and, if it is found to be satisfactory, the restoration deposit shall be refunded to the applicant within 30 days. The restoration deposit may be forfeited in whole or in part to the Borough if any work is found to be incomplete or not in compliance with all applicable standards.

E. WCF on Existing Structure. A WCF on an Existing Structure shall be permitted by-right in VC-1, VC-2 and I Districts in accord with the following additional requirements.

- (1) In VC-1 and VC-2 Districts the antenna shall extend a maximum of 20 feet beyond the existing structure to which it is attached but shall not be attached to any dwelling.
- (2) In I Districts the antennas shall extend a maximum of 40 feet beyond an existing building or structure provided the antenna is set back a distance equal to its total height above the ground from any lot line of a dwelling on another lot. No antenna shall be attached to any dwelling.

F. Collocation, Modification or Replacement.

- (1) Applications to collocate a WCF on Eligible Facilities are permitted in all zoning districts, and while no additional zoning approvals are required, any applicable permits from the Building Code Official pursuant to the Borough Building Code are required. Such applications will be acted on by the Building Code Official with 60 days of submission of a complete application. The Building Code Official shall notify the applicant in writing of any information that may be required to complete an application within 30 calendar days of the date the application was filed with the Borough.
- (2) Notwithstanding the requirements for all Tower-Based WCFs and WCFs on Existing Structures, as set forth in this §132, an application for Replacement or Modification of a previously approved WSS or WCF shall be reviewed for conformance with any applicable Borough Building Code requirements, including requirements applicable to the added structural loading of the proposed antennas and Accessory Equipment. The application shall not, however, require new zoning or land use approvals if there is no Substantial Change.
- (3) Replacement of WCFs on an existing WSS or within existing Equipment Compounds may be performed by the applicant without obtaining building or zoning permits from the Borough.
- (4) Any Substantial Change to an existing Tower-Based WCF shall be processed, and require the same permits/approvals, as applicable to a new Tower-Based WCF in the zoning district in which the Substantial Change is proposed.
- (5) A tower/antenna that serves emergency communications by a Borough-recognized police, fire or ambulance organization, and is on the same lot as an emergency services station, shall be permitted by right. Such tower/antenna may also serve commercial purposes.

TABLE OF WCF PROCESSING PERIODS			
		Municipality shall approve or deny the application unless a shorter time period is applicable under PA MPC	Municipality shall notify the applicant in writing of any information that may be required to complete the application.
A	Collocate SWF on Existing Structure	Within 60 days* of submission of application	Within 10 calendar days of the date the application was filed with the Municipality.
B	Collocate WCF (other than a SWF) on Existing Structures	Within 90 days* of submission of application	Within 30 calendar days of the date the application was filed with the Municipality.
C	SWF using a new structure	Within 60 days* of submission of application	Within 10 calendar days of the date the application was filed with the Municipality.
D	New Tower-Based WCFs (other than a SWF)	Within 150 days* of submission of application	Within 30 calendar days of the date the application was filed with the Municipality.
E	Eligible Facilities Request**	Within 60 days* of submission of application	Within 30 calendar days of the date the application was filed with the Municipality.
*The time period may be tolled by mutual agreement or in cases where the Township notifies the applicant in a timely manner that the application is incomplete. For the applicable tolling periods in the event an applicant is timely notified the application is incomplete, see §132G(2)(d).			
** The Township shall only require the applicant to provide documentation that is reasonably related to determining whether the request is for an Eligible Facility			

G. Permits; Timing of Action.

- (1) Permit Required - Except as otherwise specifically provided, a zoning permit shall be required for every WCF installed at any location, whether in or out of a public right-of-way.
- (2) Timing of Action for WCF Applications - An application shall be deemed complete when all required documents, information and fees are submitted by the applicant to the Borough.
 - (a) Processing Period - Unless another date or time period is specified in a written agreement between the Borough and an applicant, the period of time for the Borough to review and make a final decision whether to approve or disapprove a WCF application is the sum of:
 - [1] the number of days of the presumptively reasonable period of time for the pertinent type of application pursuant to §132G(2)(b), plus
 - [2] the number of days of the tolling period, if any, pursuant to §132G(2)(d).
 - (b) Presumptively Reasonable Periods of Time - The following are the presumptively reasonable periods of time for final action on wireless facility applications seeking authorization for deployments in the categories set forth below: (See also the Table of WCF Processing Periods.)
 - [1] Application to collocate a Small Wireless Facility using an existing structure: 60 days.
 - [2] Application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.
 - [3] Application to deploy a Small Wireless Facility using a new structure: 90 days.
 - [4] Application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.
 - (c) Batching
 - [1] If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either §132G(2)(b)[1] OR §132G(2)(b)[3], then the presumptively reasonable period of time for final action on the application as a whole is equal to that for a single deployment

within that category.

- [2] If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within §132G(2)(b)[1] AND deployments that fall within §132G(2)(b)[3], then the presumptively reasonable period for final action on the application as a whole is 90 days.

(d) Tolling Period - Unless a written agreement between the applicant and the siting authority provides otherwise, the tolling period for an application (if any) is as set forth in the following Table of WCF Processing Periods.

- [1] For an initial application to deploy Small Wireless Facilities, if the Borough authority notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the processing period date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.

- [2] For all other initial applications, the tolling period shall be the number of days from:

- [a] the day after the date when the Borough notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation, until
- [b] the date when the applicant submits all the documents and information identified by the siting authority to render the application complete,
- [c] but only if that notice is provided to the applicant on or before the 30th day after the date when the application was submitted.

- [3] For resubmitted applications following a notice of material incompleteness, the tolling period shall be the number of days from:

- [a] the day after the date when the Borough notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the Borough's original request under §132G(2)(d)[1] or §132G(2)(d)[2], until
- [b] the date when the applicant submits all the documents and information identified by the siting authority to render the application complete,
- [c] but only if the notice pursuant to this §132G(2)(d)[3] is provided to the applicant on or before the 10th day after the date when the applicant makes a supplemental submission in response to the Borough's request under §132G(2)(d)[1] or §132G(2)(d)[2].

H. Regulations Applicable to all Small Wireless Communications Facilities. The following regulations shall apply to Small Wireless Communications Facilities:

(1) Location and Development Standards.

- (a) Small WCF are permitted by administrative approval from the zoning officer in all Borough zoning districts, subject to the requirements of this §132H and generally applicable permitting as required by this ordinance.
- (b) Eligible Facilities Request. WCF Applicants proposing a Modification to an existing WCF that does not Substantially Change the dimensions of the underlying structure shall be required only to obtain a building permit from the Borough Building Code Official. In order to be considered for such permit,

the WCF Applicant must submit a permit application to the Borough in accordance with applicable permit policies and procedures.

- (c) Small WCF in the public ROW requiring the installation of a new Wireless Support Structure shall not be located in front of any building entrance or exit.
- (d) All Small WCF shall comply with the applicable requirements of the Americans with Disabilities Act and all Borough Code requirements applicable to streets and sidewalks.
- (2) Nonconforming Wireless Support Structures. Small WCF shall be permitted to collocate upon nonconforming Tower-Based WCF and other nonconforming structures. Collocation of WCF upon existing Tower-Based WCF is encouraged even if the Tower-Based WCF is nonconforming as to use within a zoning district.
- (3) Standard of Care. Any Small WCF shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, or to the industry standard applicable to the structure. A Small WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any Person or any property in the Borough.
- (4) Historic Buildings. No Small WCF may be located within one hundred (100) feet of any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official historic structures list maintained by the Borough.
- (5) Wind and Ice. All Small WCF shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.
- (6) Aviation Safety. Small WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- (7) Public Safety Communications. Small WCF shall not interfere with public safety communications, or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (8) Radio Frequency Emissions. A Small WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (9) Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
- (10) Accessory Equipment. Small WCF and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Borough.
- (11) Graffiti. Any graffiti on the Small Wireless Support Structure or on any Accessory Equipment shall be removed at the sole expense of the owner within thirty (30) days of notification by the Borough.
- (12) Design Standards. All Small WCF in the Borough shall comply with generally accepted design parameters and the following:

- (a) All design techniques shall minimize the visual impact of a SWF on the public during and after the installation, Modification, or repair of a SWF.
- (b) The quantity and size of accessory equipment placed on wireless support structures shall be minimized. Long and narrow accessory equipment, as opposed to wide and bulky accessory equipment, should be used. Accessory equipment should be clustered together as much as possible and located toward the top of the wireless support structure when possible.
- (c) No flashing lights or unnecessary, distracting, nonessential or poorly placed signage or stickers shall be installed or attached on any SWF, accessory equipment, or wireless support structure unless required by applicable codes or agreed upon by the Borough.
- (d) No SWF or accessory equipment shall have any exposed cables or wiring. all cables and wiring shall be concealed or contained within a wireless support structure unless doing so is not technically feasible as determined by the Borough's engineer. If the cables and wiring cannot be contained within the wireless support structure, then all cables and wires shall be contained within a conduit that is flush mounted to the wireless support structure. All conduits shall be of a color that matches the wireless support structure to which the SWF is attached and be non-reflective unless otherwise agreed upon by the Permittee and Borough.
- (e) Spools and/or coils of excess wires or cables shall not be stored on a wireless support structure unless they are completely within the approved enclosures or conduits.
- (f) All cables and wiring shall be installed tautly and without excessive slack or extra cable storage on the wireless support structure. Extra wiring shall not be attached to any wireless support structure.
- (g) Exterior panel Antennas should not exceed the height of the wireless support structure.
- (h) Antennas and accessory equipment should not extend further than 20 inches from the wireless support structure.
- (i) Applicants and/or Permittees shall avoid installing small wireless facilities on wireless support structures that are directly in front of dwelling units or businesses. Wireless support structures near street corners, landscaped areas, or in alleys shall instead be considered for installation first.
- (j) Small wireless facilities and accessory equipment shall be painted with graffiti-resistant paint which matches the wireless support structure's color and surroundings.
- (k) Colors and materials for small wireless facilities, antennas, and accessory equipment shall be chosen to minimize visibility and be compatible with the surrounding environment. Muted colors, earth tones, and subdued hues, such as light green, brown, gray, or light blue, or a color that is more compatible with the surrounding architecture or environment only as approved by the Borough shall be used. Small wireless facilities, antennas, and accessory equipment shall match the 3 color of the utility pole or municipal pole that they are attached to if they are attached to such structure.
- (l) Advertisements are prohibited on a wireless support structure, accessory equipment, or SWF. Likewise, all manufacturer decals, logos, and the like shall be removed or otherwise entirely concealed.
- (m) If technically feasible, all accessory equipment shall be entirely contained or enclosed within a single cabinet which has the smallest physical dimensions possible.
- (n) Any replacement wireless support structure shall be placed as close as possible to the existing wireless support structure that is being replaced.
- (o) Any replacement wireless support structure shall substantially conform to the material and design of the existing wireless support structure or to the adjacent wireless support structures located within the contiguous right-of-way.

- (p) The height of any replacement wireless support structure shall not extend more than 10 feet above the height of the existing wireless support structure.

(13) Timing of Approval.

- (a) Within 60 days of receipt of an application for Collocation of a Small WCF on a preexisting Wireless Support Structure, the zoning officer shall make a final decision on whether to approve the application and shall notify the Small WCF Applicant in writing of such decision.
- (b) Within 90 days of receipt of an application for a Small WCF requiring the installation of a new Wireless Support Structure, the zoning officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.
- (c) Within 10 calendar days of the date that an application for a Small WCF is filed with the zoning officer, the Borough shall notify the WCF Applicant in writing of any information that may be required to complete the application.

(14) Relocation or Removal of Facilities. Within 90 days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a Small WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Small WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- (a) The construction, repair, maintenance or installation of any Borough or other public improvement in the right-of-way;
- (b) The operations of the Borough or other governmental entity in the Right-of-Way;
- (c) Vacation of a street or road or the release of a utility easement; or
- (d) An emergency as determined by the Borough.

(15) Reimbursement for ROW Use. In addition to permit fees as described in this section, every Small WCF in the ROW is subject to the Borough's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Borough's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Borough. The owner of each Small WCF shall pay an annual fee to the Borough to compensate the Borough for the Borough's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.

- I. Definitions. The following definitions shall apply to this §132. Words not defined in this §132H shall be given the meanings set forth in §12. All other words and phrases shall be given their common ordinary meaning unless the context clearly requires otherwise.

Accessory Equipment - Any equipment serving or being used in conjunction with a wireless telecommunications facility or wireless communications facility support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar equipment.

Associated Antenna Equipment - Equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the wireless communications facility antenna, and when collocated on a structure, is mounted or installed at the same time as such wireless communications facility antenna.

Base Station - A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a wireless communications facility support structure, or any equipment associated with a wireless communications facility support structure.

Distributed Antenna System (DAS) - A small network of the wireless communications facility antennas that are connected to a common source that provides coverage in a building or a small geographic area.

Eligible Facilities Request - Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

Equipment Compound - An area surrounding or adjacent to a wireless communications facility support structure within which base stations, power supplies or accessory equipment are located.

FCC – Federal Communications Commission.

Modification - The improvement, upgrade or expansion of existing wireless telecommunications facilities or base stations on an existing wireless support structure or the improvement, upgrade or expansion of the wireless telecommunication facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless communications facility support structure.

Monopole - A tower which consists of a single pole structure without any guy wires, designed and erected on the ground or on top of a structure, to support communications antennas and connect appurtenances.

Public Right-of-Way - The surface of and space above and below any real property in the Borough in which the federal government, Commonwealth, Borough or a municipal authority has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the federal government, Commonwealth, Borough or a municipal authority, and any non-exclusive public or utility easements established, dedicated, platted, improved or devoted for utility purposes. Private rights-of-way and other government-owned lands not listed above shall not be considered a right-of-way. The phrase “in the right(s)-of-way” means in, on, over, along, above and/or under the public right(s)-of-way.

Replacement - The replacement of existing wireless communications facilities on an existing wireless communications facility support structure or within an existing equipment compound due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the wireless communications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless communications facility support structure.

Site - For towers other than towers in the public rights-of-way, the current boundaries of the licensed, leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible wireless communications support structures, further restricted to that area in proximity to the wireless communications support structure and to other transmission equipment already deployed on the ground.

Small Wireless Facility (SWF) - A wireless communications facility that meets each of the following requirements:

A. The facilities –

- (1) are mounted on structures 50 feet or less in height including their antennas, or
- (2) are mounted on structures no more than 10 percent taller than other adjacent structures, or

- (3) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
- B. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume.
- C. All other accessory equipment associated with the structure, including associated antenna equipment and any pre-existing accessory equipment on the structure, is no more than 28 cubic feet in volume.
- D. The facilities do not require antenna structure registration under U.S. Code Title 47, Chapter 1, Subchapter A, Part 17.
- E. The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified by the Federal Communications Commission.

Stealth Technology - State-of-the-art design techniques used to blend objects into the surrounding environment and to minimize the visual impact as much as possible. These design techniques are applied to wireless communications support structures, antennas and other facilities which blend the proposed WCF into the existing structure or visual backdrop in such a manner as to render it less visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, light poles, utility poles or flag poles.

Substantial Change or Substantially Change – A modification that either (i) increases the height of the wireless communications facility support structure by more than 10 percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; (ii) increases the dimensions of the existing approved equipment compound; fails to comply with any applicable conditions of approval applied to the initial existing wireless communications facilities, base stations or wireless communications facility support structure; (iii) exceeds the applicable wind loading and structural loading requirements for the wireless communications facility support structure; or (iv) any further increase in the height of a wireless communications facility support structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array in accordance with the provisions of the WBCA.

Tower - Any structure that exceeds 10 feet in height and is built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services (i.e. Wi-Fi) and fixed wireless services (i.e. point to point microwave transmission) such as microwave backhaul, and the associated site. A building, water tower, electrical transmission tower, utility pole, light pole, traffic signal pole, flagpole or other similar structure designed and constructed for a sole or primary purpose other than supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, shall not be considered a tower.

Transmission Equipment - Equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless communications service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as a microwave backhaul.

Tower-based Wireless Communications Facilities (Tower-Based WCF) - Wireless communications facilities that include the installation of a new tower to support the transmission equipment. A WCF that requires the replacement of an existing structure (i.e., building, water tower, utility pole, light pole, traffic signal pole, flagpole or other similar structure) to support the weight of a WCF is not considered a new Tower-Based WCF.

Wireless Communications Facility (WCF) – Any network components and/or equipment, including, but not limited to, antennas, transmitters, receivers, base stations, cabling and accessory equipment, which is intended for commercial or governmental use in transmitting or receiving wireless signals for television, radio, telephone or other electronic communications, including internal or agency communications, whether in a public or private road right-of-way or not in a public or private road right-of-way. The term does not include the Wireless Communications Facility Support Structure/Tower.

The definition does not include the following which are not appropriate subjects of this ordinance:

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

WBCA - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 *et. seq.*)

Wireless Communications Facility on Existing Structure - Wireless communications facilities located on existing structures such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower. This term includes the replacement of an existing structure with a similar structure that is required to support the weight of the proposed WCF.

Wireless Communications Facility Antenna (Antenna) – One or more rods, panels, discs or similar devices used for the transmission or reception of wireless signals, which may include omnidirectional antennas (rod), directional antennas (panel) and parabolic antennas (disc). The *antenna* does not include *the wireless communications facility support structure or tower* as defined herein.

Wireless Communications Facility Support Structure (WSS) - A free standing structure, such as a self-supporting monopole or tower, electrical transmission tower, water tower or other structure that is not a Wireless Communications Facility, including but not limited to, any type of pole, telescoping mast, tower, tripod, building or any other structure which is constructed, or utilized, to support a wireless communications antenna array.

Wireless Communications Facility Support Structure Height – The vertical distance measured from the base of the Wireless Communications Facility Support Structure/Tower at grade to the highest point of that support structure/tower. If the support structure/tower is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the height.

Wireless Communications Facility, Collocation - The placement or installation of new wireless communication facilities on previously approved and constructed wireless communications facility support structures/towers, including self-supporting or guyed monopoles and towers, electrical transmission towers, water towers or any other structure that can support the placement or installation of wireless telecommunications facilities if approved by the Borough. The term includes the placement, replacement or modification of accessory equipment within a previously approved equipment compound.

Wireless Communications Facility, Modification - The improvement, upgrade or expansion of existing wireless communications facilities or base stations on an existing wireless communications facility support structure/tower or the improvement, upgrade or expansion of the wireless communications facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless communications facility support structure/tower.

Wireless Signals – Transmissions through the airwaves, including, but not limited to, infrared line of sight, cellular, personal communication service, microwave, satellite or radio signals.

ARTICLE IX NONCONFORMITIES

§133 Purpose, Applicability, Registration, and Continuation and Change

A. Purpose.

- (1) To recognize that if, prior to the adoption of this ordinance, as amended, , property was used for a then lawful purpose or in a then lawful manner which this 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.
- (2) To limit the injurious impact of nonconforming uses and/or structures 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 uses and/or structures may not be contrary to the public interest or the general purpose of this ordinance.
- (3) 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 nonconforming use. The following are regulations which shall apply.

B. Applicability. The provisions and protections of this Article IX shall apply only to those nonconforming lots, structures and uses which legally preexisted the applicable provisions of this ordinance, as amended, or which are recognized by §135 or §136. 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.

C. Registration. It shall be the responsibility of the party asserting a nonconformity to provide the evidence that the nonconformity is legal. A property owner may request a written statement of nonconformity from the Zoning Officer after providing sufficient evidence.

D. 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. Any expansion, alteration, extension or change in a nonconformity shall only proceed in compliance with this Article.

§134 Definitions

A. Nonconforming Lot. Any lot which does not conform with the minimum width, depth and area dimensions specified for the district where such a lot is situated, such lot having been created and recorded in the office of the County Recorder of Deeds prior to the effective date of this ordinance, as amended.

B. Nonconforming Structure. A structure or part of a structure which does not comply with the applicable district limitations on structure size and location on a lot, where such structure lawfully existed prior to the enactment of this ordinance, as amended; and including, but not limited to, nonconforming signs.

C. 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

D. 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.

E. Nonconforming Use. A use, whether of land or of a structure, which does not comply with the applicable use

provisions in this ordinance or amendments hereto, where such use was lawfully in existence prior to the enactment of this ordinance, as amended.

- F. Nonconforming Use, Change. The conversion of a nonconforming use to a different use classification as enumerated on the Schedule of Uses.
- G. 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.
- H. 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 ordinance.

§135 Nonconformities Under Development

For the purposes of this Article IX, a building, structure or use, legally permitted, planned and substantially under construction in compliance with existing regulations 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.

§136 Nonconformities by Variance

A building, structure or use allowed by variance in a district where it is nonconforming with any regulations of this ordinance, as amended, reenacted and replaced, shall be considered nonconforming for the purposes of this ordinance.

§137 Maintenance; Condemned Structures

- A. Maintenance. 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 nonconforming, or otherwise create more incompatibility with the surrounding permitted uses. Such maintenance and repair activities shall, however, shall comply with all other applicable standards and permit requirements of this ordinance.
- B. Condemned Structures. A nonconforming structure which has been legally condemned shall not be rebuilt or used except in accordance with the provisions of this ordinance.

§138 Changes of Nonconforming Uses.

- A. Special Exceptions. All changes of nonconforming uses shall be considered special exceptions subject to the specific procedures and review criteria contained in §176D and the review factors in §144.
 - (1) Degree of Nonconformity. A nonconforming use may only be changed to a use of equal or less nonconformity as determined by the Zoning Hearing Board in accord with classification of the uses in the Schedule of Uses.
 - (2) General Standard. The general standard shall be that no change of a nonconforming use shall be permitted if such change will result in the establishment of a use which is materially different from the existing use in terms of negative affects on the community and the long term application of this ordinance to eliminate incompatible uses from specific zoning districts. (For example, a change from a nonconforming retail store in a Residential District to a bank may be permitted; however, a change to a manufacturing use would not be permitted.)
 - (3) Review Factors. The review factors in §144 shall be considered by the Zoning Hearing Board.
- B. Conforming Changes and Conversions.
 - (1) Change. A change in a nonconforming use to a conforming use shall be considered a principal permitted, special exception or conditional use as classified by the Schedule of Uses. 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.

- (2) Conversion. The conversion of a nonconforming use to a nonconforming use of like classification shall not be considered a special exception. For example, a nonconforming retail establishment selling groceries proposed for conversion to a shoe store would not be considered a change in nonconforming use.

§139 Extension of Nonconforming Uses

- A. Special Exceptions. All extensions of nonconforming uses into more area of a structure or onto more area of property shall be considered special exceptions subject to the specific procedures and review criteria contained in §176D and the review factors in §144. .
- B. Extension onto Other Properties of Record in the Same Ownership; New Structures. Extensions of a nonconforming use shall be limited to the same parcel of property on which the nonconforming use is situated as said parcel existed on record at the time of the adoption of this ordinance. For any nonconforming uses not involving a nonconforming structure, no new structures shall be permitted as part of an extension.
- C. Extension Limitation. An extension of land or structure utilized for the nonconforming use shall be limited to a total increase not to exceed 40 percent of land and 40 percent of structure beyond what existed at the time the use became nonconforming. All such extensions of a nonconforming use may be permitted in successive increments for a total up to the increase permitted; and each increment shall be a separate application. Applications for successive increments shall only be entertained by the Borough upon the completion of the previously approved addition or extension.
- D. Prohibited Extensions. Should the use proposed for extension be one which is specifically prohibited as a new use in the Borough or is a use judged by the Borough to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this ordinance, the requested extension shall be denied. The Zoning Hearing Board shall consider past operating performance in making its decision.

§140 Restoration

- A. Restoration Timing. If a nonconforming use or structure is damaged or destroyed, then a permit for its restoration may be obtained if such application is filed and the restoration is completed within 180 days of the initial damage or destruction.
- B. Permit Required. No restoration shall be undertaken until an application has been submitted for the restoration and a permit has been issued by the Zoning Officer.

§141 Abandonment and Reestablishment of Nonconformities

- A. Abandonment. Unless extended in accord with §141B, if a nonconforming use of structure or land ceases operations, is discontinued, is vacated or is otherwise abandoned for a period of 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 ordinance. A change of a nonconforming use to a conforming use shall be considered an abandonment of the nonconforming use which shall not thereafter revert to a nonconforming use.
- B. Extension. The Zoning Hearing Board may, as a special exception and if deemed appropriate by the Zoning Hearing Board in accord with the Borough Comprehensive Plan and the standards in §176D , grant a one-time extension of not more than one year for the re-establishment of the use of a nonconforming structure or a one-time extension of not more than 90 days for the re-establishment of the nonconforming use of land. Said extension shall only be considered by the Zoning Hearing Board upon written application for same submitted by the property owner.

§142 Alterations and Expansions of Nonconforming Structures

- A. Alterations. The alteration or expansion of nonconforming structures shall be permitted only in accord with this §142.
- B. Procedure - Permits. All applicable permits for the alteration or expansion of a nonconforming structure shall be required. 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 §138 and §139, respectively.
- C. 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.

§143 Use of Nonconforming Lots of Record

In any zone where a nonconforming lot exists as a separate entity at the time of passage of this ordinance, and where the owner of the nonconforming lot does not own the adjoining lot or lots, then the following development is permitted:

- A. R-1, R-2 or R-3 Districts. If the lot is located in the R-1, R-2 or VC-1 District, a single-family dwelling may be constructed on it as a permitted use in accord with the following and all other applicable standards:

Minimum Lot Requirements	
Area (square feet)	5.000
Width (feet)	40
Minimum Setbacks (feet)	
Front	25
Rear	20
Each side	10
Maximum Building Height for Principal Building	
Stories	2.5
Feet	30
Maximum Building Coverage (percent)	50

- B. Other Districts. If the lot is located in any other District, then a structure not exceeding two stories in height may be constructed on it for a use allowed in the District in which it is located per the Schedule of Uses provided that the off-street parking and loading requirements of this ordinance are complied with and that the front, side and rear setbacks are not reduced by more than 50 percent of the requirement in the Schedule of Development Standards and all other applicable requirements are satisfied. Any use for which this ordinance requires a lot size or setback larger than the minimum required for the District of location shall not be permitted on a nonconforming lot.

§144 Review Factors

In addition to all other applicable requirements, the Zoning Hearing Board shall consider any nonconformity special exception application in terms of the effect on the following factors:

- A. Nuisance Considerations.

- (1) Traffic generation
- (2) Noise, dust, fumes, gases, odor, glare, vibration, fire and explosion hazards and other nuisances.
- (3) Amount and nature of outdoor storage.

- (4) Hours of operation.
- (5) Compatibility with the character of the surrounding neighborhood
- (6) Potential of the expansion to reduce existing congestion and alleviate parking shortages by improved site design, addition of parking and improved loading areas.

B. Specific Considerations.

- (1) Neighborhood Character. The proposed change will be less objectionable in external effects than the previous nonconforming use and will be more consistent physically with its surroundings and neighborhood.
- (2) 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 outlined in §144B(3).
- (3) 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 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 feet at the maximum. Setbacks and buffers shall be provided in accord with §60.
- (4) 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.
- (5) Parking and Access. 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 §60.
- (6) Average Daily Traffic. The applicant shall show how the proposed change will affect Average Daily Traffic (ADT) pursuant to the standards set forth in the most current Trip Generation Manual published by the Institute of Transportation Engineers, or its successor. If ADT will increase the applicant shall document to the satisfaction of the Zoning Hearing Board how any community impacts will be addressed.

§145 Survey

- A. Required in All Cases. In the case of any proposed reconstruction or any proposed alteration or expansion of a nonconforming structure, the Applicant shall provide a survey prepared by a Professional Land Surveyor showing the position of the existing nonconforming structure with the entire proposed structure superimposed over the position of the existing nonconforming structure in addition to all other information required by this ordinance.
- B. Required by Borough. A survey prepared by a Professional Land Surveyor may also be required by the Borough in any case as necessary to determine compliance.
- D. Survey Information. In addition to the information required in §145A, the survey shall show all details required to determine compliance, including, but not limited to, existing and proposed improvements, existing and proposed building height, existing and proposed lot coverage, minimum required setback lines, nonconforming setback lines, nonconforming setback areas, and existing and proposed nonconforming footprint areas.

§146 Reserved

**ARTICLE X
OWNERSHIP AND MAINTENANCE OF
CONSERVATION OPEN SPACE, OPEN LAND, RECREATION LAND, AND COMMON FACILITIES**

This Article X shall apply to any development which involves the ownership and maintenance of conservation open space land, open land, recreation land, or common facilities (referred to as *common area* in this Article) as required by this ordinance and the Subdivision and Land Development Ordinance.

§147 Purpose

The requirements of this Article X are intended to assure in perpetuity the ownership, use and maintenance of common areas. The general principle shall be to assign ownership and maintenance responsibility to that entity which is best suited for the same and which will allocate any associated costs to the individuals which directly benefit from the use of the common area.

§148 Plan and Legal Documents

The developer shall submit a plan and proposed legal documents for the purpose of dedicating, in perpetuity, the use, ownership and maintenance of the approved common area. The Plan shall be approved by the Borough Council with the recommendation of the Borough Solicitor. The provisions of the approved Plan shall be incorporated into a development agreement with the Borough, deed covenants and restrictions, or other legal document which will effect the Plan and which can be enforced by the Borough.

§149 Use Restriction

The use of any common area shall be limited to those uses which are specifically permitted or required by the applicable sections of this ordinance and the Subdivision and Land Development Ordinance.

§150 Development Plan Designations

The subdivision/land development plan which will be recorded following final approval of the development shall clearly show all common areas and specifically note the use, ownership and maintenance responsibility of the same. Reference to the legal document(s) governing the use, ownership and maintenance of common areas shall be noted on the plan. The plan shall also contain the following statement: Open land, recreation land, and common facilities shall not be sold separately or be further subdivided or developed, nor shall such land be used for density for any other development.

§151 Methods for Use Dedication and Common Area Ownership and Maintenance

The use of common areas and common area ownership and maintenance shall be addressed by one or a combination of the methods which follow. In any case, the developer shall document to the satisfaction of the Borough Council that the chosen method(s) will preserve the common area use rights established in accord with this Article and provide for the perpetual ownership and maintenance of all open land, recreation land, and common facilities. All methods shall establish a mechanism for the Borough to effect the use dedication and require operation and maintenance of common areas, should the means established by the developer fail to provide the same.

All methods for use dedication and common area ownership and maintenance, and any combination of methods, and any change in method which may be proposed by the ownership and maintenance entity, shall be subject to the approval of the Borough Council. Operation and maintenance provisions shall include, but not be limited to, capital budgeting for repair and/or replacement of common facilities, working capital, operating expenses, casualty and liability insurance, and contingencies.

A. Property Owners Association or Condominium Agreements. All common areas may be owned and maintained by a property owners association (POA) or condominium agreements (CA) including all lot owners in the development provided:

- (1) The POA/CA is established by the developer as a non-profit corporation for the express purpose of ownership and maintenance of the common area, or as otherwise may be required by state statute.
- (2) Participation in the POA/CA is mandatory for all lot owners.

- (3) Provision is made for the maintenance of common areas during the lot sale period and the orderly transition of responsibility from the developer to the POA.
 - (4) The POA/CA is empowered to assess POA/CA members to fund the administration of the POA/CA and other costs associated with the common area responsibilities.
- B. Transfer to a Private Conservation Organization. In the case of open land and recreation land, the landowner may transfer fee simple title to the said areas, or parts thereof, to a private, non-profit organization among whose purposes is the conservation of open land and/or natural resources; provided that:
- (1) The deed contains the necessary covenants and restrictions in favor of the Borough to effect the use dedication and common area ownership and maintenance standards of this Article and this ordinance.
 - (2) The organization proposed is a bona fide, operating, and stable conservation organization with a perpetual existence, as approved by the Borough Council.
 - (3) The conveyance of title contains the necessary provisions for proper retransfer or reversion should the organization be unable to continue to execute the provisions of title.
 - (4) A maintenance agreement between the developer, organization and Borough is executed to the satisfaction of the Borough Council.
- C. Deed Restricted Private Ownership. On privately held lands used for agriculture, forestry enterprises and other uses permitted on open land in accord with this ordinance, deed restrictions may be used to preserve open land provided such restrictions include a conservation easement in favor of the Borough, with provisions for reversion to the Borough, POA or trustee holding the remainder of the common area. Title to such restricted lands may be transferred to other parties for use as restricted by the deed.
- D. Deed or Deeds of Trust. The landowner may provide, as approved by the Borough Council, for the use, ownership and maintenance of common area by establishing a trust for the same via a deed or deeds. The trustee shall be empowered to levy and collect assessments from the property owners for the operation and maintenance of the development.
- E. Conservation Easements Held by the Borough. In the case of open lands and recreation lands, the Borough may, but shall not be required to, accept title to conservation easements on any such lands. In such cases, the land remains in the ownership of an individual, POA or condominium, while the development rights are held by the Borough. The lands may be used for agriculture, forestry enterprises and other uses permitted on open land in accord with this ordinance, and title to such lands may be transferred to other parties for use as restricted by the conservation easement.
- F. Fee Simple and/or Easement Dedication to the Borough. In the case of open lands or recreation lands, the Borough may, but shall not be required to, accept in fee, the title to any such lands, or any interests (such as development rights or conservation easements) therein, for public use and maintenance, provided:
- (1) There is no consideration paid by the Borough.
 - (2) Such land is freely accessible to the public.
 - (3) The Borough agrees to and has access to maintain such lands.

§152 Failure to Preserve Dedication of Use and Operation and Maintenance of Common Area

Should the method established for the dedication of use and operation and maintenance of common area fail to do so in reasonable order and condition in accord with the approved development plan, the Borough Council shall have the right and authority to take all necessary legal action to effect such use dedication, operation and maintenance. The action of the Borough Council shall be in accord with the following:

- A. Notice. The Borough Council shall serve written notice on assigned entity or the property owners in the development setting forth the details of the failure of the entity with regard to use dedication and operation and maintenance of common areas.

- B. Correction of Deficiencies. The notice shall include a demand that the deficiencies be corrected in a reasonable period of time which shall be stated in the notice.
- C. Public Hearing. A public hearing shall be conducted subsequent to the notice and shall be advertised in accord with the definition of "public notice" contained in this ordinance. At such hearing, the Borough Council may modify the terms of the original notice as to the deficiencies and may extend the time for correction of the deficiencies.
- D. Failure to Correct. In the event the deficiencies in the notice, as may have been modified at the public hearing, are not corrected in accord with the established time period, the Borough Council may enter upon the common area and maintain the same and/or correct the deficiencies. The Borough Council shall continue such action for such time as may be necessary to correct the deficiencies. Said action shall not constitute a taking or dedication of any common areas, nor vest in the public the right to use any common area.
- E. Reinstatement of Responsibility. The responsibility of operation and maintenance shall not be reinstated to the assigned entity until such time as the entity has demonstrated to the Borough Council that the proper steps have been taken to modify the terms of use dedication, operation and/or maintenance; and/or to reorganize or replace the responsible entity so that use dedication and operation and maintenance established by the approved development plan will be assured.
- F. Appeal. Any party to the action of the Borough Council may appeal such action to court as provided for zoning appeals in the Pennsylvania Municipalities Planning Code, as amended.
- G. Public Costs. The costs of the preservation of use dedication and the cost maintenance and operation of any open land conducted by the Borough in accord with this Article, and including any administrative and legal costs, shall be assessed ratably against the properties in the subject development which have a right of enjoyment and/or use of the common areas. The assessment shall be made a lien on the properties, and the Borough Council shall, at the time of the notice in §152A, shall file the required notice of lien against the properties.

§153 Reserved

ARTICLE XI SIGNS

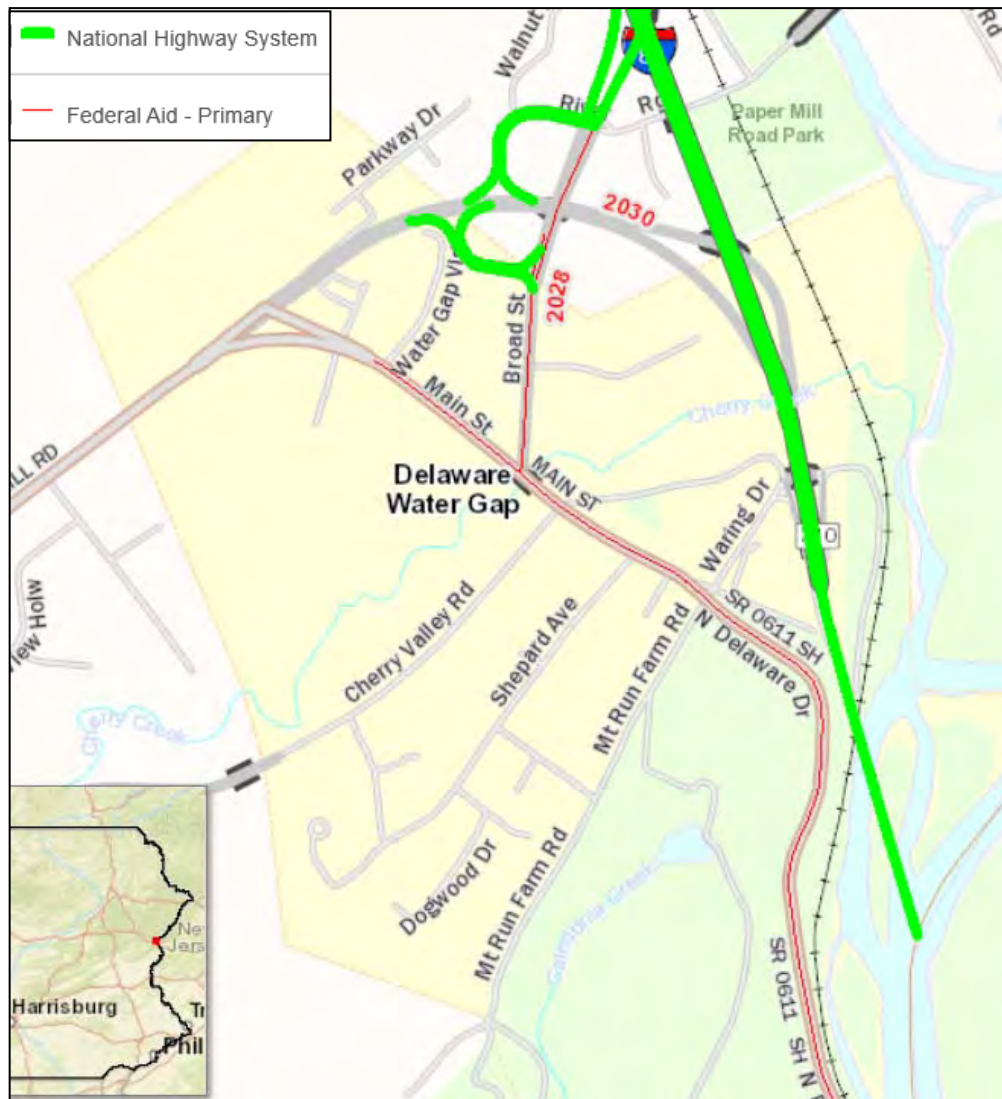
§154 General

A. Applicability – Effect.

- (1) PA Outdoor Advertising Control Act. In addition to the provisions of this Article, signs which are subject to Title 67, Pa. Code, Chapter 445, Outdoor Advertising Devices (Chapter 445) issued in accord with the Pennsylvania Outdoor Advertising Control Act of 1971 shall comply with the provisions of Chapter 445. In cases where the provisions of Chapter 445 differ from the provisions of this Article XI, the more restrictive shall apply.

- (a) Routes Subject to PA Code Chapter 445. The following routes identified by PennDOT, referred to as *PA Controlled Routes*, shall be subject to Chapter 445. (The following PennDOT Highway Beautification Management System map is for informational purposes only.)

- Interstate Route 80 and ramps
- SR 2028 (Broad Street)
- PA Route 611 (Main Street)
- SR 2030 (Foxtown Hill Road)





- (b) Borough/PennDOT Standard Operating Procedure. Installation and maintenance of signs on controlled routes will also be governed by the Standard Operating Procedure adopted by the Borough in accord with the Borough Certification for Control of Outdoor Advertising Devices issued by PennDOT. (For additional details of applicable provisions see Title 67, Pa. Code, Chapter 445, Outdoor Advertising Devices; PennDOT Publication 581, Highway Beautification Manual; and PennDOT Publication 266, Highway Right-of-Way Encroachments.)
- (2) All Signs. A sign may be erected, placed, established, painted, created, or maintained in the Borough only in conformance with the standards, procedures, exceptions, and other requirements of this Article. The effect of this Article as more specifically set forth herein is to:
- (a) establish a permit system to allow a variety of types of signs in the various zones, subject to the standards and the permit procedures of this Article;
 - (b) allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Article, but without a requirement for permits;
 - (c) provide for temporary signs without commercial messages in limited circumstances in the public right-of-way; and,
 - (d) prohibit all signs not expressly permitted by this Article.
- B. Purpose. The Purpose of this Article XI is to establish standards for the regulation of signs to safeguard the public interest and to:
- (1) preserve the beauty and the unique character of the Borough and thereby enhance tourism and business;
 - (2) establish reasonable time, place and manner for the exercise of free speech, without regulating content;
 - (3) protect property values and ensure compatibility with the character of neighboring uses;
 - (4) protect the public from damage and injury which may be caused by the faulty construction or deterioration of signs;
 - (5) protect pedestrians and motorists from damage of injury caused, or partially attributable to the distractions and obstructions caused by improperly situated signs;
 - (6) promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic;
 - (7) assure that signs are clear and provide the essential identity or direction to facilities in the community; and,
 - (8) enable the fair and consistent enforcement of the sign restrictions throughout the Borough.
- C. Requirement of Conformity. No sign, for which a permit is issued after the effective date of this Article, may be placed or maintained in the Borough except as provided herein. All signs maintained contrary to the provisions of this Article are declared to be nuisances, and as such may be abated as provided by law.
- D. Severability. This article and the various components, sections, subsections, sentences, and phrases are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this article to be unconstitutional or invalid, such ruling shall not affect any other provision of this article not specifically included in said ruling.
- E. Recommended Types of Signs. It is recommended that signs be:
- (1) Wood or simulated wood relief. (See §157J.)

- (2) Designed as an integral architectural element of the building and component of the site.
- (3) Comprised of restrained colors, materials, and lighting and compatible with the building and site, and rural character of the Borough.

§155 Definitions and Interpretation

(Definitions for PA Controlled Routes may differ. See PennDOT Publication 581.)

Words and phrases used in this Article XI shall have the meanings set forth in this Section. Words and phrases not defined in this §155 but defined in Article III shall be given the meanings set forth in said Article. Principles for computing sign area and sign height are contained in this section. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this Article.

A-Frame or Sandwich Board Sign: A movable sign consisting of two faces, connected and hinged at the top.

Abandoned Sign: A Sign located on a property or premise which is vacant and/or unoccupied for a period of 18 months, or a sign which is damaged, in disrepair, or vandalized and not repaired within 60 days of the date of the damaging event and/or for which no legal owner can be found.

Advertising Sign, Off-premises: A sign which conveys a commercial or noncommercial message unrelated to the activity conducted on the lot where the sign is located or a sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing elsewhere than on the same lot where the sign is located. A structure intended to support or contain such a sign shall also be considered an off-premises advertising sign.



A-Frame / Sandwich Board

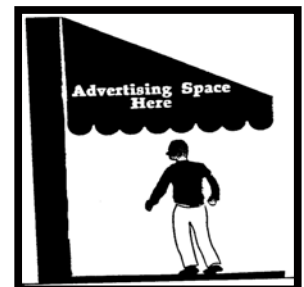
Animation: The movement or the optical illusion of movement of any part of the sign structure, design or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a sign; the movement of a sign set in motion by the atmosphere. Time and temperature devices shall be considered animated signs.

Applicant: A person or entity who applies for a sign permit in accordance with the provisions of this Article.

Area of Sign: In the case of individual letters used as a sign, the area is 90 percent of the area enclosed within the smallest regular geometric figure needed to completely encompass all letters, insignias or symbols, except as otherwise provided herein. For signs other than individual letters, words, insignias or symbols, the area is the total area of the facing or the total area within the outer edge of any existing border of the sign.

Attraction Board: See *changeable panel sign*.

Automated Teller Machine Directional Sign: A directional sign which is used to direct pedestrian or vehicular traffic on a parcel to the location of an automated teller machine.

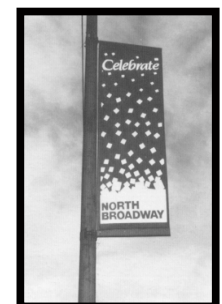


Awning Sign

Automated Teller Machine Sign: Any sign located on or architecturally associated with the exterior face of an automated teller machine.

Awning Sign: Signs which are placed on or integrated into fabric or other material canopies which are mounted on the exterior wall of a building.

Banner Sign: A sign intended to be hung either with or without a frame with characters, letters, illustrations, or ornamentations applied to paper, plastic, fabric or similar material excluding flags, emblems, and insignia or political, professional, religious, education, or corporate organizations providing that such flags, emblems, and insignia are displayed for



Banner Sign

noncommercial purposes.



Civic Event Banner

Billboard: A type of off-premises advertising sign and which conveys a commercial or noncommercial message unrelated to the activity conducted on the lot where the sign is located, or a sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing elsewhere than on the same lot where the sign is located. A structure intended to support or contain such a sign shall also be considered a billboard.

Canopy Sign: Any sign that is a part of or attached to an awning, canopy or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Changeable Panel Sign: A sign designed to allow its informational content to be changed or altered.

Commercial Message: Any sign wording, logo, or other representations that, directly or indirectly, names, advertises, or calls attention to a nonresidential use, product, service, or other commercial activity.

Construction Sign: A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

Directional Sign – An on-site sign, providing no advertising of any kind except the nonresidential use name and logo, which provides direction or instruction to guide persons to facilities intended to serve the public, including, but not limited to: those signs identifying rest rooms, public telephones, public walkways, parking areas, and other similar facilities.

Directory Sign: A sign which provides a listing of the names of nonresidential uses, activities, addresses, locations, uses or places within a building or complex of buildings for the purposes of giving directions, instruction, or facility information and which may contain the name and logo of an establishment but no advertising copy.

Double-Faced Sign: A sign with two faces, essentially back to back.

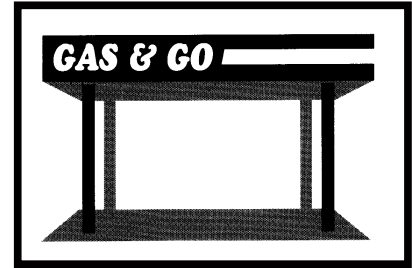
Easel Sign: A self-supporting, movable sign consisting of one face with supporting legs or a supporting frame, or a sign displayed on an easel.

Electronic Message Sign: Any sign, or portion of a sign, that displays an electronic image or video, which may or may not include text, where the rate of change is electronically programmed and can be modified by electronic processes. This definition includes television screens, plasma screens, digital screens, LED screens, video boards, holographic displays, and other similar media.

Emergency Signs: Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

Facade: Any exterior wall of a building exposed to public view and any structure or part of a structure attached to, or otherwise mounted parallel to, an exterior wall or other vertical part of the structure.

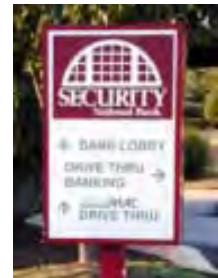
Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used as a symbol of a



Canopy Sign on Freestanding Canopy



Changeable Panel Sign



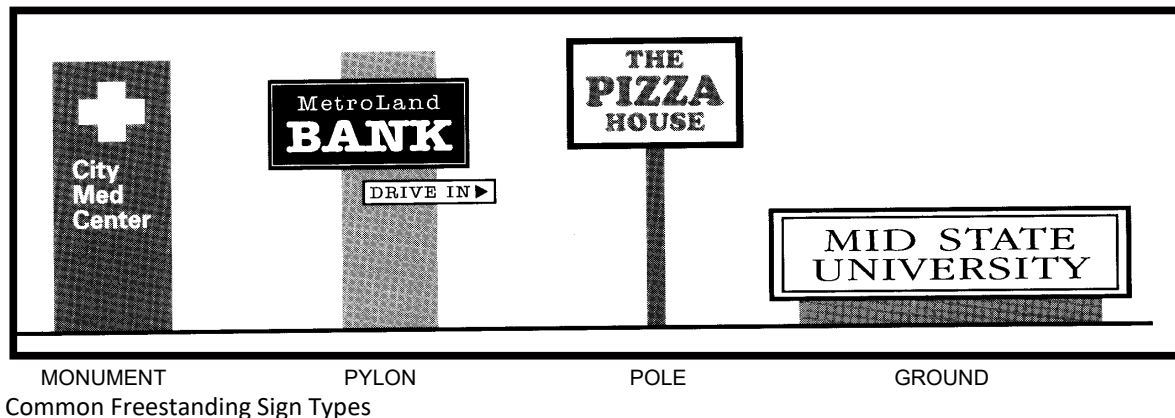
Directional Sign



Directory Sign

government, political subdivision, or other entity which is mounted on a pole, cable, or rope at one end.

Freestanding Sign: A sign supported permanently upon the ground by poles or braces and that is not attached to any building. (See next page for illustrations.)



Government Sign: Any temporary or permanent sign erected and maintained by the Borough, county, state, or federal government for traffic direction or for designation of any school, hospital, historical site, or public service, property, or facility.

Grand Opening: The introduction, promotion or announcement of a new nonresidential use, store, shopping center or office, or the announcement, introduction or promotion of an established nonresidential use changing ownership. A nonresidential use qualifies for a grand opening sign when it has been closed to the public for a period of 30 days.

Ground Level: The finished grade of the adjacent street curb or where there is no street curb, six inches above street grade. Ground level shall be the existing natural grade.

Ground Sign: A freestanding sign that is architecturally integrated with the building with individually mounted letters and/or logos only. This sign shall be built with continuous background surface built from the ground up.

Height: See §157B(3).

Illegal Sign: Any sign erected without first obtaining an approved sign permit, other than non-conforming signs, and which does not meet the requirement of this Article.

Illuminated Sign: A sign with an artificial light source incorporated internally or externally for illuminating the sign.

Incidental or Instructional Sign: A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives.

Indirect Illumination: A source of external illumination located away from the sign, but which is itself not visible to persons viewing the sign from any street, sidewalk or adjacent property.

Individual Letters: A cut-out or etched letter or logo which is individually placed on a landscape, screen wall, building wall or ground sign.

Internal Illumination: A source of illumination entirely within the sign which makes the contents of the sign visible at night by means of the light being transmitted through a translucent material but wherein the source of illumination is not visible.



Internal and External Illumination



Incidental Sign or Instructional Sign

LED: Light emitting diode.

Lineal Building Front Foot: The length of the building which contains the primary entrance used by patrons. In a center with more than one building, the linear building front foot shall be calculated for each building and totaled to determine the total lineal front foot for the center.

Logo: A graphic symbol representing an activity, use or nonresidential use. Permitted logos shall be registered trademarks or symbols commonly used by the applicant and may include graphic designs in addition to lettering. The applicant shall provide stationary or other supporting documents illustrating the use of the logo.

Luminance: A measure of the brightness of a surface which is emitting or reflecting light. The unit of measurement is candelas per square meter or nits (1 nit = 1 cd/m²).

Maintenance: The replacing or repairing of a part or portion of a sign necessitated by ordinary wear, tear or damage beyond the control of the owner or the reprinting of existing copy without changing the wording, composition or color of said copy.

Marquee: Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building generally designed and constructed to provide protection from the weather.

Monument Sign: A free-standing cabinet or panel sign mounted on, or within a base (above grade), which is detached from any building.



Marquee Sign

Multiple Occupant Commercial Building: A commercial development in which there exists two or more separate commercial activities, in which there are appurtenant shared facilities (such as parking or pedestrian mall), and which is designed to provide a single area in which the public can obtain varied products and services. Distinguishing characteristics of a multiple tenant commercial building may, but need not, include common ownership of the real property upon which the center is located, common-wall construction, and multiple occupant commercial use of a single structure.

Nameplate: A small sign which identifies a resident's or home's name and address or the name of a farm, ranch or commercial stable. Such signs may be shingle, building wall or archway-mounted signs.

NIT: A unit of measure of luminance. See *luminance*.

Nonconforming Sign: Any sign which is not allowed under this Article, but which, when first constructed before this Article was in effect and for which a sign permit was issued, was legally allowed.

Nonresidential Use: For the purposes of this Article, nonresidential use shall mean any approved nonresidential use including, but not limited to, commercial, manufacturing, and industrial enterprises; public buildings and uses such as public schools, parks, civic centers, municipal buildings; and semi-public buildings and uses such as churches, fire houses, ambulance buildings, private schools, and libraries.

Nonresidential Use Name: The name by which a nonresidential use is commonly recognized and used by the applicant. Slogans or product information shall not be considered as the nonresidential use name.

Occupancy: A purpose for which a building, or part thereof, is used or intended to be used.

Owner: A person recorded as such on official records. For this Article, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the Zoning Officer.

Panel: A two-dimensional visual background behind the sign letters and logos which is visually separated from the mounting upon which the sign letters and logos are placed by the presence of a border, different colors, different materials, or other technique of visual framing around the letters or logos.

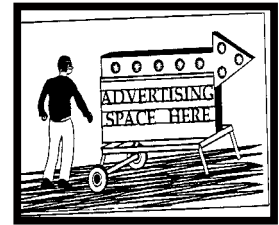
Parapet: That portion of a building exterior wall projecting above the plate line of the building.

Pennant: Any lightweight plastic, fabric, or other material, whether containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Permanent Sign: Any sign which is intended to be and is constructed as to be in lasting and enduring condition remaining unchanged in character, condition (beyond normal wear) and position, and in a permanent manner affixed to the ground, wall or building, provided the sign is listed as a permanent sign in this Article.

Plate Line: The point at which any part of the main roof structure first touches or bears upon an external wall.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels, signs converted to A or T-frames, menu and sandwich board signs, balloons used as signs, umbrellas used for advertising and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the nonresidential use.



Portable Sign

Projecting Sign: Any sign affixed to a building wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Public Property: Unless otherwise expressly provided, public property means all real or personal property over which the Borough or other governmental entity has or may exercise control, whether or not the government owns the property in fee, including, sidewalks, rights-of-ways and improved or unimproved land of any kind and all property appurtenant to it.

Real Estate Sign: A temporary sign advertising posted on property which is for rent, lease, or sale.



Projecting Sign

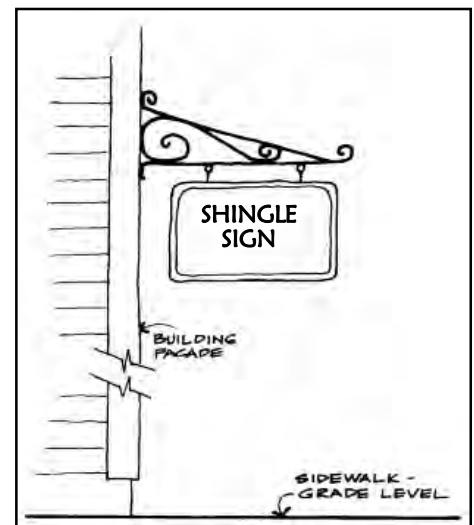
Roof Line: The uppermost line of the roof of a building or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

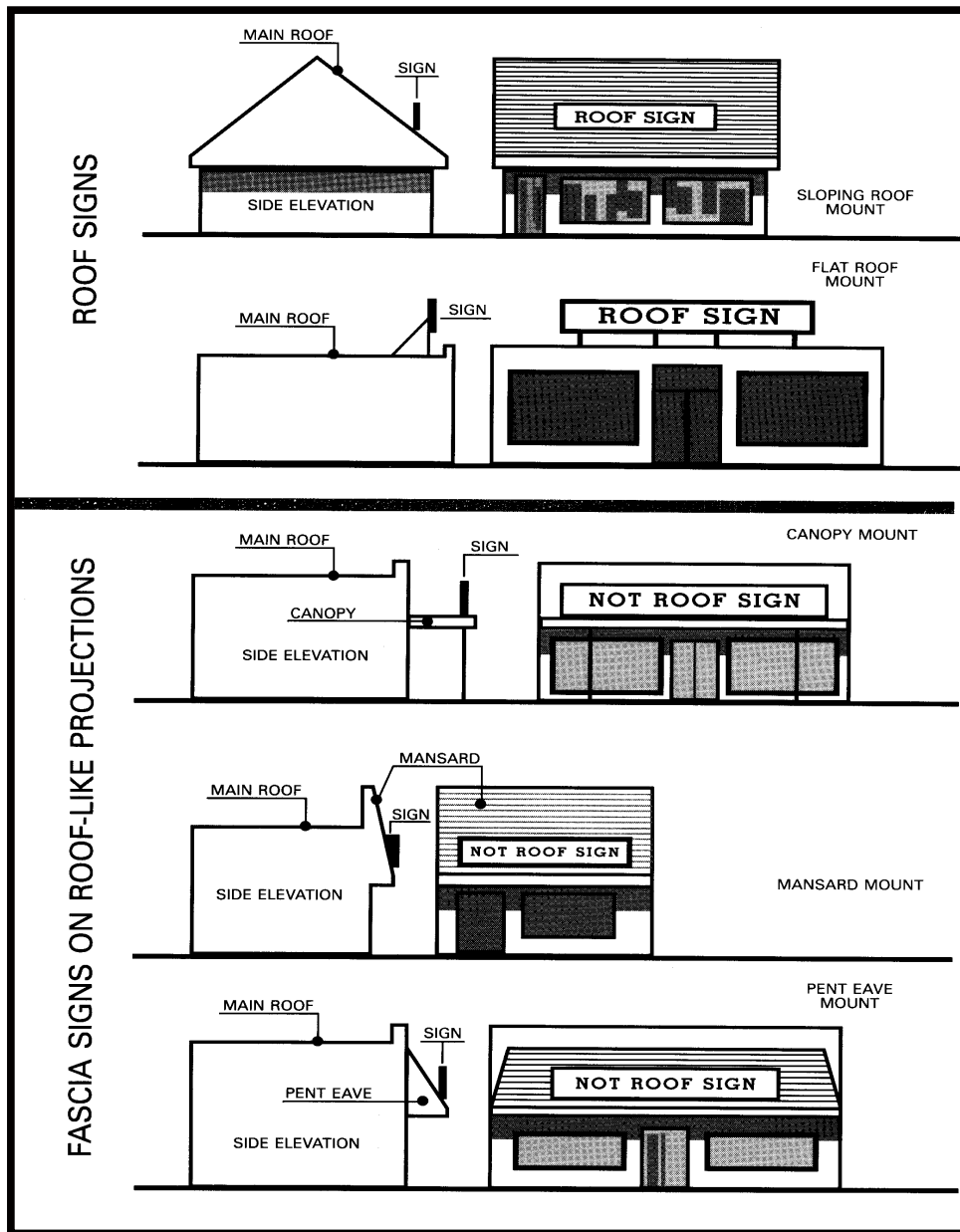
Roof Sign: Any sign mounted on the main roof portion of a building or on the topmost edge of a parapet wall of a building and which is wholly or partially supported by such building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered roof signs. See the following page for examples of roof signs, and comparison of differences between roof and fascia signs.

Shingle Sign: A sign suspended from a roof overhang of a covered porch, walkway, or horizontal plane surface.

Sign: Any object, device, display, or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. The term shall not include any flag or badge or insignia of the United States, State of Pennsylvania, Carbon County, the Borough, or official historic plaques of any governmental jurisdiction or agency.

Snipe Sign: A sign which is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences or to other objects, the advertising matter appearing on which is not applicable to the present use of the premises upon which such sign is located.





Comparison – Roof and Fascia Signs

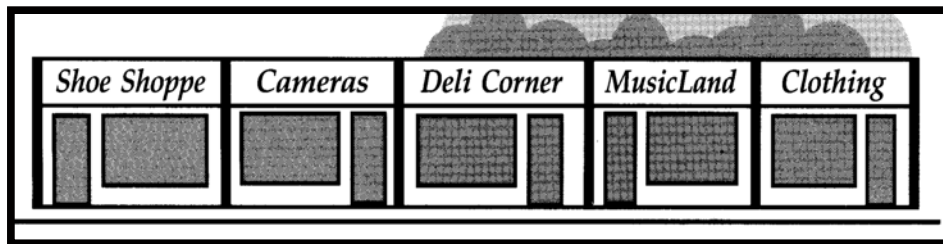


Sign Comparison

Special Event: A promotional event such as, but not limited to, grand openings, bazaars, street fairs, shows, exhibitions, sporting events, runs, bicycling events, and block parties. This does not include sidewalk sales occurring on private property where merchandise normally sold indoors is transferred from indoors to outdoors for sale.

Temporary Sign: Any sign, banner, pennant, or valance of advertising display constructed of cloth, canvas, light fabric, cardboard, plastic, wallboard or other like materials, with or without frames; or any sign not permanently attached to the ground, wall or building.

Wall Sign: Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.



Wall Signs

Window Sign: Any poster, cut-out letters, painted text or graphics, or other text or visual presentation affixed to or placed behind a windowpane which is intended to be read from the exterior of the building.

§156 Procedures

The procedures included in this §156 shall apply to all signs requiring permits.

A. **Requirement of Permit.** A sign permit shall be required before the erection, re-erection, construction, alteration, placing, or installation of all signs regulated by this Article. However, a permit shall not be required for the following signs and actions, provided however, that such signs shall be subject to all applicable provisions of this Article.

- (1) Incidental signs as specified in §158.
- (2) Routine maintenance or changing of the parts or copy of a sign, provided that the maintenance or change of parts or copy does not alter the surface area, height, or otherwise render the sign non-conforming.

B. **Permit Application.** Applications for sign permits shall be submitted to the Zoning Officer in accord with §170 and shall, at a minimum, contain or have attached thereto the information listed in this section.

- (1) Name, address, and telephone number of the applicant.
- (2) Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
- (3) Name of person, firm, corporation, or association erecting the sign.
- (4) Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
- (5) A scale drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
- (6) An elevation of such sign indicating the overall dimensions, the square footage, and height of top and bottom of sign above grade.

- (7) A scale drawing indicating the location and position of such sign in relation to nearby buildings, structures, and lot lines.
 - (8) Calculation of the total sign square footage permitted.
 - (9) Copy of any the PA Uniform Construction Code permit and issued for said sign, if required.
 - (10) Additional information as may be required by the Zoning Officer.
- C. **Issuance of Permits.** Upon the filing of an application for a sign permit, the Zoning Officer shall examine the plans, specifications, and other submitted data, and the premises upon which the sign is proposed to be erected or affixed. If the proposed sign complies with all the requirements of this Article and other applicable ordinances and if the appropriate permit fee has been paid, the Zoning Officer shall issue a permit for the proposed sign.
- D. **Permit Fees.**
- (1) In accord with the Borough fee schedule, the applicant shall tender a fee at the time of making application for a sign permit. Permit fees are not refundable.
 - (2) The owner of a legal nonconforming sign, which has been removed or brought into conformance with the terms of this Article shall not be required to pay a fee to obtain a permit for the conforming sign.

§157 General Requirements

- A. **Prohibited Signs.** All signs not expressly permitted under this Article are prohibited. Such prohibited signs include, but are not limited to the following:
- (1) **"A" Frame or Sandwich Board Signs.** "A" frame or sandwich board and sidewalk or curb signs.
 - (2) **Light Strings, Banners, Pennants, and Balloons.** Strings of lights not permanently mounted to a rigid background, except holiday decorations per §158D, banners, pennants, streamers, balloons, and other inflatable figures, except as a temporary sign as provided for in §159.
 - (3) **Large Balloons.** Balloons of greater than 25 cubic feet that are tethered to the ground or a structure for periods of over a day and that are primarily intended for advertising purposes.
 - (4) **Animated, Moving and Flashing Signs.** Signs which flash, revolve, rotate, swing, undulate, or move by any means, or otherwise attract attention through the movement or flashing of parts, including automatic, electronically controlled copy changes (except as permitted in §161B), or through the impression of movement or flashing except for time and temperature indicators whose movement is either digital or analogue, and flags as permitted by this Article.
 - (5) **Mirrors.** Signs which use a mirror or similar device to attract attention by reflecting images or otherwise reflecting light.
 - (6) **Portable and Wheeled Signs.** Portable and wheeled signs.
 - (7) **Projecting Signs.** Signs which are attached or otherwise affixed to a building and project more than 15 inches beyond the wall surface of such building to which the sign is attached or otherwise affixed thereto, unless the sign is a shingle sign in compliance with §161E.
 - (8) **Signs on Parked Vehicles.** Signs placed on or affixed to vehicles, trailers and/or containers which are parked on a public right-of-way, public property or private property, to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a nonresidential use, organization or activity.
 - (9) **Signs on Utility Poles, Trees and Natural Features.** Signs which are attached or otherwise affixed to

utility poles, trees or other vegetation except for no trespassing signs, or rocks or other natural features.

- (10) 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.
- (11) Emissions. Signs which emit any sound, odor or visible matter such as smoke.
- (12) Misinformation. Signs which contain information that states that a lot may be used for a purpose not permitted under this Article.
- (13) Obscene or Pornographic. Signs or displays visible from a lot line that include words or images which are obscene or pornographic.
- (14) Snipe Signs. Snipe signs.
- (15) Painted Signs. Any sign painted directly on the surface of any building, fence or similar structure, paving surfaces or other manmade or natural features.
- (16) VC-1, VC-2 and I Districts. Illuminated signs located in VC-1, VC-2 and I Districts which abut and are visible to a residential zoning district.
- (17) Noise. Signs which emit sound as part of the advertising, or which emit objectionable or excessive noise created by electric current or air movement, shall not be permitted.

B. Construction Requirements. All signs permitted by this Article shall be constructed in accord with all construction code requirements and the provisions of this §157B.

(1) Sign Faces. All signs may be multi-faced.

(2) Computation of Sign Area

- (a) The area of a sign shall include all lettering, wording and accompanying designs and symbols, together with related background areas on which they are displayed and any surrounding border or frame.
- (b) Supporting members of a sign shall be excluded from the area calculation.
- (c) The area of irregular shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.
- (d) Where the sign consists of individual letters or symbols attached directly on a building or window the sign area shall be the smallest rectangle that includes all the letters and symbols. Any illuminated background shall be considered part of the sign and included in the area calculation.
- (e) The maximum area of a sign shall apply individually to each of the two sides of a sign, provided that only one side of a sign is readable from any location.

(3) Computation of Sign Height

- (a) The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign.
- (b) Normal grade shall be construed to be the lower of:
 - [1] existing grade prior to construction, or
 - [2] the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

- (c) In cases where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the district lot, whichever is lower.
- (4) Wind Pressure and Dead Load Requirements. All signs and other advertising structures shall comply with the wind pressure and dead load requirements of the PA Uniform Construction Code.
- (5) Reserved
- (6) Attachment of Signs to Fire Escapes. No signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department.
- (7) Overhead Electrical Wiring. Overhead electrical wiring is prohibited, and all electric signs shall be listed by a recognized testing laboratory.
- (8) Public Rights-of-Way. No sign may be erected or maintained in the public right-of-way except in accord with PennDOT and Borough regulations. No freestanding sign other than official traffic signs shall be erected or maintained less than 10 feet to the edge of any public road right-of-way and not less than 10 feet from side and rear property lines.
- (9) Obstruction to Ingress/Egress. No sign shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, door opening, or wall opening intended as a means of ingress or egress.
- (10) Obstruction to Ventilation. No sign shall be erected, constructed, or maintained to interfere with any opening required for ventilation.
- (11) Clearance from Electrical Power Lines and Communication Lines. All signs shall be located to maintain horizontal and vertical clearance of all electrical power lines and communication lines in accordance with the applicable provisions of the National Electrical Code. However, in no instance shall a sign be erected or constructed within eight feet of any electrical power line, conductor, or service drop, or any communication line, conductor, or service drop.
- (12) 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.
- (13) Obstruction to Warning or Instructional Sign. No sign shall be erected, constructed, or maintained so as to interfere with any existing warning or instructional sign.
- (14) Traffic/Pedestrian Hazards. No sign shall be erected in such a way as to interfere with or to confuse traffic or pedestrians, to present any traffic or pedestrian hazard, or to obstruct the vision of motorists or pedestrians, and all signs shall comply with the clear sight triangle requirements of this Article.
- (15) Protection of the Public. The temporary occupancy of a sidewalk, street, or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.
- (16) Clearance. Clearance beneath overhead signs shall be at least nine feet, measured from the ground or pavement to the bottom-most part of the sign.

(17) Wall Signs.

- (a) Wall signs shall be securely attached to the wall, and each sign shall be parallel to and in the same plane as the wall to which the sign is attached and shall not extend more than six inches from the wall, nor above or beyond the top and ends of the wall.
- (b) The face of a wall sign shall not project more than 14 inches from the outside of the building's wall surface.

C. Maintenance.

- (1) Maintenance. The owner of any sign and associated landscaping shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is erected in a clean and sanitary condition, free and clear of all obnoxious substances, rubbish, weeds, and grass. Restoration or painting which changes the name, size, or location of a sign shall require a new permit.
- (2) Painting Requirement. The owner of any sign shall be required to have all parts and supports of a sign properly painted, unless they are galvanized or otherwise treated to prevent rust and deterioration.
- (3) Sign Owner's Responsibility. The sign owner shall be responsible for the maintenance of the sign. If the sign ownership should transfer, the new owner shall be responsible for the maintenance of the sign.

D. Illumination. All signs permitted by this Article may be illuminated in accord with the provisions of §67 and the following:

- (1) Type of Illumination. Illumination may be by internal, internal/indirect or by indirect means.
- (2) Flashing. Flashing signs are prohibited in accord with §157A(4). (See §161B for permitted electronic signs.)
- (3) Glare. All signs shall be so designed located, shielded, and directed 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.

E. Signs on Roof. No sign attached to a building shall be placed on nor shall extend above any part of the building roof. (See the definition of *roof sign* in §155.)

F. Awning and Canopy Signs.

- (1) Buildings. Signs affixed to the surface of an awning or canopy on a building are permitted provided that the sign does not extend vertically or horizontally beyond the limits of such awning or canopy. In addition:
 - (a) Awning and canopy signs shall only display the nonresidential use name, logo, address and name of the proprietor or property owner. Letters or numerals shall not exceed a height of 12 inches and shall be located only on the front and side vertical faces, except as provided for in this section. The minimum clearance above any walkway shall not be less than nine feet.
 - (b) Letters and numerals shall be permitted on the sloped surface of an awning, provided that the nonresidential use served by the awning sign does not use a wall sign(s) and provided further that the letters and numerals on the sloped surface of an awning shall not exceed a height of 40 inches and shall not exceed more than 25 percent of the sloped surface.
 - (c) An awning or canopy may extend into the road right-of-way but shall not extend beyond a point one foot back from the vertical plane formed by the road curb line.

- (d) An awning or canopy may not extend more than six feet from the building.
- (e) No awning or canopy sign shall extend into a required side or rear setback.
- (f) The maximum height of an awning or canopy shall be limited to the height of the rooftop or parapet wall of the building.
- (g) A name sign not exceeding two square feet located immediately in front of the entrance to an establishment may be suspended from an awning or canopy provided that the name sign is at least nine feet above the sidewalk.
- (2) Fuel Service Canopy Signs. Service island canopy signs over fuel service islands indicating the brand, manufacturer and/or logo, shall be subject to the following:
 - (a) Service island canopy signs shall be attached to the face of the canopy and shall not extend beyond the edges of the canopy.
 - (b) There shall not be more than one service island canopy sign on each face of the canopy.
 - (c) The gross surface of a service island canopy sign shall not exceed 50 percent of the surface area of the canopy face to which it is attached.
- G. Window Signs. In addition to the total square footage otherwise permitted, window signs for commercial, manufacturing, industrial, public and semi-public uses, referred to as *nonresidential use* in this section, shall be permitted subject to the following:
 - (1) Location. Signs on or inside the windows of a nonresidential use are permitted, but no signs are permitted in unglazed openings.
 - (2) Total Area – Window signs shall not exceed 25 percent of the total glass area of the window.
 - (3) Sign Copy. Sign copy shall be limited to nonresidential use identification and a graphic symbol or any combination thereof, or signs advertising products or services available on the premises.
 - (4) Illumination. Window signs may be internally illuminated, and tube neon signs shall be permitted.
- H. Freestanding Sign Landscaping. All freestanding nonresidential use and residential identification signs shall be placed in a landscaped area of not less than four square feet of landscaping for one square foot of sign area, but in no case less than 120 square feet. Sign landscaping shall be part of the required project landscaping plan and shall be maintained in accord with §61.
- I. Sign Copy. Unless otherwise permitted by this Article for off-premises and directional signs, sign copy shall be limited to the identification of the use and a graphic symbol or any combination thereof, and advertising products or services available on the premises.
- J. Wood Relief Sign
 - (1) Sign Area. The following signs shall be eligible for a 25 percent increase of the maximum allowed sign area only if the sign complies with the requirements of this §157J in addition to all other applicable requirements:
 - (a) Residential development road entrance signs (§160B).
 - (b) Nonresidential use identification signs (§161A).
 - (c) Nonresidential use subdivision road entrance signs (§161G).
 - (2) Wood or Simulated Wood. The sign shall be wood or simulated wood relief only. The carved pattern is raised and seems to rise out of the underlying material.

- (3) Architectural Element The sign shall be designed as an integral architectural element of the building and component of the site.
- (4) Restrained and Compatible. Sign colors, materials, and lighting shall be restrained and compatible with the building and site.
- (5) Illumination. The sign shall be externally illuminated.

§158 Incidental Signs Requiring no Permit

The following signs are considered incidental signs ON ALL PROPERTIES and do not require a permit.

- A. Directional or Instructional Signs. On-site signs, not exceeding 1.5 square feet in 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.
- B. Noncommercial Signs. Flags, emblems, and insignia of political, professional, religious, educational, or fraternal organizations providing that such flags, emblems, and insignia are displayed for non-commercial purpose.
- C. Governmental Signs. Governmental signs for control of traffic, emergency response, and other public or regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies indicating danger and aids to services or safety which are erected by, or at the order of a public officer or employee in the performance of the officer's or employee's duties. Such signs may be of any type, number, area, height, location, or illumination as required by law, statute, or ordinance.
- D. 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.
- E. Interior Signs. Signs not affixed to a window and visible from outside and which are fully located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs located within the inner or outer lobby court or entrance of any theater and which are not displayed to be visible from outside.
- F. Memorial Signs. Memorial plaques or tablets, grave markers, statutory, or other remembrances of persons or events which are non-commercial in nature.
- G. Name and Address Plates. Wall signs, one per street frontage and not exceeding two square feet, indicating the name of the occupant, the address of the premises, and identification of any legal nonresidential use or operation which may exist at the premises.
- H. No Trespassing and Other Similar Signs. No trespassing, no hunting, no fishing, no dumping, no parking, towing and other similar signs (as set forth in Title 75 of the PA Vehicle Code and its regulations and as set forth in Title 18 of the PA Crimes Code and its regulations) not exceeding two square feet.
- I. Parking Lot Directional and Instructional Signs
 - (1) Directional Signs. Signs designating parking area entrances and exits limited to one sign for each entrance and/or exit and not exceeding four square feet. Parking lot directional signs shall not project higher than five feet in height, as measured from the established grade of the parking area to which such signs are accessory.
 - (2) Instructional Signs. Signs designating the conditions of use or identity of parking areas and not exceeding eight square feet nor exceeding an aggregate surface area of 16 square feet. Parking lot instructional signs shall not project higher than 10 feet for wall signs and seven feet for ground signs, as

measured from the established grade of the parking area(s) to which such signs are accessory.

- J. Patron Advertising Signs. Signs erected on the perimeter of an organizational sponsored youth athletic field for the sole purpose of sponsoring or contributing to the organized youth athletic sport. Signs erected for this purpose shall be one sided with a maximum of 32 square feet of aggregate surface area. Sponsors advertising on score boards may not exceed 25 percent of the surface area of the score board.
- K. Public Notices. Official notices posted by public officers or employees in the performance of the officer's or employee's duties.
- L. Signs on Vehicles. Signs placed on or affixed to vehicles and/or trailers where the sign is incidental to the primary use of the vehicle or trailer. However, this is not in any way intended to permit signs placed on or affixed to vehicles, trailers and/or containers, which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a nonresidential use or activity located on the same or other property.
- M. Symbols or Insignia. Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding two square feet not exceeding four square feet in aggregate area.
- N. 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 square feet not exceeding an aggregate surface area of eight square feet on each machine.
- O. Warning Signs. Signs warning the public of the existence of danger but containing no advertising material; to be removed within three days upon the subsidence of danger. Such warning signs may be of any type, number, area, height, location, or illumination as deemed necessary to warn the public of the existence of danger.
- P. Tourist Signs. Tourist orientation directional signs when erected in accord with a permit issued by PennDOT.
- Q. Historic Signs. Signs which memorialize an important historic place, event or person and is specifically authorized by the Borough or a county, state or federal agency.

§159 Temporary Signs

Temporary signs may be erected and maintained in accordance with the provisions contained in this §159.

- A. Permit Not Required. A permit shall not be required.
- B. Illumination. Unless specifically permitted for certain signs, temporary signs shall not be illuminated in accord with this Article.
- C. Sign Types. Temporary signs shall be limited to nonprojecting wall signs or freestanding signs associated with:
 - (1) An approved use being developed, constructed, repaired, or remodeled.
 - (2) An approved use identifying or announcing a campaign or drive, or event, or a special, unique, or limited service, product, or sale.
 - (3) The sale, lease, or rent of the premises upon which such sign is located.
- D. Number. There shall not be more than three temporary signs per lot.
- E. Maximum Area.

- (1) Residential property: 16 square feet each side.
- (2) Nonresidential property: 32 square feet each side.

F. Location. Temporary signs:

- (1) shall be located only upon the premises to which the sign message applies.
- (2) may be located in any required setback but shall not extend over any lot line.
- (3) shall not be located within 15 feet of any point of vehicular access to a public street.

G. Height. Temporary signs shall not project higher than 15 feet.

H. Duration of Sign Placement. Temporary signs may be erected and maintained for a period not earlier than 30 days prior to the commencement of the temporary activity on the premises and the sign shall be removed immediately upon completion of the activity.

I. Sign Message. The sign message shall relate only to the activity on the subject parcel.

J. Clear Sight; Hazards. No sign shall violate the clear view requirements of §27C or otherwise be erected in such manner as would constitute a public hazard.

§160 Residential Uses

The following signs are permitted in all districts as an accessory use to a permitted residential use.

A. Residential Building Name and Address Signs. Name and address signs of buildings containing six or more residential units indicating only the name of the building, the name of the development in which it is located, the management thereof, and/or address of the premises shall be subject to the following:

- (1) Type. Building name and address signs may be either wall signs or ground signs.
- (2) Number. There shall not be more than one name and address sign for each building except that where a building abuts two or more streets, one additional sign oriented to each abutting street shall be permitted.
- (3) Area. Building name and address signs shall not exceed four square feet.
- (4) Location. Building name and address signs shall not be located closer than one-half the minimum setback required for the zoning district in which the sign is to be erected or within 15 feet of any point of vehicular access to a public roadway. The location and arrangement of all building name and address signs shall be subject to the review and approval of the Zoning Officer.
- (5) Height. Building name and address signs shall not project higher than 10 feet for wall signs and five feet for ground signs.

B. Residential Development Road Entrance Signs. Residential development road entrance signs for developments with two or more buildings with a total of five or more dwelling units indicating only the name of the development, including single-family, two-family, and multi-family developments and mobile home parks, the management or developer thereof, and/or the address or location of the development shall be subject to the following:

- (1) Type. The residential development road entrance signs shall be ground signs.
- (2) Number. There shall not be more than two residential development road entrance signs for each point of vehicular access to a development.
- (3) Area. Residential development road entrance sign area shall not exceed 10 square feet.

- (4) Location. Residential development road entrance signs may be located in any required setback but shall not extend over any lot line or within 15 feet of any point of vehicular access from a public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Officer.
- (5) Height. Residential development road entrance signs shall not project higher than eight feet.
- (6) Sign Faces. Residential development road entrance signs may be double-faced only when one such sign is used at a road entrance.

§161 Nonresidential Uses (See §162 for off-premises advertising signs and billboards.)

For all commercial, manufacturing, industrial, public and semi-public uses (referred to as *nonresidential use* in this section) in all Districts the following signs are permitted and then only if accessory to a permitted use, and such signs shall be subject to the requirements of this §161 and any other applicable provisions in this article:

A. Nonresidential Use Identification Signs. The following signs are permitted provided all regulations are met:

- (1) Total Square Footage Permitted. The total aggregate sign area of ALL nonresidential use identification signs permitted by this §161 shall not exceed the limit set in Table 1108A.

Table 1108A (See §162 for off-premises advertising signs and billboards.)				
District	Maximum Total Sign Area ¹ per Foot of Front Façade of Building		Maximum Individual Sign Size	
	Non-electronic	Electronic ²	Non-Electronic	Electronic ²
S-1, R-1, R-2	1.0 sq ft / ft	not permitted	32 sq ft	not permitted
VC-1, VC-2	2.0 sq ft / ft	2.0 sq ft / ft	48 sq ft	48 sq ft
I	2.5 sq ft / ft	not permitted	48 sq ft	not permitted
1. Each exposed face of all nonresidential use identification signs shall be counted as part of the total sign area. 2. Electronic signs shall be limited to one per lot.				

- (2) Number and Height Permitted. The following limitations shall apply:

- (a) Only one freestanding nonresidential use identification sign shall be permitted per lot, except on corner lots where one may be permitted on each street frontage. Freestanding signs shall not exceed a height of 25 feet.
- (b) Each freestanding development identification sign may include, affixed directly to it, a directory indicating only the names of the nonresidential use occupants of the development. Each occupant sign in the development shall not exceed 10 square feet for each exposed face
- (c) One wall sign may be located on each wall of the principal building to identify each nonresidential use occupant of the building. See §157B(17) for height.

B. Electronic Message Signs. In addition to all other applicable regulations, the following regulations shall apply to all electronic message signs. In the case of conflict, the more restrictive standard shall apply.

- (1) Location, Number Size and Height.

- (a) Location. Electronic message signs shall be located only on parcels in the VC-1 and VC-2 Districts.
- (b) Number. Each development parcel shall be limited to one electronic message sign.

- (2) Nonconforming Sign Conversion.

- (a) Any nonconforming sign which is converted to an electronic message sign shall be made conforming to the requirements of this article.

- (b) A sign which is nonconforming as to zoning district location shall not be converted to an electronic message sign.

(3) Message Display.

- (a) Hold Time. Any portion of the message shall have a minimum duration (hold time) of five seconds and shall be a static display. Messages shall completely change to the next message within one second.
- (b) Motion. The images and messages displayed shall be complete in themselves without continuation in content to the next image or message or to any other sign. The image shall be static, with no animation, streaming video, flashing, scrolling, fading, or other illusions of motion.
- (c) Malfunction. All signs shall be equipped with a properly functioning default mechanism that will stop the sign in one position and lock the luminance level to the nighttime setting should a malfunction occur.
- (d) Projection. Images or messages projected onto buildings or other objects shall be prohibited.
- (e) Brightness. (See also §67 for lighting and glare.)

[1] No sign may display light of such intensity or brilliance to cause glare, hazard or impair the vision of the motorist, or interfere with the effectiveness of an official traffic sign, device or signal.

[2] Signs shall have a maximum brightness of no more than 0.3 footcandles above ambient light levels as measured at 150 feet from the sign.

[3] All signs shall be equipped with both a dimmer control and a photocell that automatically adjusts the display's brightness according to natural ambient light conditions. The sign shall also be equipped with an automatic malfunction shut off switch.

[4] Signs shall comply with light trespass regulations set forth in §67.

[5] Prior to issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the sign is equipped to comply with this §161B.

C. Automatic Teller Machine (ATM) Signs. ATM signs shall be permitted in association with an approved nonresidential use subject to the following:

- (1) Location. Such sign shall be located on the face of the machine and may only identify the individual nonresidential use name, logo, time, and principal services offered at the ATM.
- (2) Area. The area of any such sign shall not exceed 10 square feet each side but shall not count as part of the total permitted sign area. The bezel and architectural border of an ATM sign shall not be included in the sign area unless they contain sign characters, logos, or other sign graphics. The area of any ATM signs not visible beyond the boundaries of the property shall not be deducted from the total area permitted for the use. Wording, symbols, and graphics which instruct persons on the use of the ATM shall not be considered part of the sign area unless they are visible beyond the boundaries of the property and attract the attention of the public.

(3) Permit Not Required. A permit shall not be required for automatic teller machine signs.

D. Changeable Panel Signs. One changeable panel sign per lot may be incorporated into a permitted freestanding sign, monument sign or wall sign to identify special, unique, limited activities, services, products, or sale of limited duration occurring on the premises on which the changeable panel sign is located.

E. Shingle Signs. In addition to the other signs permitted by this ordinance each establishment with a separate

entrance to the outside shall be permitted a shingle sign in accord with this §161E.

- (1) Shingle signs shall be limited to two sign faces installed perpendicular to the building facade.
- (2) No portion of a shingle sign shall be less than eight feet above any pedestrian walkway or the grade below the sign.
- (3) No portion of a shingle sign shall project above the top of an eave or parapet.
- (4) Shingle signs suspended from the underside of a building overhang shall be centered under the overhang and shall not project beyond the overhang.
- (5) A shingle sign shall maintain a ten-foot separation from another shingle sign.
- (6) Shingle signs shall be located at the nonresidential use entrance.
- (7) Shingle signs shall not be more than six inches or less than one inch thick.

F. 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:

- (1) Each nonresidential use establishment shall be limited to one A-frame or sandwich board sign.
- (2) The sign shall be comprised of two boards of durable material with no attachments.
- (3) The sign shall not exceed eight square feet for each exposed side and shall not exceed thirty (30) inches in width or four feet in height but shall not count as part of the total permitted sign area.
- (4) The sign shall not be illuminated.
- (5) The sign shall be displayed only during the hours when the establishment is open for nonresidential use and shall include advertising pertaining only to the establishment of location.
- (6) The sign shall not be placed in such manner as to impede pedestrian or vehicle traffic or the opening of vehicle doors.
- (7) The sign shall be sufficiently secured or weighted to resist overturning.
- (8) 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.

G. Nonresidential use Subdivision Road Entrance Signs. Nonresidential use subdivision road entrance signs for developments with two or more commercial, manufacturing, industrial, public and semi-public buildings (referred to as *nonresidential use* in this section) indicating only the name of the development shall be subject to the following:

- (1) Type. The nonresidential use subdivision road entrance signs shall be ground signs.
- (2) Number. There shall not be more than two nonresidential use subdivision road entrance signs for each point of vehicular access to a development.
- (3) Area. Nonresidential use subdivision road entrance signs shall not exceed 32 square feet.
- (4) Location. Nonresidential Use subdivision road entrance signs may be located in any required setback but shall not extend over any lot line or within 15 feet of any point of vehicular access from a public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Officer.
- (5) Height. Nonresidential use subdivision road entrance signs shall not project higher than five feet.

- (6) Sign Faces. Nonresidential use subdivision road entrance signs may be double-faced only when one such sign is used at a road entrance.

§162 Off-Premises Advertising Signs and Billboards

Off-premises advertising signs and billboards are permitted only on lots in S-1, VC-1 and I Districts which front on PA Route 611 and Interstate Route 80 and shall be governed by §154A.

§163 Reserved

§164 Nonconforming Signs

(For nonconforming signs on PA Controlled Routes see the Standard Operation Procedure adopted by the Borough in accord with the Borough Certification for Control of Outdoor Advertising Devices issued by PennDOT. The nonconforming signs are identified as DWG-001, DWG-002, DWG-003, DWG-004 and DWG-006.)

- A. Legal, Nonconforming Signs. Any sign lawfully existing or under construction on the effective date of this Article, which does not conform to one or more of the provisions of this Article, may be continued in operation and maintained as a legal nonconforming use.
- B. Maintenance and Repair.
- (1) Area. The total area of any nonconforming sign shall not be increased.
 - (2) Removal and Reconstruction. The removal and reconstruction of a nonconforming sign shall only be permitted in accord with the requirements of Article IX applicable to other nonconforming structures.
 - (3) Damage or Destruction. A nonconforming sign which is damaged or destroyed may be rebuilt in a nonconforming fashion only in accord with Article IX applicable to other nonconforming structures.
 - (4) Improvements and Maintenance. Nonconforming signs may be repainted, repaired or modernized, provided such improvements do not increase the dimensions, height or position of the existing nonconforming sign or change the sign, message or nonresidential use being advertised.
 - (5) Conversion to Electronic Message Sign
 - (a) Any nonconforming sign which is converted to an electronic message sign shall be made conforming to the requirements of this Article.
 - (b) A sign which is nonconforming as to zoning district location shall not be converted to an electronic message sign.

§165 Removal of Certain Signs

A. Abandoned Signs.

- (1) Removal. Any sign, whether existing on or erected after the effective date of this ordinance, which advertises a nonresidential use no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located, shall be presumed to be abandoned and shall be removed within 12 months from the cessation of such nonresidential use 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.
- (2) Enforcement. Enforcement of a violation of §165A(1) shall be in accord with §184.

B. Nuisance Signs.

- (1) Violation. The maintenance of any sign which is unsafe or insecure, or is a public nuisance, shall be considered a violation of this Article.

- (2) Enforcement. Enforcement of a violation identified in §165B(1) shall be in accord with §184.
- (3) Immediate Peril. Notwithstanding, the foregoing provisions, the Zoning Officer is authorized to cause any sign to be removed summarily and without notice, at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located, whenever the Zoning Officer determines that such sign is an immediate peril to persons or property.
- C. Property Owner Permission Required. No person shall post or locate any information, personal, temporary, political, special event, or construction sign upon public or private property, tree, utility pole, traffic control device or sign, road sign, street sign, or upon any other existing sign, without the permission of the owner of the same. Any such sign not removed within the time allotted in the permit issued by the Zoning Officer or within 10 days following the event it addressed is deemed to be abandoned by the owner thereof and may be removed and disposed of by the Borough and the owner of such sign shall be liable for cost incurred by the Borough in taking such remedial action.
- D. Illegal Signs. If the Zoning Officer shall find that any sign is displayed in violation of this ordinance, he shall proceed with an enforcement action in accord with §184.

§166 Reserved

§167 Reserved

ARTICLE XII ADMINISTRATION

§168 Applicability

- A. Conformance. Any activity regulated by this ordinance shall only occur or be undertaken and be continued in conformance with the requirements of this ordinance.
- B. Authorization. This ordinance regulates all matters and activities authorized by Article VI of the Pennsylvania municipalities Planning code, as amended.
- C. Regulated Activities. Any of the following activities or any other activity or matter regulated by this ordinance shall only be undertaken after the required permit or approval has been obtained in full compliance with this ordinance:
- (1) Erection, construction, movement, placement, extension or demolition of a structure, building or regulated sign;
 - (2) Change in the type of use or expansion of the use of a structure or area of land; and/or,
 - (3) Creation of a lot or alteration of lot lines.
- C. Repairs and Maintenance. (Note: A Uniform Construction Code permit may be required in cases where a zoning permit is not required.) Ordinary repairs, structural strengthening, facade improvements and maintenance to existing structures that do not infringe upon a required setback may be made without a zoning permit provided such activity does not involve 1) a change in use; 2) an expansion, construction, or placement of a structure; 3) an increase in the number of dwelling units or boarding house units; and/or any other activity regulated by this ordinance.

§169 General Procedure for Permits

- A. Principal Permitted Use. Within 45 days of receiving a proper and complete application for a principal permitted use (permitted by right), the Zoning Officer shall either:
- (1) Issue the permit under this ordinance; or,
 - (2) Refuse the permit, indicating at least one applicable reason in writing to the applicant or his/her representative.
- B. Reviews. Certain activities require review and/or approval of the Zoning Hearing Board and/or of the Borough Council, and/or the recommendations of the Planning Commission. In such case, the Zoning Officer shall not issue a Zoning Permit until such required review or approval occurs.
- C. Appeal. See §173B(2).
- D. Timing. After a zoning permit has been received by the applicant, the applicant may undertake the action permitted by the permit under this ordinance provided the work complies with other Borough ordinances. However, it is recommended that applicants wait 30 days to begin construction if there is a possibility of an appeal by another party to have the permit revoked. Any commencement of construction or a use within this 30-day appeal period shall be at the risk of the applicant.

§170 Permits and Certificates

- A. Applicability. See §168.

B. Types of Uses.

- (1) Principal Permitted Uses (Permitted by Right Uses). If a use is listed as a principal permitted use by this ordinance and meets the requirements of this ordinance, the Zoning Officer shall issue a permit in response to a complete application.
- (2) Special Exception Use or Application Requiring a Variance. A permit under this ordinance for a use requiring a Special Exception or Variance shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board after a hearing.
- (3) Conditional Use. A permit under this ordinance for a Conditional Use shall be issued by the Zoning Officer only upon the written order of the Borough Council, after the Planning Commission has been given an opportunity to review the application.

C. Applications.

- (1) Applications. Any request for a decision, interpretation or variance by the Zoning Hearing Board, application for a conditional use, or for a permit under this ordinance shall be made in writing on a form provided by the Borough and in accord with the procedures established by the Borough. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to the Borough employee responsible for processing such application. The applicant is responsible to ensure that a responsible Borough official notes the date of the official receipt on the application.
- (2) Number of Copies. Unless waived by the Zoning Officer, eight copies of a site plan shall be submitted if an application requires action by the Zoning Hearing Board or Borough Council, and two copies shall be submitted if action by the Zoning Hearing Board or Borough Council is not required.
- (3) Information Required. Any application to the Zoning Officer, Zoning Hearing Board, Planning Commission or Borough Council shall include the following information.

In the case of an application involving the construction of any new structure or any addition to an existing structure, all of the information required in this §170C shall be provided by the applicant. However, the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, may determine, as part of the review process, that certain information is not required for a particular application, and upon such determination, the specified information need not be provided by the applicant.

In the case of an application which does not involve the construction of any new structure or any addition to an existing structure, a narrative providing details of the project shall be provided as required by this section. However, a plot plan, as required by §170C(3)(f) shall not generally be required unless the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, deems such plot plan necessary to evaluate and make a decision on the application. The Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, shall determine, as part of the review process, the type of information and level of detail of the plot plan if such plot plan is required.

In any case, the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, may require any other additional information or any level of detail deemed necessary to determine compliance with this ordinance or to identify any impacts of the proposed use.

- (a) Names and address of the applicant, or appellant; and the name and address of the owner of the affected property.
- (b) A description of the existing and proposed use(s) of the property, including numbers of dwelling units, minimum square feet of proposed dwelling units and number of proposed business establishments, if any.

- (c) A description of any proposed non-residential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards or other significant public health and safety hazards.
- (d) If a principal non-residential use is proposed within close proximity to dwellings, a description of hours of operation and proposed methods of storing garbage outdoors on-site.
- (e) A listing of any specific sections of this ordinances being appealed, with the reasons for any appeal and
- (f) A plot plan legible in every detail and drawn to scale but not necessarily showing precise dimensions, and including the following information:
 - [1] Name of the development
 - [2] Name and address of landowner and/or land developer. (if corporation give name of officers.)
 - [3] Location map
 - [4] North arrow, true or magnetic
 - [5] Graphic scale
 - [6] Written scale
 - [7] Date plot plan was completed
 - [8] Names of adjacent property owners and tax map numbers, including across adjacent roads.
 - [9] Proposed and existing street and lot layout including street names and right-of-way widths.
 - [10] Existing and proposed man-made and/or natural features.
 - [a] Water courses, lakes and wetlands (with names)
 - [b] Significant rock outcrops, ledges and stone fields
 - [c] Buildings, structures, signs and required setbacks
 - [d] Approximate location of tree masses
 - [e] Utility lines, wells and sewage system(s)
 - [f] Entrances, exits, access roads and parking areas including the number of spaces
 - [g] Drainage and storm water management facilities
 - [h] Plans for any required buffer plantings
 - [i] Any and all other significant features.
- (g) Location of permanent and seasonal high water table soils and 100 year flood zones.
- (h) Tract boundaries accurately labeled. The Zoning Officer, in his discretion, may require a survey prepared by a Pennsylvania Registered Land Surveyor for any application.
- (i) The total acreage of the tract and extent of the areas of the site to be disturbed and percentage lot coverage when the project is completed.
- (j) Location and type of rights-of-way or other existing restrictive covenants which might affect the subdivision and/or development.
- (k) A statement of the type of water supply and sewage disposal proposed.
- (l) The present zoning district and major applicable lot requirements.
- (4) Other Laws. The Zoning Officer may withhold issuance of a permit under this ordinance if there is clear knowledge by the Zoning officer that such a use would violate another Borough, State or Federal law or regulation.
- (5) Ownership. No person other than a landowner or their specifically authorized agent or a tenant or lessee with written permission of the landowner shall submit a zoning application. (See definition of "landowner" in Article III.)
- (6) Advisory Reviews. The Zoning Officer may submit a copy of any plan and application to any appropriate

agencies and/or individuals (such as the Planning Commission, the County Planning Commission, the County Conservation District or Borough Engineer) for review and comment.

- (7) Subdivision Approval. Applications for uses which also necessitate approvals under the Subdivision and Land Development Ordinance shall be processed in the manner provided for plat approval under that ordinance. Such applications shall also contain all information or data normally required for a submission under the Subdivision and Land Development Ordinance. A zoning permit shall not be issued until the proposed use has been granted a Preliminary Approval under the Subdivision and Land Development Ordinance. However, no building or property shall be occupied or used until final subdivision approval has been granted and a Certificate of Use has been properly issued pursuant to §170G of this ordinance.

D. Issuance of Permit.

- (4) At least two copies of any permit required under this ordinance shall be made.
- (5) One copy of any such permit shall be retained in Borough files and one copy shall be retained by the applicant. A copy of any such permit shall be shown by the applicant to the Zoning Officer upon the Zoning Officer's request.
- (6) The Zoning Officer shall issue or deny a permit for a principal permitted use within a maximum of 45 days after a complete, duly filed application and fees are submitted.
- (7) No owner, contractor, worker or other person shall perform building or construction activity of any kind regulated by this ordinance unless a valid zoning permit has been issued for such work, nor shall such persons conduct such work after notice that a zoning permit has been revoked.

E. Revocation of Permits. If a zoning permit is revoked, the person holding the permit shall immediately surrender such permit and all copies to the Zoning Officer. The Zoning Officer shall revoke a permit or approval issued under the provisions of this ordinance in case of:

- (1) Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based: (The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties); or
- (2) Upon violation of any condition lawfully imposed upon a special exception, variance or conditional use; or,
- (3) Any work being accomplished, or land or structures being used in such a way that does not comply with this ordinance or an approved site plan or approved permit application; or
- (4) For any other just cause set forth in this ordinance.

F. Changes to Approved Plans.

- (1) After the issuance of a permit and/or approval under this ordinance by the Borough, such approved application shall not be changed without the written consent of the Borough.
- (2) Changes to an approval by the Zoning Hearing Board as a special exception use or by the Borough Council as a conditional use shall require re-approval of the changes by such bodies if the Zoning Officer determines that such changes affect matters that were within the scope of approval of such body. Such approval by the Hearing Board or the Borough Council is not required for clearly minor technical adjustments or matters that are solely corrections of information that do not affect any of the significant features of the site plan or the intensity of the use, as determined by the Zoning Officer
- (3) A copy of such adjustment or correction shall be provided in writing to the Planning Commission, the Borough Council or the Zoning Hearing Board if the change concerns a plan approved by such bodies.

G. Certificate of Use.

- (1) A Certificate of Use shall be required by the Borough upon a change of use or completion of work authorized by a permit or approval under this ordinance. It shall be unlawful to use and/or occupy a structure, building and/or land or portions thereof until such Certificate has been issued. A new Certificate of Use shall be required if a change in use of the property is proposed, and then such Certificate shall be issued only after all required approvals are obtained.
- (2) An application for such Certificate shall be made on an official Borough form. If such use is in conformance with Borough ordinances and approvals, such Certificate should be issued in duplicate within 10 days of a properly submitted and duly filed application. A minimum of one copy shall be retained in Borough records
- (3) The Zoning Officer shall inspect such structure or land related to an application for such Certificate. If the Zoning Officer determines, to the best of his/her current knowledge, that such work conforms with this ordinance and applicable Borough codes, approvals and permits, then the Certificate of Use shall be issued.
- (4) The applicant shall show a valid Certificate of Use to the Zoning Officer upon request.

H. Minimum Residential Lot Requirements. Any lot or parcel of land proposed for residential use, either permanent, seasonal, part time or recreational by means of a permanent or movable housing structure or recreational vehicle shall be improved to certain minimum requirements prior to issuance of a residential occupancy permit. The minimum required improvements shall include:

- (1) A safe potable water supply and delivery system.
- (2) A sewage disposal System which meets all state and Borough requirements
- (3) Required off-street parking spaces.
- (4) Power supply facilities approved by the local utility company.

I. Expiration of Permits and Approvals.

- (1) Zoning Permits. When authorized by the issuance of a zoning permit, any permitted building construction shall be initiated within one year of the permit issuance date and be completed within two years of the permit issuance date. The zoning permit shall automatically expire for failure to comply with the required initiation and completion periods.
- (2) Conditional Use Approval or Special Exception Approval. See §176E.

§171 Fees

- A. Application Fees. As authorized by §617.2(e) and §908(1.1) of the Pennsylvania Municipalities Planning Code, the Borough Council shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure, for zoning permits, conditional use permits, Zoning Hearing Board proceedings and other matters pertaining to this ordinance. Permits, certificates, conditional use permits, special exception permits and variances shall be issued only after 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.
- B. Stenographer Fees. The appearance fee for a stenographer shall be shared equally by the applicant and the Borough. 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 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.

§172 Zoning Officer

- A. Appointment. The Zoning Officer(s) shall be appointed by the Borough Council. The Zoning Officer(s) shall not hold any elective office within the Borough, but may hold other appointed offices not in conflict with the

State Planning Code.

B. Duties and Powers. The Zoning Officer shall:

- (1) Administer this ordinance.
- (2) Provide information to applicants regarding required procedures.
- (3) Receive and examine all applications required under the terms of this ordinance, and issue or refuse permits within this ordinance
- (4) Receive written complaints of violation of this ordinance, and issue a written notice of violation to any person violating any provision of this ordinance.
- (5) Keep records of applications, permits, certificates, written decisions and interpretations issued, of variances and special exception granted by the Zoning Hearing Board, of conditional uses approved by the Borough Council, of complaints received, of inspections made, of reports rendered, and of notice or orders issued.
- (6) Make all required inspections and perform all other duties as called for in this ordinance.
- (7) Not have the power to permit any activity which does not conform to this ordinance, or all other ordinances of the Borough known to the Zoning Officer.

C. Qualifications. Pursuant to §614 of the PA Municipalities Planning Code, the following minimum qualifications shall apply to any Zoning Officer(s) appointed to serve the Borough after the adoption of this ordinance, unless such mandatory qualifications are waived by motion of the Borough Council.

- (1) The person shall demonstrate a working knowledge of zoning.
- (2) The person shall have one of the following combinations of education and experience:
 - (a) A high school diploma or equivalent and a minimum of four years responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances; or,
 - (b) A high school diploma or equivalent and two additional years of continuing education, such as an Associate Degree (such continuing education preferably should be in a field such as law enforcement, community planning and/or public administration) and a minimum of two years responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances; or,
 - (c) A college or university Bachelor's degree in a field related to zoning (such as law enforcement, community planning and/or government administration) and a minimum of eight months responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances.
- (3) The person shall be familiar with Constitutional issues concerning search and seizure and with the process of filing actions with the District Magisterial Judge.
- (4) The person shall exhibit an ability to thoroughly evaluate site plans and building plans.
- (5) The person shall demonstrate excellent oral and written communication skills.
- (6) The person shall be familiar with the PA Municipalities Planning Code.

D. Reporting Violations. Police officers, firefighters, construction inspectors, other Borough staff and Borough officials and the general public may report possible zoning violations to the Zoning Officer for his/her

determination.

§173 Zoning Hearing Board

A. Appointment and Qualifications.

- (1) Appointment. The Borough Council shall appoint a Zoning Hearing Board, which shall have the number of members and alternate members with such powers and authority, and which shall conduct all proceedings as set forth in Article IX of the Pennsylvania Municipalities Planning Code as enacted or hereafter amended.
- (2) Recommended Qualifications. Each Zoning Hearing Board member should:
 - (a) Demonstrate a working knowledge of zoning prior to appointment.
 - (b) Become familiar with the PA Municipalities Planning Code.
- (3) Vacancies. The Zoning Hearing Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of a term.
- (4) Removal of Members. See §905 of the PA Municipalities Planning Code.
- (5) Organization.
 - (a) Officers. The Zoning Hearing Board shall elect officers from its own membership. Officers shall serve annual terms and may succeed themselves.
 - (b) Quorum. For the conduct of any hearing and taking of any action a quorum shall be not less than a majority of all members of the Zoning Hearing Board, except that the Zoning Hearing Board may appoint a hearing officer in accord with the PA MPC to conduct any hearing on its behalf and the parties may waive further action by the Board, as provided by the PA. Municipalities Planning Code. The quorum may be met by alternate members, serving as permitted by the PA Municipalities Planning Code.
 - (c) Rules. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with all applicable Borough ordinances and State law.

B. Jurisdiction. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- (1) Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to §609.1 (Curative Amendments) and §916.1(a) (2) (Ordinance Validity) of the Pennsylvania Municipalities Planning Code.
- (2) Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- (3) Applications for variances from the terms of this ordinance pursuant to §910.2 of the Pennsylvania Municipalities Planning Code.
- (4) Applications for special exceptions under this ordinance pursuant to §912.1 of the Pennsylvania Municipalities Planning Code and the requirements of this ordinance.
- (5) Appeals from the Zoning Officer's determination under §916.2 (Preliminary Opinion) of the Pennsylvania Municipalities Planning Code
- (6) Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm

water management insofar as the same relate to development not involving subdivision and land development applications.

- (7) The Zoning Hearing Board shall not, under any circumstances, have the authority to order any specific change in or amendment to the Zoning Map or to allow any use of property substantially different from those permitted under the Schedule of Use Regulations for the particular district.

§174 Zoning Hearing Board -- Hearings and Decisions

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with §908 of the Pennsylvania Municipalities Planning Code, as amended, and the provisions of this §174. The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney 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. (For the purposes of this §174, *Board* shall mean *Board or Hearing Officer*, if a hearing officer is appointed.)

A. Notice of Hearings. Notice of all hearings of the Board shall be given as follows:

- (1) Advertisement. Public notice shall be published, as defined by §107 of the PA. Municipalities Planning Code. The notice shall state the time and place of the hearing and the particular nature and property address of the matter to be considered.
- (2) Posting. Notice of such hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. Such notice shall state the time and place of the hearing and a general description of the request.
- (3) Persons Given Notices. All notice under this §174A are intended to be received or posted at least five days prior to the hearing date.
 - (a) Written notice shall be mailed or personally delivered to the Applicant or his/her representative listed on an official application form.
 - (b) Notice may be delivered or mailed to the Chairperson of the Planning Commission or Borough Secretary, and the last known address of owners of record of property abutting or directly across the street from the boundaries of the subject property. The applicant shall provide the Borough with a list of such property-owners. Failure of the Borough to notify all such persons shall not invalidate any action by the Board.
 - (c) Also, such notice shall be mailed or delivered to the address of any other person or group (including civic or community organizations) who has made a written timely request (including an address) for such notice.
- (4) Adjacent Municipalities. In any matter which relates to a lot which lies within 250 feet of the boundary of another municipality, and where the Zoning Officer determines the proposed activity may have significant impact on that municipality, the Borough staff may transmit to the offices of the adjacent municipality a copy of the official notice of the public hearing on such matter prior to the hearing date. Representatives of such adjacent municipality shall have the right to appear and be heard at the public hearing. Failure of the Borough to notify such municipality shall not invalidate any action by the Board.
- (5) Fees. The Borough Council may, by resolution, establish a reasonable fee schedule, based on cost, to be paid by: a) the Applicant for any notice required by this ordinance and b) those persons requesting any notice not required by this ordinance.

B. Parties in Hearings. The Zoning Hearing Board shall have the authority, if it chooses to exercise it, to determine who has standing on each case before the Board. (Note: Standing generally means a party being sufficiently affected or threatened by effects of controversy to obtain judicial resolution of that controversy.)

- (1) The parties to a hearing shall be the Borough Council, the Planning Commission, any person affected by

the application who has made timely appearance of record before the Board, representatives of any legitimate civic or community organization, and any other person permitted to appear before the Board.

- (2) The Board shall have 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.
 - (3) The Board shall determine that a person or business does not have standing if the Board finds that such person or business is apparently motivated primarily by an attempt to inhibit competition in an area of business, and that such person or business would not otherwise be threatened with substantive harm from the application.
- C. Oaths and Subpoenas. The Chairperson of the Board or Hearing Officer shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents reasonably needed by and requested by the parties.
- D. Representation by Counsel. The parties shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on relevant issues.
- E. Evidence and Record. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded. The Board or the Hearing Officer, as applicable, shall keep a record of the proceedings as required by State law.
- F. Communications Outside of Hearings.
- (1) The Board shall not meet with, visit the site with or directly communicate specifically on the matter with the applicant or any officially protesting party or their representatives in connection with any issue involved, except if opportunity is provided for the applicant and any officially protesting party to participate.
 - (2) The Board shall not take notice of any communications, reports, staff memoranda, or other materials directly affecting a proposed application unless the parties are afforded an opportunity to examine and contest the material so noticed or unless such materials are already a matter of public record. This restriction shall not apply to advice from the Board's solicitor.
- G. Advisory Review. The Zoning Hearing Board may request that the Planning Commission, County Conservation District or Borough Engineer provide an advisory review on any matter before the Board.
- H. Hearings and Decision. The Zoning Hearing Board shall conduct hearings and make decisions in accord with §908 of the Pennsylvania Municipalities Planning Code, as amended.
- I. Solicitor Conflict.
- (1) The Zoning Hearing Board Solicitor shall not represent private clients in cases before the Zoning Hearing Board.
 - (2) If a conflict of interest exists for the Zoning Hearing Board Solicitor on a particular application, the Zoning Hearing Board Solicitor shall notify the Chairperson of the Board at least seven days before the scheduled hearing date.
 - (3) The Borough Council may appoint an Alternate Solicitor to the Zoning Hearing Board to serve as needed for a specific application or for a term of office.

§175 Variances

The Board shall hear requests for variances filed with the Board in writing by any landowner (or any tenant with the permission of such landowner).

- A. Standards. The Board may grant a variance only within the limitations of the Municipalities Planning Code.

The applicant shall have the burden of proof to show compliance with such standards. As of 1993, the Municipalities Planning Code provided that all of the following findings must be made, where relevant in a particular case:

- (1) There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this ordinance in the neighborhood or district in which the property is located; and,
- (2) Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this ordinance and a variance is therefore necessary to enable the reasonable use of the property; and,
- (3) Such unnecessary hardship has not been created by the appellant; and,
- (4) 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, not be detrimental to the public welfare; and,
- (5) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

B. Reserved.

C. Variance Conditions. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Municipalities Planning Code and this ordinance, and to protect the public health, safety and welfare.

§176 Conditional Uses and Special Exceptions

A. Applications. Applications for conditional uses and special exceptions shall, at a minimum, include the information required in §176F. The Borough Planning Commission, Borough Council, or the Zoning Hearing Board shall require any other information deemed necessary for the review of the proposal.

B. Conditional Uses. Uses specified as conditional uses shall be permitted only after review and approval pursuant to the express standards as provided for specific conditional uses in this ordinance and in §176D and any other applicable standards in this ordinance.

(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) Procedure.

(a) Submission. The applicant shall submit the application as follows:

[1] Eight complete copies of any required plan with the information required by §176F shall be submitted to the Zoning Officer and the time for the Borough Council to conduct the required public hearing shall not begin to run until a complete application has been accepted by the Zoning Officer.

[2] The Zoning Officer shall refuse to accept an incomplete application which does not provide sufficient information to determine compliance with this ordinance.

(b) Distribution. The Zoning Officer shall distribute copies of the site plan to the Planning Commission and the Borough Council. A minimum of one copy shall be retained in the Borough files. The Borough Fire Company should be given an opportunity for a review, if deemed appropriate by the Planning Commission.

- (c) Zoning Officer Review. The Zoning Officer shall report in writing or in person to the Planning Commission or the Borough Council stating whether the proposal complies with this ordinance. The Zoning Officer may request a review by the Borough Engineer

- (d) Planning Commission Review.

- [1] The Planning Commission shall be provided with an opportunity to review any proposed conditional use at a regular meeting prior to a decision by the Borough Council. The Commission, at its option, may provide a written advisory review.

- [2] If such review is not received within the time limit within which the Board must issue a decision, or within 30 days of such application being sent to the Planning Commission, then the Board may make a decision without having received comments from the Planning Commission.

- (e) Agency/Organization Review. The Zoning Officer, Planning Commission and/or the Borough Council may refer the application to any other agency or organization deemed appropriate for review and comment.

- (f) Borough Council Action. The Borough Council shall conduct hearings and make decisions in accordance with §908 and §913.2 of the Pennsylvania Municipalities Planning Code, as amended. In granting a conditional use, the Board may attach such reasonable conditions and safeguards (in addition to those expressed in this ordinance) as it determines are necessary to implement the purposes of the PA Municipalities Planning Code and this ordinance, and to protect the public health, safety and welfare.

- C. Special Exceptions. Uses specified as special exceptions shall be permitted only after review and approval by the Borough Zoning Hearing Board pursuant to the express standards as provided for specific special exceptions in this ordinance and in §176D.

- (1) Expansions. Expansions or additions to uses classified as special exceptions shall also be considered special exceptions. The addition of an accessory structure shall not be considered a conditional use.

- (2) Procedure.

- (a) Eight complete copies of any required plan with the information required by §176F shall be submitted to the Zoning Officer and the time for the Zoning Hearing Board to conduct the required public hearing shall not begin to run until a complete application has been accepted by the Zoning Officer.

- (b) All plans shall contain the information required in §176F.

- (c) Borough Procedures.

- [1] The Zoning Officer shall forward the application to the Zoning Hearing Board, the Planning Commission and the Zoning Hearing Board solicitor. A minimum of one copy shall be retained in the Borough files.

- [2] The Zoning Officer shall, prior to the next Zoning Hearing Board meeting where the application will be discussed, review the Plan to determine compliance with this ordinance and report these findings to the Zoning Hearing Board. The Zoning Officer may request a review by the Borough Engineer.

- (d) Planning Commission Review of Special Exception Uses.

- [1] The Planning Commission shall be provided with an opportunity to review any proposed special exception use at a regular meeting prior to a decision by the Zoning Hearing Board. The Commission, at its option, may provide a written advisory review.

[2] If such review is not received within the time limit within which the Board must issue a decision, or within 30 days of such application being sent to the Planning Commission, then the Board may make a decision without having received comments from the Planning Commission.

(e) Agency/Organization Review. The Zoning Hearing Board may refer the application to any other agency or organization deemed appropriate for review and comment.

(f) Zoning Hearing Board Action on Special Exception Uses.

[1] The Zoning Hearing Board shall hear and decide such request for a special exception use under the procedures in §174.

[2] In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards (in addition to those expressed in this ordinance) as it determines are necessary to implement the purposes of the PA Municipalities Planning Code and this ordinance, and to protect the public health, safety, and welfare.

D. Standards and Criteria. The standards and criteria applied to conditional uses and special exceptions are intended to ensure that the proposed use will be in harmony with the purposes, goals, objectives and standards of this ordinance and other ordinances of the Borough. In addition to the applicable general provisions of this ordinance and to the standards provided in this ordinance for specific conditional uses and special exceptions, the following standards and criteria shall be applied in the review of applications for conditional uses and special exceptions.

- (1) The proposed use shall be in harmony with purposes, goals, objectives and standards of the Borough Comprehensive Plan, this ordinance, and all other ordinances of the Borough.
- (2) The proposal shall also be evaluated as to the degree to which the proposed location may be particularly suitable or unsuitable for the proposed use in terms of the physical characteristics of the site.
- (3) The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, adjacent property values, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of this ordinance, or any other plan, program, map or ordinance of the Borough or other government agency having jurisdiction to guide growth and development
- (4) The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities, and services of the Borough, whether such services are provided by the Borough or some other entity. The applicant shall be wholly responsible for providing such improvements, facilities, utilities, or services as may be required to adequately serve the proposed use when the same are not available or are inadequate to serve the proposed use in the proposed location. As part of the application and as a condition of approval of the proposed use the applicant shall be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities and services in sufficient time and in a manner consistent with this and other ordinances of the Borough. The permit approval shall be so conditioned.
- (5) In reviewing an application, the following additional factors shall be considered:
 - (a) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs
 - (b) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls.
 - (c) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (d) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

- (e) Adequacy of storm water and drainage facilities.
- (f) Adequacy of water supply and sewage disposal facilities.
- (g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation
- (h) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants
- (i) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

(6) No application shall be approved unless it is found that, in addition to complying with each of the standards enumerated above, any of the applicable standards contained in this ordinance shall be met. In instances where the supplemental standards contained herein do not adequately protect the general health, safety and welfare of parties effected, all conditions and safeguards deemed necessary by the Board to protect the general health, safety and welfare and implement the purposes of this ordinance and the Pennsylvania Municipalities Planning Code shall be imposed as conditions of approval in accord with §912.1 or §913.2 of the Pennsylvania Municipalities Planning Code, as the case may be. Conditions which might be imposed shall include (but not be limited to) provisions for additional parking, traffic control, submission of landscaping plans for screening, setbacks, special measures addressing sales period activities, environmental controls and other measures which mitigate any potential adverse impact the use may have on adjoining uses.

(7) The applicant shall supply evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the health, safety and welfare of the Borough; and the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

E. Limitation of Approval. Any conditional use approval granted by the Borough Council and any special exception approval granted by the Zoning Hearing Board shall expire one year from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to submit another application for the same. The Borough Council or Zoning Hearing Board as the case may be, however, may grant an extension of the time limitations, for good cause.

F. Information Required. The applicant shall supply the information required by §170C and evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the health, safety and welfare of the Borough; and the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

§177 Reserved

§178 Mediation

Parties to proceedings authorized by this ordinance and the Pennsylvania Municipalities Planning Code may use the Mediation Option as authorized by and in accord with §908.1 of said Code.

§179 Time Limits for Appeals

The time limitations for appeals shall be as follows:

A. Zoning Hearing Board. County Court. No person shall be allowed to file any appeal with the Zoning Hearing Board later than 30 days after the officially issued decision by the Zoning Officer, or appeal with the County Court of Common Pleas later than 30 days after the officially issued decision of the Borough Council or the Zoning Hearing Board, except as may be provided under §914.1 of the Pennsylvania Municipalities Planning

Code.

- B. Temporary Permits. This 30-day time limit for appeal shall not apply to the revocation of a permit under §170E.
- C. Subdivision or Land Development Approval. The failure of an aggrieved person other than the landowner to appeal an adverse decision directly related to a preliminary subdivision or land development plan shall preclude an appeal from a final plan approval except in the case where the final submission substantially deviates from the approved preliminary plan.

§180 Appeals to Court and Other Administrative Proceedings

Appeals to court and other administrative proceedings shall be governed by Article X-A and Article IX of the Pennsylvania Municipalities Planning Code, respectively.

§181 Public Utility Exemptions

See §619 of the Pennsylvania Municipalities Planning Code.

§182 Limited Borough Exemption

The minimum lot area requirements of this ordinance shall not apply to uses or structures owned by the Borough for uses and structures that are intended for a legitimate governmental, recycling, public recreation, storm water control or public health and safety purpose.

§183 Amendments

The Borough Council may amend this ordinance by complying with the requirements set forth in Article VI of the Pennsylvania Municipalities Planning Code. A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided on as provided in §609.1 and §916.1 of the Pennsylvania Municipalities Planning Code.

§184 Violations

- A. Compliance. Failure to comply with any provision of this ordinance, failure to secure or comply with a decision of the Borough Council or Zoning Hearing Board or the failure to secure a permit, when required, prior to or (when ordered) after the erection, construction, extension, or addition to a building or prior to or after the use or change of use of land; or failure to secure a Certificate of Use Permit, shall be violations of this ordinance.
- B. Complaints. Whenever a violation of this ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Officer, who shall record receipt of the said complaint and investigate and report thereon.
- C. Enforcement Notice. When written notice of a violation of any of the provisions of this ordinance shall be served by the Zoning Officer, personally or by certified mail, in the manner prescribed by §616.1 of the Pennsylvania Municipalities Planning Code and set forth in this §184C, such violation shall be discontinued or corrected as set forth in said notice.
 - (1) If it appears to the Borough that a violation of this ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this §184C.
 - (2) The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
 - (3) An enforcement notice shall state at least the following:
 - (a) The name of the owner of record and any other person against whom the municipality intends to take action.

- (b) The location of the property in violation
- (c) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this ordinance.
- (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (e) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this ordinance
- (f) 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.
- (g) In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough shall have the responsibility of presenting its evidence first
- (h) Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Borough if the Zoning Hearing Board, or any court in subsequent appeal, rules in the appealing party's favor.

§185 Penalties and Remedies

- A. Causes of Action. In case any building, structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any provisions of this ordinance, the Borough Council or, with the approval of the Borough Council, an officer of the municipality, 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, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.
- B. Enforcement Remedies.
 - (1) Any person, partnership, or corporation who or which has violated or permitted the violation of any of the provisions of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 (state law) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Magisterial Judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Magisterial Judge determines that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Magisterial Judge and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this ordinance shall be paid over to the Borough.
 - (2) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
 - (3) Nothing contained in this §185 shall be construed or interpreted to grant to any person or entity other than the Borough, the right to commence any action for enforcement pursuant to this §185.

§186 Liability

Neither the approval nor the granting of any review, issuance of permit or approval related to construction, activity within the flood plain, site plan review, subdivision or land development approval erosion control, storm water runoff, activity on steep slopes or any other review or permit of this ordinance, by an officer, employee, consultant or agency of the Borough, shall constitute a representation, guarantee or warranty of any kind by the Borough, or its employees, officials, consultants or agencies, of the practicality or safety of any structure, use or subdivision, and shall create no liability upon, nor a cause of action against such public body, official, consultant nor employee for any damage that may result pursuant thereto.

§187 Reserved**§188 Reserved**

ARTICLE XIII
ADOPTION

This Ordinance ordained and enacted this 16th Day of August, 2023, by the Borough Council of Delaware Water Gap Borough, Monroe County, Pennsylvania, to be effective five days following adoption.

BOROUGH OF DELAWARE WATER GAP



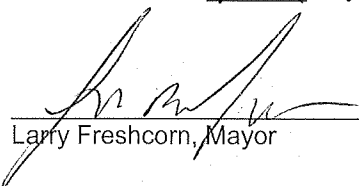
Jamie B. Levy, President of Council

ATTEST:



Allisen Trotter, Secretary

APPROVED this 16th Day of August, 2023.



Larry Freshcorn, Mayor