

# ZONING ORDINANCE

## BRIAR CREEK BOROUGH COLUMBIA COUNTY PENNSYLVANIA



**SEPTEMBER 2014**



**ZONING  
ORDINANCE  
of  
BRIAR CREEK BOROUGH  
SEPTEMBER 2014**

**Prepared by  
Briar Creek Borough Council  
and  
Planning Commission  
Technical Assistance by  
Carson Helfrich,  
Community Planning and  
Management Associates**

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## GUIDE TO USING THIS ZONING ORDINANCE

- ☛ **Contact the Zoning Officer** to ensure you have the latest version of the Zoning Ordinance and Zoning Map and to help you find what you are looking for.
- ☛ The **Table of Contents** should help you find the sections applicable to your situation.
- ☛ The **Zoning Map** shows all of the **Zoning Districts** in the Borough.
- ☛ The **Uses** allowed in each **Zoning District** are detailed in Article IV through Article IX. **Floodplain Development** is regulated by Borough Ordinance No. 167.
- ☛ All of the uses allowed in each Zoning District are classified.
  - **Principal Permitted Uses** and **Accessory Uses** - action by the Zoning Officer. (§1402)
  - **Conditional Uses** - review by Planning Commission, action by Borough Council. (§1408.2)
  - **Special Exceptions** - review by Planning Commission, action by Zoning Hearing Board. (§1408.3)
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- ☛ The requirements for **Permit Applications** are found in §1402.
- ☛ The **Schedule of Development Standards** in each Zoning District (Article IV through Article IX) sets the minimum lot size and property line and road setback requirements.
- ☛ The **Definitions** in Article II provide the meaning for specific terms.
- ☛ Many uses are subject to specific requirements of this Ordinance.
  - §1103 includes requirements for decks, garages, sheds and other **Accessory Uses** and **Home Occupations**.
  - **Off-Street Parking** standards are found in §1104.
  - Article X governs **Residential Uses** -- two-family dwellings, multi-family dwellings group homes, etc.
  - §1105 includes performance standards for **Commercial and Manufacturing**.
  - §1106 includes standards for **Specific Uses** ranging from the keeping of animals to wind energy.
  -
- ☛ **Signs** are governed by Article XII and a business sign will require a permit.
- ☛ Applications for **Variances** are heard by the Zoning Hearing Board. The application must document *unnecessary hardship* and meet all of the applicable criteria in §1407.
- ☛ A legally existing use which predates the Zoning Ordinance and which does not comply with the Ordinance is a **Nonconforming Use**. Commonly referred to as *grand-fathered*, the nonconformity runs with the land and the use can continue and be sold. Such uses can also be expanded within the limits set in Article XIII. The section also governs the reuse of abandoned and damaged nonconforming structures and uses. Nonconforming lots, lots which do not meet the minimum size and dimension requirements, can also be used if they meet setback, water supply, sewage disposal and other applicable requirements in §1311.
- ☛ Should a project involve the creation of a new lot or lots, the change of lot lines, the erection of one or more new principal nonresidential buildings, or two or more dwellings on one lot, the **Subdivision and Land Development Ordinance** will also apply.
- ☛ **Fees** are set by Resolution of the Borough Council per §1403 and are shown on the **Fee Schedule** available from the Zoning Officer.

# ZONING PERMIT APPLICATION REVIEW PROCESS

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

## PRINCIPAL PERMITTED

and  
**ACCESSORY USES**  
 ↓  
 Zoning Officer issues or denies permit based on ordinance standards  
 ↓  
 Appeal to Zoning Hearing Board

## CONDITIONAL USES

↓  
 Planning Commission shall be given the opportunity to review the application  
 ↓  
 Required public hearing by Borough Council (hearing must be held within 60 days of Applicant's request; subsequent hearings within 45 days of prior hearing; hearing shall be completed within 100 days of completion of Applicant's case in chief)  
 ↓  
 Borough Council action to approve, or approve with conditions\*, or deny (45 days after last hearing)  
 ↓  
 Notify applicant of decision and any conditions in writing\* (delivered to applicant personally or mailed not later than the day following its date)  
 ↓  
 Appeal to Court of Common Pleas

## SPECIAL EXCEPTIONS

↓  
 Planning Commission may be given the opportunity to review the application per zoning ordinance  
 ↓  
 Required public hearing by Zoning Hearing Board (hearing must be held within 60 days of Applicant's request; subsequent hearings within 45 days of prior hearing; hearing shall be completed within 100 days of completion of Applicant's case in chief)  
 ↓  
 Zoning Hearing Board action to approve, or approve with conditions\*, or deny (written decision within 45 days of last hearing)  
 ↓  
 Notify applicant of decision and any conditions in writing\* (delivered to applicant personally or mailed not later than the day following its date)  
 ↓  
 Appeal to Court of Common Pleas

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↓  
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 ↓  
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 ↓  
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 ↓  
 Zoning Hearing Board action to approve, or approve with conditions\*, or deny (written decision within 45 days of last hearing)  
 ↓  
 Notify applicant of decision and any conditions in writing\* (delivered to applicant personally or mailed not later than the day following its date)  
 ↓  
 Appeal to Court of Common Pleas

## CONSULT MUNICIPALITIES PLANNING CODE

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

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

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**Briar Creek Borough Zoning District Map .....*Footer P. 222* ..... Map**

BE IT HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Briar Creek, Columbia County, Pennsylvania by authority of and pursuant to the provisions of the "Pennsylvania Municipality Planning Code", 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**

### **§100 ADOPTION AND CONFLICT**

The Briar Creek Borough Zoning Ordinance of June 4, 1992, as amended, is hereby amended and restated in its entirety as hereinafter set forth. This Zoning Ordinance is not intended to and shall not be construed to affect or change any other ordinance, code or regulation of the Borough of Briar Creek. If any other ordinance, code or regulation of the Borough of Briar Creek is in conflict or inconsistent with the requirements of this Zoning Ordinance, the most restrictive standards and provisions shall apply.

### **§101 TITLE AND SHORT TITLE**

#### 101.1 Title

AN ORDINANCE PERMITTING, PROHIBITING, REGULATING, RESTRICTING, AND DETERMINING THE USES OF LAND, WATERCOURSES, AND OTHER BODIES OF WATER; THE SIZE, HEIGHT, BULK, LOCATION, ERECTION, CONSTRUCTION, REPAIR, MAINTENANCE, ALTERATION, RAZING, REMOVAL AND USE OF STRUCTURES; THE AREAS AND DIMENSIONS OF LAND AND BODIES OF WATER TO BE OCCUPIED BY USES AND STRUCTURES AS WELL AS 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.

#### 101.2 Short Title

This Ordinance shall be known and may be cited as the "BRIAR CREEK BOROUGH ZONING ORDINANCE."

### **§102 PURPOSE AND COMMUNITY DEVELOPMENT OBJECTIVES**

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

#### 102.1 Purpose

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare; coordinated and practical community development; density of population; civil

defense and disaster evacuation, airports, and national defense facilities; the provisions of adequate light and air; police protection; vehicle parking and loading space; transportation;

natural resources, agricultural land and uses; the safe use of natural or artificial bodies of water, boat docks and related facilities; reliable, safe and adequate water supplies; safe and adequate sewerage disposal, schools, public grounds and other public requirements and other purposes set forth in the Pennsylvania Municipalities Planning Code.

- B. To prevent one or more of the following: overcrowding of land, watercourses and other bodies of water, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that no zoning ordinance shall 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.

**102.2 Community Development Objectives**

The provisions of this ordinance have been enacted according to the general policy guidelines found in the Comprehensive Plan of Briar Creek Borough. The following community development objectives reflect those planning guidelines, as well as the purposes of this ordinance found in §102.1A.

- A. Guide the future development of the Borough in accordance with the Comprehensive Plan so that such development promotes the most beneficial and convenient relationship among the residential permitted uses within the Borough;
- B. Protect the character and social and economic stability of each district;
- C. Protect and conserve the valuable natural features of the Borough;
- D. Protect and conserve the values of land and buildings throughout the Borough appropriate to the various zoning districts established herein;
- E. Aid in bringing about a good relationship between land use and the circulation of traffic throughout the Borough while working to avoid road congestion and the provision of safe and convenient access; and
- F. Aid in providing a guide for public policy and action in the efficient provision of public facilities and services.

**§103 APPLICABILITY**

**103.1 Existing Uses**

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

103.2 Conformance

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

103.3 Authorization

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

103.4 Regulated Activities

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

103.5 Repairs and Maintenance

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

- A. a change in use;
- B. an expansion, construction or placement of a structure;
- C. an increase in the number of dwelling units or boarding house units; and/or,

- D. any other activity regulated by this Ordinance.

Although a zoning permit may not be required, a Uniform Construction Code permit may be required.

#### 103.6 Municipal Authorities and Water Companies

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

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

#### 103.7 Public Utility Commission

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

### §104 INTERPRETATION

#### 104.1 Conflict

- A. Defined Terms - If a use could be classified under more than one defined term or use listed in an applicable Schedule of Uses of this Ordinance, the definition and applicable Schedule of Uses with the most restrictive standards and provisions shall apply.
- B. Other Borough Provisions
  1. These regulations are not intended to interfere with or abrogate or annul any other Ordinance, rules or regulations previously adopted or previously issued by the Borough which are not in conflict with any provisions of this Ordinance.
  2. Where this Ordinance imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by any other Ordinance, rules, regulations or permits, or by easements, covenants, building restrictions or agreements, the provisions of this Ordinance shall control. This shall not apply in cases where a federal or state statute preempts the regulation of the proposed use.

C. Private Provisions

1. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern.

104.2 Specificity

Whenever any specific standard of this Ordinance pertaining to a particular use or activity differs from the general standard, the more specific standard shall apply.

104.3 Doubt as to Intended Meaning

As required by §603.1 of the Pennsylvania Municipalities Planning Code, in interpreting the language of zoning ordinances to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction.

**§105 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.

**§106 EFFECTIVE DATE**

This Zoning Ordinance shall take effect immediately upon its adoption.

## ARTICLE II DEFINITIONS

### §200 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 there is indicated in context 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 tense 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*.

### §201 TERMS, PHRASES AND WORDS NOT DEFINED

When terms, phrases, or words are not defined they shall have their ordinarily accepted meanings or such as the context may imply.

### §202 DEFINITIONS

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

**Abandoned or Junked Vehicle** - Any unregistered, unlicensed or abandoned automobile, truck, trailer, motorcycle, bus, farm machinery, or other motor vehicle, 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.C.S.A. § 101 et seq.); said classification consisting of any self-propelled vehicle, but not a reproduction thereof, owned and operated as an exhibition piece or collector's item, provided that such vehicle shall have noted on its registration record the fact that it is such a special-purpose vehicle, or any self-propelled vehicle manufactured more than 25 years prior to the current year, which is used for participation in club activities, exhibits, tours, parades, occasional transportation and similar uses, but is not used for general daily transportation.

**Accessory Building** - A permanent building whose primary use is secondary to that of the principal building on the same lot. No storage containers, truck bodies, abandoned mobile homes, travel trailers, or similar structures shall be used for accessory buildings or to house accessory uses.

**Accessory Use** - A use which is clearly secondary and subordinate to the principal use of land or of a building on the same lot.

**Act** - The Pennsylvania Municipalities Planning Code, Act 247, (53 P.S. 10101 et seq.).

**Accessory Structure** - A structure which is clearly secondary and subordinate to the principal use of land or of a building on the same lot.

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

**Adult Business** - Any of the following:

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

Additional definitions associated with *adult business* include:

**Adult Arcade** - Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images of 5 or fewer persons per machine at any 1 time, and where the images so displayed are distinguished or characterized by the depicting or describing of *specified sexual activities* or *specified anatomical areas*. Considered an *adult business* for regulation by this Ordinance.

**Adult Bookstore or Adult Video Store** - A commercial establishment which, as one of its principal business purposes or as a substantial part of its business, offers for sale or rental for any form of consideration, any 1 or more of the following: (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.)

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



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

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing *specified sexual activities* or *specified anatomical areas* and still be categorized as an *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*.

**Adult Live Entertainment Use or Facility** - A commercial use (including, but not limited to, a use selling food or beverages) including live entertainment involving: (Considered an *adult business* for regulation by this Ordinance.)

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

**Adult Motel** - A hotel, motel or similar commercial establishment which: (Considered an *adult business* for regulation by this Ordinance.)

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of *specified sexual activities* or *specified anatomical areas*.
- B. Offers sleeping rooms for rent 3 or more times in 1 calendar day.

**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*. Considered an *adult business* for regulation by this Ordinance.

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

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

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

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

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

**Nude Model Studio** - Any place, which is not excepted by §1106.1D10, where a person who appears in a state of nudity or displays *specified anatomical areas* is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Considered an *adult business* for regulation by this Ordinance.

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

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

**Sexual Encounter Center** - A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration activities between male and female persons and/or persons of the same sex when 1 or more of the persons is in a state of nudity or semi-nude. Considered an *adult business* for regulation by this Ordinance.

**Specified Anatomical Areas** - Any of the following:

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

**Specified Sexual Activities** - Any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- C. Masturbation, actual or simulated.
- D. Excretory functions as part of or in connection with any of the activities set forth in A, B and C, above.

**Agriculture** - An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with

practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production. It excludes agricultural products processing operations; riding academies, livery or boarding stables and dog or other animal kennels.

**Agriculture Products Processing** - An industry that involves the processing of raw agricultural products, and transforming those products into a more refined, prepared or marketable state. Includes, but is not limited to, such uses as sawmills, wood pellet production, firewood cutting and sales, wood chipping operations, tanneries, dairies and food canning and freezing operations.

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

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

**Apartment** - A dwelling unit intended for occupancy by one family, and having party or common walls with one (1) or more similar dwelling units.

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

**Amusement Arcade** - A building or part of a building in which pinball machines, video games, or other similar player-operated amusement devices are maintained excluding the use of less than five (5) such devices accessory 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, Commercial** - The raising and keeping of livestock, small animals and fowl and/or fur bearing animals with the intent of producing capital gain or profit or with the intent of selling any livestock and/or poultry products.

**Animal Husbandry, Home Use** - The raising and keeping of livestock and/or small animals and fowl for personal satisfaction or consumption and with no intent of producing capital gain or profit or with no intent of selling any livestock and/or poultry products.

**Animal Shelter** - A facility used to house or contain stray, homeless, abandoned, or unwanted animals 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), other nonprofit organization or person 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 receiving television or radio signals for use on-site, or for transmitting short-wave or citizens band radio signals.

**Applicant** - Any person applying for a zoning change, subdivision, or land development in the Borough of Briar Creek, Columbia County, Pennsylvania.

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

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

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

**Assisted Living Facility** - Coordinated and centrally managed rental housing including self-contained units designed to provide a supportive environment and to accommodate a relatively independent lifestyle. Such a development may contain a limited number of supportive services, such as meals, transportation, housekeeping, linen and organized social activities for residents and their invited guests. Such a use shall primarily serve persons 55 and older, persons with physical handicaps and/or the developmentally disabled. Assisted living facilities shall be licensed as personal care centers by the Commonwealth of Pennsylvania.

**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** - A secondary covering attached to the exterior wall of a building, typically composed of canvas, woven of acrylic, cotton or polyester yarn, or vinyl laminated to polyester fabric that is stretched tightly over a light structure of aluminum, iron or steel, located above a window, door, or above the area along a sidewalk.

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

**Bed and Breakfast Inn** - An owner or operator-occupied single-family dwelling in which transient visitors to the area are lodged for compensation, meals for lodging guests may or may not be included, and no cooking facilities are provided in any rental room.

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

**Boarding House (Includes Rooming House)** - A residential use in which:

- A. A room or rooms not meeting the definition of a lawful dwelling unit are rented for habitation; or,
- B. A dwelling unit which includes greater than the permitted maximum number of unrelated persons. A boarding house shall not include a use that meets the definition of a hotel, dormitory, motel, life care center, personal care center, bed and breakfast inn, group home or nursing home. A boarding house may either involve or not involve the providing of meals to residents, but shall not include a restaurant open to the public unless the use also meets the requirements for a restaurant. A boarding house shall primarily serve persons residing on-site for five (5) or more consecutive days.

**Borough** – The Borough of Briar Creek, Columbia County, Pennsylvania

**Borough Buildings and Uses** - Any building, structure, service or use under the jurisdiction of Briar Creek Borough, Columbia County, Pennsylvania.

**Borough Engineer** - A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer for Briar Creek Borough.

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

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

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

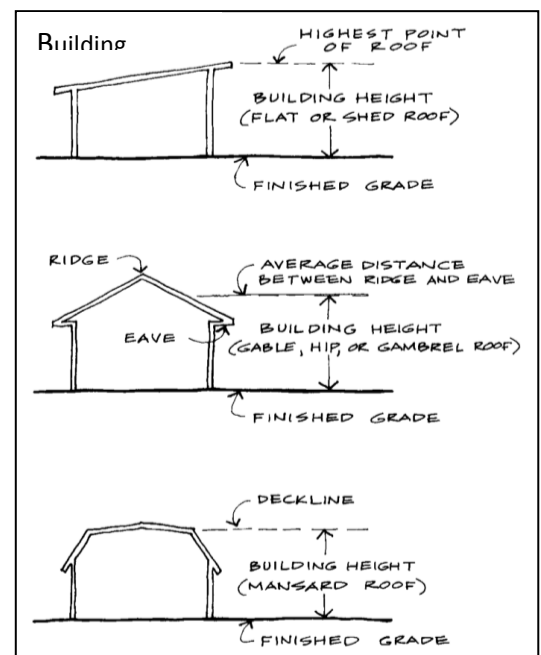
**Building** - Any man-made object having a roof supported by columns, or walls used for the shelter, housing or enclosure of persons, animals or property.

**Building, Attached** - A building which has one or more walls or portions thereof in common with an adjacent building. See *addition*.

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

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

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



**Building Setback Line** – See *setback, required*.

**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, stored in large volume tanks for distribution to retail or wholesale establishments.

**Bus, Limousine or Taxi Terminal** - An area and/or building where buses, limousines, and or taxi 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.

**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.

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

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

**Canopy** - An overhanging projection or covering, usually supported on poles, and made of canvas, fabric, plastic or other materials; or a roof over an accessory structure including, but not limited to, gasoline pumps and an ATM (automated teller machine).

**Carport** - A roofed building intended for the storage of one (1) 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 any vehicle with not more than two (2) axles, or not more than four (4) tires. See also *truck wash*.

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

**Certificate of Use/Occupancy** - A document issued by the Borough stating that a newly constructed or altered building, structure, and/or use complies with this Ordinance and/or the Uniform Construction Code 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 or street and driveway intersections defined by the right-of-way lines of the streets and by a line of sight between points on the street right-of-way lines at a given distance from the intersection of the right-of-way lines.

**Clinic** - An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients require a stay of less than twenty four (24) hours. Considered a *health facility* for regulation by this Ordinance.

**Club/Lodge, Private** - An area of land or building used by a nonprofit civic, social, fraternal, recreational, 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, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business. A *club/lodge private* shall not include commercial recreation clubs such as tennis or racquetball clubs or any other use which is specifically defined by this Ordinance.

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

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

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

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

**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.

**Common Open Space** - Common open space shall be defined as that area of land to be maintained for the use and enjoyment of residents and/or for the general public. It shall consist of landscaped or natural terrain including lakes and streams and may include such buildings as are necessary to fulfill its permitted functions, but the area of common open space shall not include street rights-of-way or yard or off-street parking areas.

**Commission** - The Planning Commission of Briar Creek Borough, Columbia County, Pennsylvania.

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

**Community Association** - See *property owners association*.

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

**Comprehensive Plan** - The Briar Creek Borough 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 Commonwealth of Pennsylvania regulations.

**Conditional Use** - An activity on land or within a structure which is not appropriate to a particular zoning district as a whole, but which may be suitable in certain locations within the district only when specific conditions and factors prescribed for such cases are present. Conditional uses are granted by Borough Council in accord with the provisions of §1408.

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

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

**Contractor's 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.

**Conversion** - See *change of use*.



**Conversion, Residential** - The modification of a single-family detached dwelling to another form of residential use.

**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 Industry** - See §1106.12.

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

**County** - The County of Columbia, Commonwealth of Pennsylvania.

**County Planning Commission** - The Planning Commission of Columbia County, Pennsylvania

**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.

**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.

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

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

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

**Density** - A measure of the dwelling units which occupy, or may occupy, an area of land; typically presented as dwelling units per acre.

**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 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.

**DEP** – The Pennsylvania Department of Environmental Protection and its relevant bureaus.

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

**District** - Refers to one of the zoning districts as outlined in Article III, " Districts Regulations."

**District, Base** - A specified zoning district whose boundaries are drawn on the Borough Zoning Map and whose standards apply uniformly throughout the said district.

**District, Overlay** - A specified zoning district whose boundaries are not drawn on the Borough Zoning Map, but whose location is defined by a set of specific criteria established by the district.

**District Boundary** - Refers to the line or lines outlining a district.

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

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

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

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

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

**Dump** - See *solid waste landfill*.

**Duplex** - One kind of a single family semi-detached dwelling where two (2) dwelling units are located one on top of the other.

**Dwelling** - Any building or part thereof designed for or occupied exclusively as a residence for only one family maintaining a single housekeeping unit.

**Dwelling, Single-Family** - A structure used or intended to be used exclusively for occupancy by one family, and having a permanent masonry foundation located below the frost line.

**Dwelling, Single-Family Attached** - A dwelling unit accommodating a single family and attached via a common wall(s) to a large group of such dwellings.

**Dwelling, Single-Family Detached** - A building accommodating a single family and generally having two (2) side yards, one (1) front and one (1) rear yard.

**Dwelling, Single-Family Semi-Detached** - Two (2) dwelling units each accommodating a single family and attached through the use of a party or common wall.

**Dwelling, Multi-Family** - See "Apartment" definition.

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

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

**Easement** - An interest in land owned by another party that entitles the holder to specific limited use or access, including utility, drainage and access easements.

**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. Considered a *semi-public building or use* for regulation by this Ordinance.

**Employee** - A worker or proprietor (including both part-time and full-time, both compensated and volunteer, and both employee and contractor) present on a lot at any one time, other than clearly temporary and occasional persons working on physical improvements to the site.

**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 set forth in this Ordinance.

**Enlargement** - An enlargement is an addition to the floor area of an existing building, an increase of size of another structure, or an increase in that portion of a lot occupied by an existing use.

**Erect** - To build, construct, alter, repair, display, relocate, attach, hang, place, suspend or affix 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, 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, 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** - An establishment that offers facilities such as the following: weight rooms, exercise equipment, non-household pool and racquetball courts. Considered a *service establishment* for regulation by this Ordinance.

**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 (3) unrelated people;
- C. Two (2) unrelated people and any children related to either of them;
- D. Not more than eight (8) people who are residents of a *group home* meeting the requirements of §1007;
- E. Not more than eight (8) people who are granted a special exception as a single housekeeping unit (a *functional family*) pursuant to §1009.

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.

**Farmer's Market** - The seasonal selling or offering for sale at retail of vegetables or produce, flowers, orchard products, and similar non-animal agricultural products, 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 and from which produce and farm products grown on the premises are sold to the general public.

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

**Fill** -The use of clean material applied to the land to achieve an increase in elevation. This definition shall not include the term "sanitary landfill".

**Financial Institution** – See *bank*.

**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.

**Firearm Sales** - A type of retail establishment that sells weapons, especially pistols or rifles, capable of firing a projectile and using an explosive charge as a propellant.

**Flood** - A temporary inundation of normally dry land areas.

**Floodplain Area** - A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

**Floodway** - The designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

**Floor Area** - The sum of the areas of all floors of a building or structure, including areas used for human occupancy or required for the conduct of business or the primary use, as measured from the interior faces of the walls or from center lines of walls separating dwelling units or primary uses. Floor area does not include basements, unenclosed porches and attics not used or intended for human occupancy or primary use, nor any floor space in an accessory building or main building intended or designed for the parking of motor vehicles, nor any such floor space intended and designed for accessory heating and ventilating equipment.

**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 currently enrolled and their guests or visitors and affiliated with an institution of higher learning.

**Fueling Station** - Any premises or portions thereof used for commercial dispensing of fuel into a motor vehicle and which may include incidental sale of motor vehicle supplies and accessories and other retail items such as snacks, nonalcoholic beverages and tobacco products, but not including a *charging station*. Any establishment that permits customers inside the principal structure shall be considered a *convenience store* or a *retail establishment*.

**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 performance of autopsies and other surgical procedures;
- C. The storage of caskets, funeral urns, and other related funeral supplies;
- D. The storage of funeral vehicles.

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

**Gaming Establishment** - Any facility in which any form of gaming is conducted as authorized by the laws of the Commonwealth of Pennsylvania including, without limitation, gaming authorized by: (i) the Pennsylvania Racehorse Development and Gaming Act, P.L. 572, No. 71, 4 Pa. C.S.A., § 1101, et seq., as

amended from time to time (the *Racehorse Development and Gaming Act*); and (ii) the Racehorse Industry Reform Act, P.L. 435, No. 135, 4 P.S. § 325.101, et seq., as amended from time to time (the *Racehorse Reform Act*). Notwithstanding the foregoing, for purposes of this Ordinance, the term *gaming establishments* shall not include or encompass facilities or establishments at which small games of chance are played or facilities participating in any lottery authorized by the Commonwealth of Pennsylvania.

**Garage** - A deck, building, or parking structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

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

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

**Garage 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. Considered *retail business* for regulation by this Ordinance.

**Gazebo** - An unenclosed, 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.

**Greenhouse, Private** - An enclosed structure used for the growing, raising or keeping of flowers and other plants.

**Greenhouse, Commercial** - An enclosed structure used for the growing, raising, keeping, and/or selling of flowers or other plants.

**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 §1007, 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 in §1007.6.

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

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

**Hearing** - See *public hearing*.

**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 7-day period (in addition to flights necessary for emergency medical purposes) and that is not available for use by the general public.

**Home Occupation** - The use of a portion of a dwelling or accessory structure which is incidental to the residential use of the premises, and customarily carried out by one or more occupants of the dwelling unit. Home occupations include, but are not limited to, medicine, dentistry, architecture, beauty care, law, art, brokerage, or veterinary practice or sales.

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

**Homeowners Association** - See *property owners association*.

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

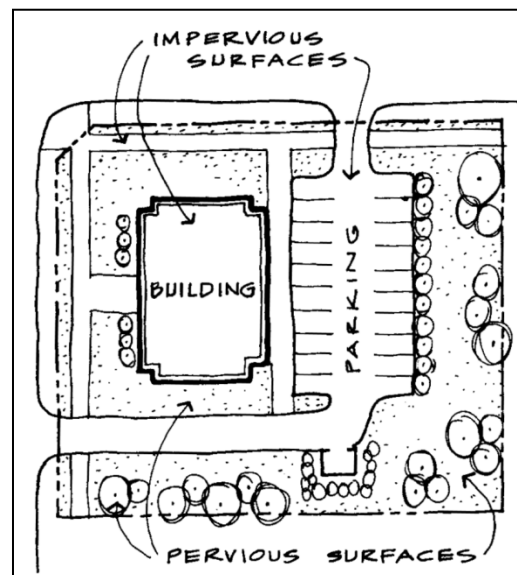
**Hospital** - An institution or establishment providing primary health services and medical or surgical care to persons, primarily inpatients, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, training facilities, medical offices,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

**Hotel** - A facility offering temporary (generally for periods of two weeks or less and not intended to be used as a residence) lodging accommodations to the general public, typically on the basis of daily or

weekly rentals, and providing additional services such as restaurants, meeting rooms and recreational facilities.

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

**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 manufacturing or transformation of products for use by other manufacturers, the blending of materials such as lubricating oils, plastics, resins or liquors, other basic industrial processes, mineral processing, and any facility involving processes resulting in the non-incident storage of hazardous materials or the generation of hazardous waste products, or other environmentally hazardous processes.

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

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

Junk shall not include:

- A. Any solid or liquid waste the disposal of which is regulated by the Pennsylvania Department of Environmental Protection.



- B. Agricultural vehicles and implements such as tractors, mowers, etc., for use as parts for equipment and machinery used as part of an active, on-going agricultural operation provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.
- C. Construction and contractor's equipment for use as parts for equipment and machinery used as part of an active, on-going contracting business legally operating in accord with this Ordinance, provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.

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

- A. The outside storage or deposit on a lot of two (2) or more abandoned or junked vehicles; and,
- B. The outside storage or deposit on a lot of one (1) or more mobile/manufactured homes not in habitable condition.

**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.
- C. Any veterinary clinic with outdoor animal runs.
- D. The noncommercial keeping of four (4) or more dogs that are more than six (6) months of age.

**Lake or Pond** – A natural or artificial body of water one-fourth (0.25) acre or larger which retains water year-round. Artificial ponds may be created by dams, or result from excavation.

**Land Development** - Any of the following activities:

- A. The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:
  - 1. A group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or,
  - 2. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.
- C. The definition of land development shall not include the following:

1. The conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than three (3) residential units, unless such units are intended to be a condominium.
2. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.
3. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this subclause, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the Borough.

**Landfill** - See *solid waste facility*.

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

**Livestock** - Cattle, bison, sheep, goats, llamas, alpacas, swine, ostriches, emus, and similar animals.

**Livestock Operation** - See *animal husbandry*.

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

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

**Lot** - A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

**Lot, Corner** - A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

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

**Lot Area** - The total horizontal space within the confines of a lot.

**Lot Area, Minimum** - The required area of a lot as defined by the appropriate zoning district exclusive of lands within the legal right-of-way of a public street.

**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.

**Lot Lines** - The property lines bounding the lot. (For the purposes of determining setbacks see setback definitions and diagrams.)

- A. **Lot Line, Front** - The lot line(s) separating the lot from any street.
- B. **Lot Line, Rear** - The lot line(s) most distant from and most parallel to the front lot line.
- C. **Lot Line, Side** - Any lot line other than a front or rear lot line.

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

**Lumbering** – See *forestry*.

**Lumberyard** - An area with or without structures used for the storage, distribution or sale of finished or rough-cut lumber and lumber products.

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

- A. Grain storage, distribution, processing and milling operations.
- B. 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.
- C. Research, engineering or testing laboratories.
- D. Textile and clothing manufacturing.
- E. Furniture or other wood products production.

Light manufacturing does not include:

- A. Basic industrial processing as defined by *industry*.
- B. Processing of raw materials, except for milling and processing of grain.
- C. Slaughterhouses or the production of fish or meat products, or other use as defined by *agricultural products processing*.
- D. 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 that meets all of the following criteria:

- A. Massages are conducted for a fee, tip or other consideration; and,
- B. The person conducting the massage is licensed by the Commonwealth of Pennsylvania as a health care professional or a therapeutic massage therapist, or is certified by the National Certification Board for Therapeutic Massage and Bodywork or other recognized therapeutic massage organization that requires substantial professional training.

C. The establishment does not meet the definition of *massage parlor*.

**Meeting, Assembly, or Banquet Halls** - A structure designed for an assemblage of persons including fraternal organizations, banquet facilities within eating and drinking establishments, catering facilities, and areas located within the grounds of churches to service gatherings such as weddings, parties, etc.

**Menagerie** - A collection of animals which are kept in cages or enclosures, inside a building or outdoors, for exhibition or educational purposes with or without charge.

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

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

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

- 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. *Mineral processing* is considered *industry* for the purposes of regulation by this Ordinance.

**Mini-Mart** - See *convenience store*.

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

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

**Mobile Home Park** - A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of mobile homes.

**Model Home** - Any structure erected 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, with at least twenty-five (25) percent of the rooms having direct access to the outside. Rooms in the facility shall not be used as a principal residence, except for an employee (i.e. caretaker).

**Municipalities Planning Code (MPC) or State Planning Code** - The Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended.

**Multiple Occupant Commercial Building** - A building containing two (2) or more independent, non-residential uses; such uses being permitted in the District where the multiple occupant building is proposed.

**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 twenty-five (25) percent of the habitable floor area.

**Nonconforming** - See Article XIII.

**Nursery, Wholesale** - The growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs to landscapers, developers, builders, and retail establishments. Considered *crop production* for regulation by this Ordinance.

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

**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 Zoning Map**- The Official Zoning Map of Briar Creek Borough, Columbia County, Pennsylvania.

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

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

**Oil or Gas Well Pad** - The area used for development and production of an oil or gas well including buildings, structures, parking and storage areas and all associated disturbed areas and all activities associated with an oil or gas well after drilling activities are complete.

**Oil or Gas Well Site** - Areas occupied by all equipment or facilities necessary for or incidental to drilling, production or plugging an oil or gas well.

**One Hundred Year Flood** - A flood that, on the average, is likely to occur once every one hundred (100) years (*i.e.* that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

**Open Space Preserve** - A private land holding by an individual, conservancy, or arboretum, not intended for public use.

**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** - The Commonwealth of Pennsylvania.

**PA DOT or PennDOT** - The Pennsylvania Department of Transportation.

**Parcel** - See *lot*.

**Parent Tract** - 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 and from which a lot or lots have been subdivided or are proposed for subdivision. (See *lot, existing of record*.)

**Park** - A piece of land owned and operated privately or by government and intended for active outdoor recreation such as camping, fishing, boating, swimming, hiking, and other similar activities, or for passive outdoor recreation.

**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 Space** - A parking space consists of:

- A. Space with a dustless, all weather surface; or
- B. Space in a private garage or other structure; and
- C. An area at least ten (10) feet by twenty (20) feet in size for the storage of one automobile, accessible from a public way.

**Patio** - An open recreational area or structure, constructed no higher than six (6) inches from the ground level and resting directly on the ground. It may be attached to or detached from the principal building and may be constructed using wood, masonry, pavement, stone, or other material suitable for that purpose.

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

**Permit** - A document issued by the proper authority documented on the required application which authorizes the applicant to undertake certain activities in compliance with all the applicable codes and ordinances.

- A. **Zoning Permit** - Indicates that a proposed use, building or structure as documented in the development application will comply with the requirements of this Ordinance. Issued by the Zoning Officer for principal permitted uses, accessory uses and signs following confirmation of compliance

with applicable standards, for conditional uses following approval by the Borough Council, and for special exceptions following approval by the Zoning Hearing Board.

- B. **Building Permit or Construction Permit** - Issued by the Building Code Official and indicates that a proposed construction, alteration, or reconstruction of a structure will comply with the Borough construction code.

**Person** - The word "person" includes an individual, corporation, partnership, incorporator's association, or any other similar legal entity.

**Personal Care Home** - A facility licensed by the Commonwealth of Pennsylvania for the housing and intermediate or fully-skilled nursing care of three (3) or more persons needing such care because of old age or a physical illness or disability or a developmental disability.

**Personal Service** – See *service establishment*.

**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.**

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

**Planning Commission** - The Planning Commission of Briar Creek Borough.

**Porch** - An attached, roofed accessory structure projecting from a wall of a building which may be open or screened and with walls no higher than four (4) feet above the floor level.

**Power Plant** - Any facility, including structures, machinery and associated equipment, which generates electric energy from another source of energy, such as nuclear reactions, hydroelectric dams, or natural gas or coal fired plants, the primary purpose of which is the commercial sale of the energy which is generated. Power plants which produce electric energy, seventy-five (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 (*excluding solar and wind energy*).

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

**Principal Building** - A 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 Structure** - The structure in which the principal use of a lot is conducted. Any structure that is physically attached to a principal structure shall be considered part of that principal structure.



**Principal Use** - The primary or predominate use of a lot.

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

**Property Owners Association** - A non-profit corporation organized by the developer or home owners for the purpose of establishing an association of all property owners in a private development which purposes shall include the ownership and maintenance of open space common areas and all development improvements.

**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 and 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, the Borough Council or Zoning Hearing Board, intended to inform and obtain public comment, prior to taking action in accord with 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.

**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 non-profit 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 and any other use specifically listed on the Use Regulations.

**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 recreational vehicle park*.

**Recycling Facility** - A facility employing a technology that is a process that separates or classifies municipal waste (as defined by PA Code Title 25, §271.1) and creates or recovers re-useable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term does not include *solid waste facilities*, a *resource recovery facility*, or a *green box transfer*

*station/recycling facility* as defined herein, or an accessory drop-off point or collection center for recycling.

**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*.

**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/truck wash.

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

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

**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:

A *composting facility* as defined by PA Code Title 25, §271.1.

1. Methane gas extraction from a municipal waste landfill.
2. 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.

**Restaurant** - 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, and where ordering and pickup of food may take 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 twenty-thousand (20,000) gallons.

**Retaining Wall** - A solid or integrated vertical structure in excess of four (4) feet in height designed for the separation or retention of varying ground levels.

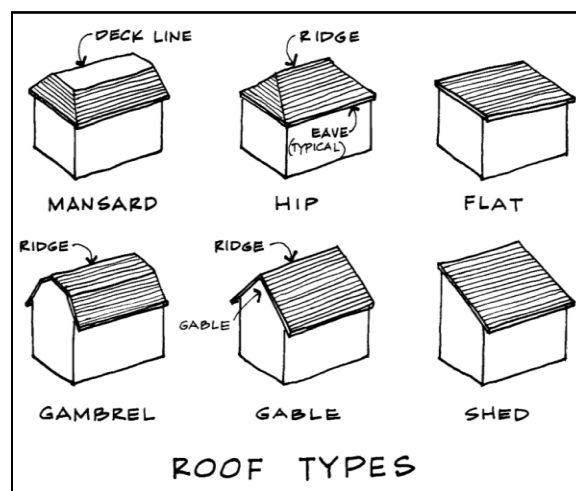
**Right-of-Way** - Land reserved for use as an access, street, drainage facility or other private, public or community use.

**Roof** - The outside top covering of a building.

**Rooming House** - See *boarding house*.

**Salvage Yard** - See *junkyard*.

**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*.) The display and sale of such homes is considered a *retail business* for regulation by this Ordinance.



**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.

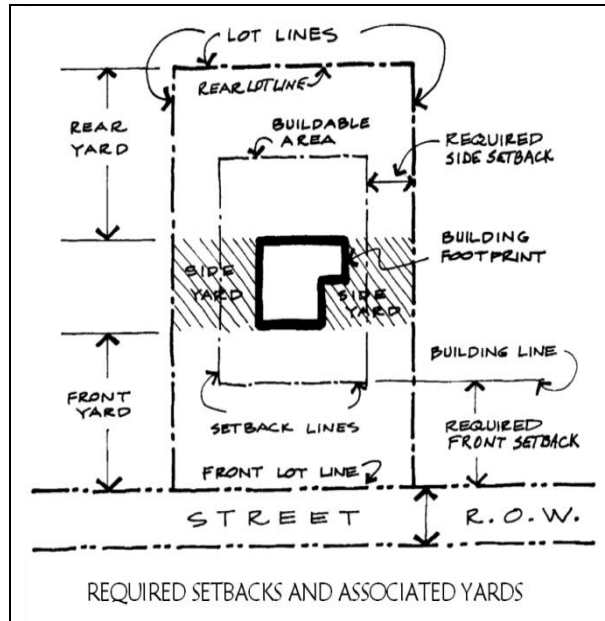
**Sawmill** - A commercial operation where timber is sawed into boards. This does not include a portable sawmill operating temporarily as an accessory to a timber harvest.

**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 Building or Use** - A building or use operated by nonprofit, community-based organizations for the general use of Borough residents, including emergency services buildings, libraries and the like, but excluding institutional uses such as nursing homes, hospitals, sanitariums and clinics. It shall also include essential services and public utilities that require enclosure within any structure or building.

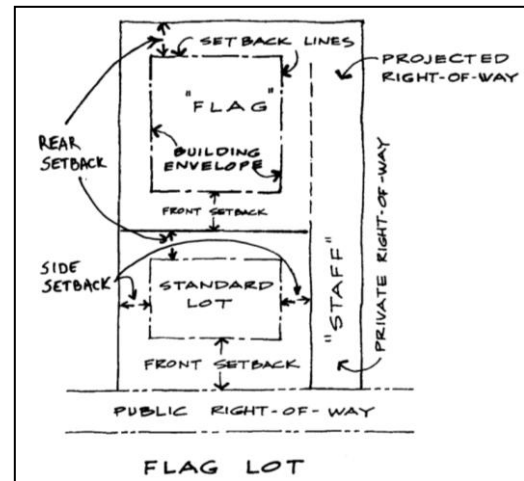
**Service Establishment** - An establishment engaged in providing services involving the care of a person or a person's goods or apparel such as cleaning and garment services, beauty and barber shops, shoe repair, dry cleaning and laundries, photographic studios, etc., and which is not otherwise listed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

**Setback, Front** - A required open space extending the full width of the lot between the principal structure(s), accessory structures, or other improvements and the front lot line and measured perpendicular to the improvement at the closest point to the nearest lot line or street right-of-way line.

**Setback, Rear** - A required open space extending the full width of the lot between the principal structure(s), accessory structures, or other improvements and the rear lot line and measured perpendicular to the improvement at the closest point to the rear 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.

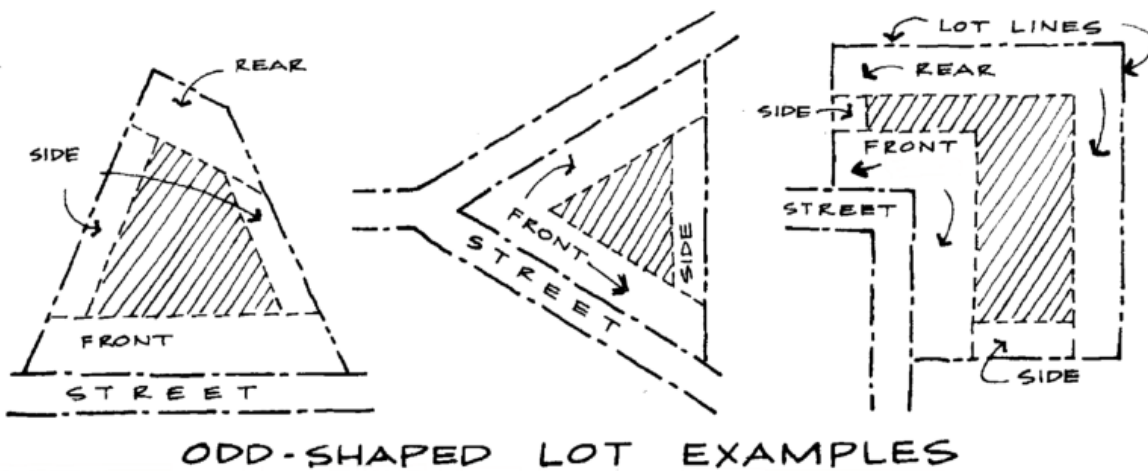
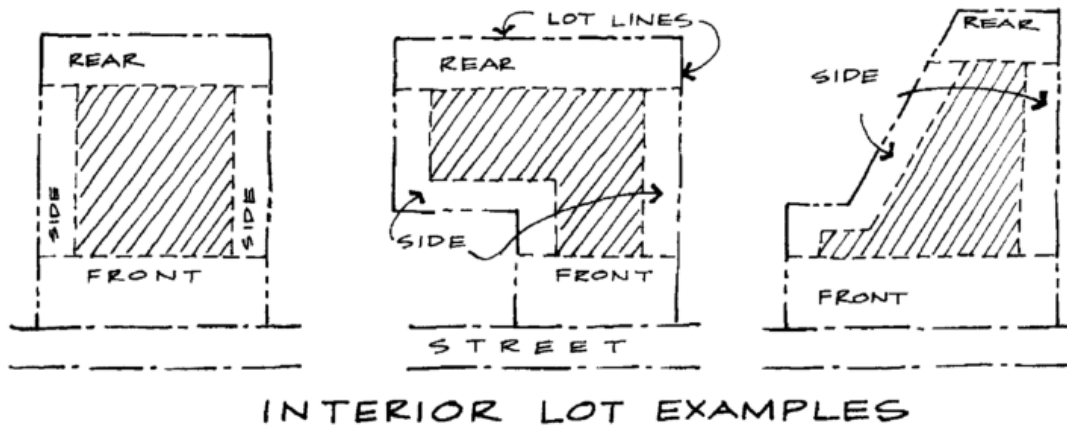
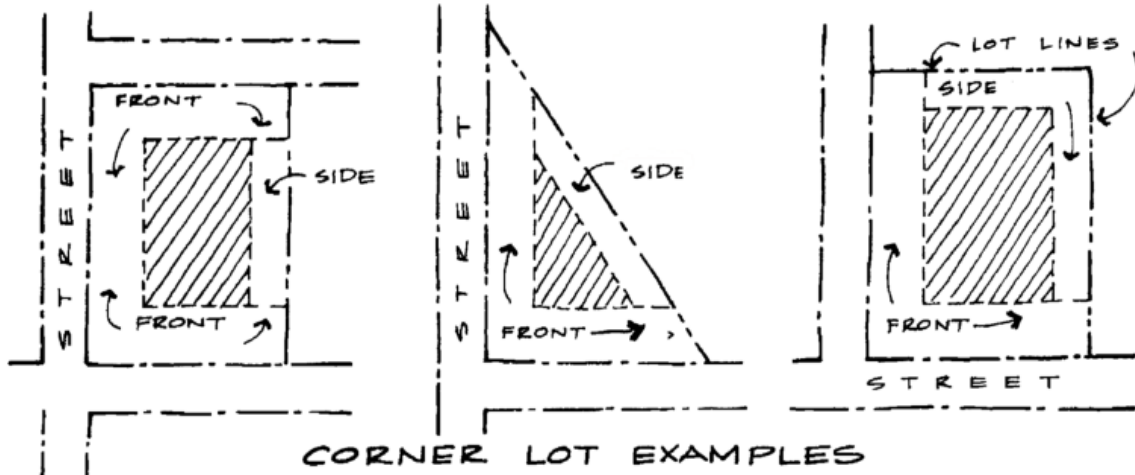
**Setback, Side** - A required open space extending from the front setback to the rear setback between the principal structure(s), accessory structures, or other improvements and the side lot line and measured perpendicular from the side lot line to the closest point of the improvement.



**Sewage Disposal, Central, Off-Site or Community** - A sanitary sewage collection system in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal system or sewage treatment plant which may be publicly or privately owned and operated. A system designed to serve a two-family dwelling or two (2) dwelling units located on the same property or adjacent properties shall not be considered as off-site sewage.

**Sewage Disposal, Individual or On-Site** - A single system of piping, tanks or other facilities serving only a single lot and disposing of sewage in whole or in part into the soil on that lot or as may be permitted on common open space in a conservation subdivision design development. A system designed to serve a two-family dwelling or two (2) dwelling units located on the same property or adjacent properties shall be considered on-site sewage and all development standards will apply the same for each dwelling or unit as any single family unit.

# REQUIRED SETBACKS



 BUILDING (ZONING) ENVELOPE  
(TWO DIMENSIONAL)

**Sewage Enforcement Officer (SEO)** - The Borough official certified by the Pennsylvania Department of Environmental Protection who reviews permit applications and sewage facilities planning modules, issues permits as authorized by the Pennsylvania Sewage Facilities Act, as amended, and conducts investigations and inspections that are necessary to implement the Act and the regulations thereunder.

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

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

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

**Sign** – See Article XII .

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

**Slope** - The deviation of a surface from the horizontal, usually expressed in percent or degrees. Slope percent is computed by dividing the vertical distance by the horizontal distance times 100. For example, a parcel of land 150 feet in length that rises 12 feet in height has a slope of 8 percent:  $12 \div 150 \times 100 = 8$  percent.

**Small Animals and Fowl** - Rabbits, bees, insects, chickens, turkeys, ducks, geese, pheasants, pigeons and any other similar animal.

**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 Collector, Accessory** - A device, combination of devices, structures, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy which is sized and intended to be used to generate electricity for the principal structure to which it is accessory.

**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 Power Generation, Commercial** - A facility where one (1) 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** - Waste, including, but not limited to, municipal, residual, construction/demolition or hazardous wastes (as defined by PA Code, Title 25, §271.1) including solid, liquid, semisolid or contained gaseous materials.

**Solid Waste Landfill** - A facility using land for disposing of solid waste. The facility includes land affected during the lifetime of operations including, but not limited to, areas where disposal or processing activities actually occur, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite and 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 the land application of sewage sludge. Considered a *solid waste facility* for regulation by this Ordinance.

**Solid Waste Facility** - Any facility or operation, involving the management, processing and/or disposal of solid waste including, but not limited to, transfer facilities, landfills, and incinerators. The term does not include a *composting facility* or a *recycling facility* as defined herein, or an accessory drop-off point or collection center for recycling.

**Solid Waste Transfer Facility** - A facility which receives and processes or temporarily stores solid waste at a location other than the generation site, and which facilitates the transportation or transfer of the waste to a processing or disposal facility. Considered a *solid waste facility* for regulation by this Ordinance. The term does not include a *recycling facility*, or a *resource recovery facility* as defined herein, or an accessory drop-off point or collection center for recycling.

**Special Exception** - An activity on land or within a structure which is not appropriate to a particular zoning district as a whole, but which may be suitable in certain locations within the district only when specific conditions and factors prescribed for such cases are present. Special exceptions are granted by the Zoning Hearing Board in accordance with the provisions of §1408.

**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 located between the surface of any floor and the ceiling or roof next above it, and designed for human habitation.

**Stream** - A natural watercourse. See *watercourse*.

**Street** - A strip of land, including the entire right-of-way, intended for use as a means of vehicular and pedestrian circulation. The term shall include avenues, boulevards, roads, highways, freeways, parkways, lanes, alleys or viaducts, whether public or private, but shall not include residential driveways.

**Street, Center Line of** - The center line of a street is a line which is an equal distance from both street lines.

**Street Line** - The line determining the limit of the adjoining street or road right-of-way, whether existing or contemplated.

**Street Right-of-Way Line** - Refers to the legal limit of the street right-of-way as defined in property deeds or by ordinance.

**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 ground.

**Subdivision** - The division or redivision of a lot, tract, or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted. (See the Subdivision and Land Development Ordinance for details.)

**Subdivision Ordinance or Subdivision and Land Development Ordinance** - The Briar Creek Borough Subdivision and Land Development Ordinance, as amended.

**Swimming Pool** - A reasonably permanent structure or tank either built into the ground or anchored above ground which contains or could contain water to a depth of two (2) feet or more. Farm ponds, basins, or other similar natural or manmade bodies of water are not swimming pools unless specifically designed for the purpose.

**Tattoo, Body Piercing, Scarifying or Branding Parlor** - An establishment engaged in any of the following: (Considered a *service establishment* for regulation by this Ordinance.)

- 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 scarification 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. Considered a *restaurant* for regulation by this Ordinance.

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

**Total Lot Coverage** - See *lot coverage*.

**Town House** - A kind of single family attached dwelling which is constructed alongside and attached to no more than seven (7) similar dwellings.

**Tract** - One or more lots assembled for the purpose of development under the provisions of this ordinance.

**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 sixteen (16).

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

**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 (2) axles, or more than four (4) tires, or with a trailer. See also *car wash*.

**Unregistered Vehicle** - Any motor vehicle or trailer that does not display a license plate with a current registration sticker and does not have a valid state safety inspection sticker. This term shall not apply to vehicles (such as licensed antique cars) for which state regulations do not require an inspection sticker. The term also shall not include motor vehicles displaying a license and inspection stickers that have each expired less than 90 days previously. See also *abandoned or junk vehicle*.

**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** - Permission granted by a Zoning Hearing Board, following a public hearing advertised pursuant to public notice, for relief from the strict application of a specific regulation or provision of a Zoning Ordinance, which if enforced would cause unique and undue hardship for the applicant.

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

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

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

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

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

**Wall** - See *fence or wall*.

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

**Water Body** - Any natural or manmade freshwater pond, lake or stream. This shall not include any pond or facility designed and constructed solely to contain storm water.

**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, Off-Site or Community** - A drinking water supply system in which drinking water is carried to individual lots or dwelling units by a system of pipes from a central source not located on any of the served lots and which may be publicly or privately owned and operated.

**Water Supply, Individual or On-Site** - A system for supplying and transmitting drinking water to a single dwelling or other use from a source located on the same lot.

**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 by vehicle to another site.

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

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

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

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

**Wildlife Sanctuary** - A game preserve or animal farm for the purpose of protecting wildlife. Not to include a zoo or any establishment designed for public admission.

**Wind Energy Facility, Commercial** - 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, commercial*.

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

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

**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, 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 and 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.

**Wood Chipping Operation** – The importing of trees or other wood from any property to 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** - See *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 Hearing Board** - The Zoning Hearing Board of Briar Creek Borough.

**Zoning Map** - The Official Zoning Map of Briar Creek Borough.

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

**Zoning Permit** - See *permit*.

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

**ARTICLE III  
DISTRICT REGULATIONS**

**§300 ESTABLISHMENT OF DISTRICTS**

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

RR - Rural Residential	LI -Limited Industrial
VR -Village Residential	MHP -Mobile Home Park
VC -Village Commercial	HS -Highway Service

300.1 Purpose

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

300.2 Floodplain Regulations

The standards in Briar Creek Borough Ordinance No. 167 (Floodplain Management), as amended or replaced, shall apply in the areas which are subject to the base flood (the 100-year flood) as identified on the most current *FIRM - Flood Insurance Rate Map* issued by the Federal Emergency Management and supplement all other applicable standards of this Ordinance.

**§301 OFFICIAL ZONING MAP**

301.1 Adoption

The location and boundaries of said districts are hereby established as shown on the Official Zoning Map of Briar Creek Borough; which is hereby adopted by reference and declared to be a part of this Ordinance together with all amendments thereto.

301.2 Map Changes

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

301.3 Replacement Map

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

## §302 DISTRICT BOUNDARIES

### 302.1 Location

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

### 302.2 Uncertainty

Where uncertainty exists concerning the location of any boundary as shown on the zoning maps, the Zoning Officer shall make the determination of the district location in accord with the rules in this §302.2. Any decision of the Zoning Officer may be appealed to the Zoning Hearing Board.

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

## §303 DISTRICT REGULATIONS

District regulations are of two types which shall apply to any proposed new use, expansion of an existing use or change of use of any land or structure.

### 303.1 Use Regulations

Use Regulations for each District in Article IV through Article IX.

#### A. Limitations

1. No land and no structure in a particular zoning district shall be used for any use which is not specifically listed in the District Use Regulations for that particular district, and only in accord with all other requirements of this Ordinance. In other words, any use not specifically allowed by this Ordinance within a Zoning District shall be deemed to be prohibited within that Zoning District.

2. If a use which could be included in a more general use is listed as a separate use in any District Use Regulations, such use shall be permitted only in the district where it is specifically listed and shall not be included in a more general use listing in any other district.
  3. Larger lot sizes, greater setbacks, buffers and other more restrictive standards may be required by other provisions of this Ordinance.
- B. Principal Uses Permitted by Right and Accessory Uses - Permits for uses permitted by right and accessory uses shall be issued by the Zoning Officer provided such uses comply with the standards in this Ordinance.
- C. Conditional Uses and Special Exceptions - Conditional uses and special exceptions are permitted uses which require individual consideration because of their special characteristics and are referred to the Planning Commission for review and preparation of a recommendation to the Borough Council or Zoning Hearing Board, respectively. Following a public hearing, and based on its determination that the proposed use meets the standards of this Ordinance, the Borough Council for conditional uses and the Zoning Hearing Board for special exceptions may authorize the issuance of a zoning permit by the Zoning Officer.

### 303.2 Uses Not Specified in Use Regulations

- A. Jurisdiction - Whenever a use is not specifically allowed in any of the various zoning districts established under this Ordinance (i.e., not specifically allowed anywhere in the Borough) and an application is made to the Zoning Officer for such use, the application shall be submitted to the Borough Council which shall have the authority to permit the use or deny the use as a conditional use in accord with §1408.
- B. Findings - The use may be permitted only if the Borough Council makes all of the following findings; and, the burden of proof shall be upon the applicant:
1. The use is similar to and compatible with the uses listed for the subject zoning district by the Use Regulations.
  2. The use in no way conflicts with the intent of the zoning district and the general purpose and intent of this Zoning Ordinance.
  3. The use is not permitted in any other zoning district.
  4. The use is in compliance with the standards in §1408.4.
- C. Planning Commission Review - At the time the application is submitted to the Borough Council, the Zoning Officer shall also provide a copy to the Borough Planning Commission for its recommendation. The Borough Council shall not conduct a public hearing on the application until the comments from the Planning Commission are received or thirty (30) days have passed from the time the application was referred to the Planning Commission.
- D. Conditions - The Borough Council may attach reasonable conditions and safeguards to any special exception approval granted for a use not specified in the Use Regulations, incorporating standards in this Zoning Ordinance for similar uses in the district and such other conditions as the Borough Council may deem necessary to protect and promote the public health, safety, morals and welfare and to implement the purposes of this Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

**303.3 Area and Bulk Regulations**

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

**303.4 Subdividing and Developing**

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



**ARTICLE IV**  
**RR - RURAL RESIDENTIAL DISTRICT**

**§400 PURPOSE**

The RR - Rural Residential District accommodates housing types which typify the rural residential character of the Borough. Some of these areas are not provided with public or community sewer or water service, requiring the use of on-site or community systems.

**§401 USE REGULATIONS**

Uses not specifically listed in this §401 shall not be permitted in any RR District except as approved in accord with §303.2.

401.1 Uses Permitted by Right

- Agritourism
- Animal husbandry, commercial
- Borough facilities and uses
- Camps/retreats
- Colleges
- Community Centers
- Country clubs
- Cultural centers
- Crop production
- Day care, family home
- Dormitories
- Golf courses
- Group homes
- Forestry
- Lot averaging of residential lots per §1001
- Public parks and playgrounds
- Public uses and buildings
- Single-family detached dwellings
- Stables, private (1 acre required)
- Wineries, farm

401.2 Permitted Accessory Uses

- Accessory uses and buildings customary to approved uses
- Essential services
- Farm product sales per §1103.2
- Home gardening, nurseries and greenhouses
- Home based businesses, no impact, per §1103.3L(10)
- Outdoor fuel burning appliances per Borough Ordinance 162
- Private garages, carports, sheds
- Private swimming pools located in the rear yard or side yard of the dwelling lot per §1103.6
- Signs permitted per Article XII excluding off-premises advertising signs
- Solar collector, accessory per §1103.11
- Wind turbine generator, accessory per §1103.10
- Yard/garage sales

**401.3 Special Exception Uses**

- Airports
- Animal shelters
- Archery ranges, outdoor
- Assisted living facilities
- Bed and breakfast inns
- Campgrounds or recreational vehicle parks
- Cemeteries
- Clubs/lodges, private provided all services are for members and their guests
- Clustering of residential lots per §1003.4
- Concentrated animal feeding operations (CAFO)
- Correctional facilities
- Cottage industry per §1106.12
- Day care centers
- Heliports
- Home occupations (see §1103.3L for home occupations which are accessory uses)
- Kennels
- Menageries
- Mineral extraction
- Mineral processing
- Non-profit recreational uses, provided that a particular activity is not one which is customarily carried on as a business, and provided that all services are for members and their guests
- Oil or gas wells
- Personal care homes
- Places of worship
- Recreation facilities, commercial
- Religious quarters
- Residential conversion of single family detached dwellings per §1005
- Sawmills
- Schools, public and private, primary and secondary
- Semi-public uses and buildings
- Shooting preserves
- Shooting ranges, outdoor commercial
- Solar power generation, commercial
- Stables, commercial
- Storage yard for forest products and minerals
- Veterinary clinics, outdoor facilities
- Water withdrawal facilities
- Wind energy facilities, commercial
- Zoos

**401.4 Conditional Uses**

- none

RR - RURAL RESIDENTIAL DISTRICT SCHEDULE OF DEVELOPMENT STANDARDS												
Minimum Lot Area	Minimum Lot Width at Street R/W (feet)	Maximum Lot Depth to Width Ratio	Minimum Yards for Structures (feet)				Maximum Lot Coverage (percent)	Maximum Structure Height (feet)				
			Principal		Unattached Accessory			Principal	Unattached Accessory			
			Front Side	Each Side	Sum of Sides	Rear	Front	Each Side	Rear			
<b>On-site Sewage Disposal AND On-site Water Supply</b>												
1 acre	125	4 : 1	50	20	50	50	50	10	10	30	35	35
<b>Community Sewage Disposal AND On-site Water Supply</b>												
30,000 sq ft	100	4 : 1	40	15	--	40	40	10	10	35	35	35
<b>Community Sewage Disposal AND Community Water Supply</b>												
20,000 sq ft	80	4 : 1	40	15	--	40	40	10	10	40	35	35

**ARTICLE V**  
**VR - VILLAGE RESIDENTIAL DISTRICTS**

**§500 PURPOSE**

The VR - Village Residential District provides for a variety of housing types. A variety of densities are also accommodated by this district, dependent upon the availability of public sewer and water facilities.

**§501 USE REGULATIONS**

Uses not specifically listed in this §501 shall not be permitted in any VR District except as approved in accord with §303.2.

**501.1 Uses Permitted by Right**

- Agritourism
- Borough facilities and uses
- Crop production
- Day care, family home
- Group homes
- Forestry
- Public and private parks and playgrounds
- Single-family detached dwellings
- Single-family semi-detached dwellings (twin)
- Single-family semi-detached dwellings (duplex)

**501.2 Permitted Accessory Uses**

- Accessory uses and buildings customary to approved uses
- Essential services
- Farm product sales per §1103.2
- Home gardening, nurseries and greenhouses
- Home based businesses, no impact, per §1103.3L (10)
- Outdoor fuel burning appliances per Borough Ordinance 162
- Private garages, carports, sheds
- Private swimming pools located in the rear yard or side yard of the dwelling lot per §1103.6
- Signs permitted per Article XII excluding off-premises advertising signs
- Solar collector, accessory per §1103.11
- Wind turbine generator, accessory per §1103.10
- Yard/garage sales

**501.3 Special Exception Uses**

- Cemeteries
- Day-care, family
- Home occupations (see §1103.3L for home occupations which are accessory uses)
- Places of worship
- Schools, public and private, primary and secondary
- Wineries, farm

**501.4 Conditional Uses**

- none

VR - VILLAGE RESIDENTIAL DISTRICT SCHEDULE OF DEVELOPMENT STANDARDS													
Minimum Lot Area	Minimum Lot Width at Street R/W (feet)	Maximum Lot Depth to Width Ratio	Minimum Yards for Structures (feet)					Maximum Lot Coverage (percent)	Maximum Structure Height (feet)				
			Principal		Unattached Accessory				Principal	Unattached Accessory			
			Front	Each Side	Sum of Sides	Rear	Front				Each Side	Rear	
<b>On-site Sewage Disposal AND On-site Water Supply</b>													
1 acre	125	4 : 1	40	15	--	40	40	40	10	10	30	35	35
<b>Community Sewage Disposal AND On-site Water Supply</b>													
30,000 sq ft	100	4 : 1	40	15	--	40	40	40	10	10	35	35	35
<b>Community Sewage Disposal AND Community Water Supply</b>													
20,000 sq ft	80	4 : 1	40	15	--	40	40	40	10	10	40	35	35

**ARTICLE VI  
VC - VILLAGE COMMERCIAL DISTRICTS**

**§600 PURPOSE**

The VC - Village Commercial District provides the opportunity for residential and retail uses to locate together in a village setting. The district is designed to provide for a variety of housing types, retail activities which are oriented toward servicing the day-to-day needs of Borough residents.

**§601 USE REGULATIONS**

Uses not specifically listed in this §601 shall not be permitted in any VC District except as approved in accord with §303.2.

**601.1 Uses Permitted by Right**

- Agritourism
- Amusement arcades
- Apartment above first floor used as owner's living quarters
- Art studios
- Assisted living facilities
- Auction houses
- Automobile rental
- Bakeries and confectionaries, retail
- Banks
- Bed and breakfast inns
- Billiard halls
- Borough facilities and uses
- Business offices
- Business services
- Bus shelters
- Car washes
- Charging stations
- Clinics
- Clubs/lodges, private
- Colleges
- Community centers
- Conference centers
- Convenience stores without fuel sales
- Country clubs
- Cultural centers
- Day-care, family home
- Dormitories
- Day care centers
- Domestic violence shelters
- Exercise clubs
- Farmer's markets
- Firearm sales
- Forestry
- Fueling stations
- Funeral homes
- Golf courses
- Group homes
- Group homes, institutional
- Group quarters
- Halfway houses
- Health facilities
- Homeless shelters
- Hotels
- Lumberyards
- Massage facilities, therapeutic
- Meeting, assembly or banquet halls
- Micro-breweries
- Motels
- Multiple-family dwellings
- Nightclubs
- Nursing homes
- Offices and office buildings
- Personal care homes
- Places of worship
- Professional offices
- Public and semi-public facilities and uses
- Public parks and playgrounds
- Recreational facilities, commercial indoor
- Recreational facilities, public
- Recycling units, mobile
- Religious quarters
- Restaurants, take-out
- Restaurants, traditional
- Retail businesses
- Schools, public and private, primary or secondary
- Self-storage facilities
- Service establishments
- Single-family detached dwellings
- Single-family semi-detached dwellings (twin)
- Single-family semi-detached dwellings (duplex)
- Theaters, indoor
- Trade schools
- Veterinary clinics, indoor
- Wholesale businesses
- Wineries, farm

601.2    Permitted Accessory Uses

- Essential services
- Farm product sales per §1103.2
- Home gardening, nurseries and greenhouses
- Home based businesses, no impact, per §1103.3L (10)
- Outdoor fuel burning appliances per Borough Ordinance 162
- Private garages, carports, sheds
- Private swimming pools located in the rear yard or side yard of the dwelling lot per §1103.6
- Signs permitted per Article XII excluding off-premises advertising signs
- Solar collector, accessory per §1103.11
- Wind turbine generator, accessory per §1103.10
- Yard/garage sales

601.3    Special Exception Uses

- Amusement parks
- Boarding and lodging houses
  - Bus, limousine or taxi terminals
  - Bus stations
- Contractor's yards
- Crematoriums
- Drive-in stands/uses
- Flea markets, outdoor
- Fraternity or sorority houses
- Home occupations (see §1103.3L for home occupations which are accessory uses)
  - Recreation facilities, commercial
- Single-family attached dwellings
- Stables, private (3 acres required)
- Accessory uses and buildings customary to approved uses

601.4    Conditional Uses

- none

<b>VC - VILLAGE COMMERCIAL DISTRICT</b> <b>SCHEDULE OF DEVELOPMENT STANDARDS</b> (Dwellings in the VC - Village Commercial District shall comply with VR - Village Residential District standards.)												
Minimum Lot Area	Minimum Lot Width at Street R/W (feet)	Maximum Lot Depth to Width Ratio	Minimum Yards for Structures (feet)				Maximum Lot Coverage (percent)	Maximum Structure Height (feet)				
			Principal		Unattached Accessory			Principal	Unattached Accessory			
			Front	Each Side	Sum of Sides	Rear				Front	Each Side	Rear
<b>On-site Sewage Disposal AND On-site Water Supply</b>												
30,000 sq ft	100	4 : 1	25	10	--	20	25	10	10	70	35	35
<b>Community Sewage Disposal AND On-site Water Supply</b>												
20,000 sq ft	80	4 : 1	25	10	--	20	25	10	10	70	35	35
<b>Community Sewage Disposal AND Community Water Supply</b>												
10,000 sq ft	70	4 : 1	25	10	--	20	25	10	10	70	35	35



**ARTICLE VII**  
**HS – HIGHWAY SERVICE DISTRICTS**

**§700 PURPOSE**

The HS - Highway Service District provides the opportunity for highway-oriented uses which offer goods and service on a regional basis.

**§701 USE REGULATIONS**

Uses not specifically listed in this §701 shall not be permitted in any HS District except as approved in accord with §303.2.

701.1 Uses Permitted by Right

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| - Agritourism                | - Group homes                       | - Semi-public buildings or uses           |
| - Auction houses             | - Lumberyards                       | - Single-family detached dwellings        |
| - Banks                      | - Massage facilities, therapeutic   | - Travel plazas                           |
| - Borough buildings and uses | - Nightclubs                        | - Wholesale businesses                    |
| - Day-care, family home      | - Outdoor entertainment             | - Vehicle and equipment rental operations |
| - Day care centers           | - Park and ride facilities          | - Vehicle and equipment sales operations  |
| - Drive-in stands/uses       | - Recreation facilities, commercial | - Wholesale businesses                    |
| - Farmer's markets           | - Restaurants, traditional          |   |
| - Firearm sales              | - Restaurants, outdoor              |   |
| - Forestry                   | - Restaurants, take-out             |   |
| - Flea markets, outdoor      | - Self-storage facilities           |   |
| - Fueling stations           |                                     |   |
| - Gaming establishments      |                                     |   |

701.2 Permitted Accessory Uses

- |  |                     |
|--|---------------------|
| - Accessory uses and buildings customary to approved uses                                      | - Yard/garage sales |
| - Essential services   |                     |
| - Farm product sales per §1103.2   |                     |
| - Home gardening, nurseries and greenhouses  |                     |
| - Home based businesses, no impact, per §1103.3L (10)  |                     |
| - Outdoor fuel burning appliances per Borough Ordinance 162                                    |                     |
| - Private garages, carports, sheds   |                     |
| - Private swimming pools located in the rear yard or side yard of the dwelling lot per §1103.6 |                     |
| - Signs permitted per Article XII excluding off-premises advertising signs                     |                     |
| - Solar collector, accessory per §1103.11  |                     |
| - Wind turbine generator, accessory per §1103.10   |                     |

701.3 Special Exception Uses

- Adult businesses
- Bus station
- Contractor's yards
- Correctional facilities
- Crematoriums
- Hotels
- Motels
- Off-premises advertising signs per §1211
- Race tracks
- Retail home heating fuel distributors
- Theaters, drive-in
- Truck washes
- Vehicle and equipment repair operations

701.4 Conditional Uses

- none

NOTE: The intent in the HS and LI Districts is to set a lower minimum lot size to enable the development of smaller businesses and industries. If the development standards, parking standards, on-site sewage requirements, etc., dictate, a larger lot would be required. The minimum lot size applies to lots proposed to be subdivided. A section will be included in the ordinance to allow the development of pre-existing nonconforming lots to be developed provided the ordinance standards are satisfied.

HS - HIGHWAY SERVICE DISTRICT SCHEDULE OF DEVELOPMENT STANDARDS										
(Dwellings in the HS - Highway Service District shall comply with VR - Village Residential District standards.)										
Minimum Lot Area	Minimum Lot Width at Street R/W (feet)	Maximum Lot Depth to Width Ratio	Minimum Yards for Structures (feet)				Maximum Lot Coverage (percent)	Maximum Structure Height (feet)		
			Principal		Unattached Accessory			Principal	Unattached Accessory	
			Front	Each Side	Rear	Front				Each Side
20,000 sq ft	80	4 : 1	20	15	20	20	10	10	45	45
<b>Any Combination of Sewage Disposal and Water Supply</b>										

**ARTICLE VIII**  
**LI – LIMITED INDUSTRIAL DISTRICTS**

**§800 PURPOSE**

The LI - Limited Industrial District accommodates a variety of industrial uses which will not place a significant demand on existing community services and facilities. The LI district is located to provide direct access to an arterial road, and buffer from existing development patterns. The district is designed to lessen the impact of industrial related traffic and activities on residential neighborhoods.

**§801 USE REGULATIONS**

Uses not specifically listed in this §801 shall not be permitted in any LI District except as approved in accord with §303.2.

801.1 Uses Permitted by Right

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>- Agriculture products processing</li> <li>- Agritourism</li> <li>- Amusement parks</li> <li>- Banks</li> <li>- Contractor’s yards</li> <li>- Forestry</li> <li>- Helistops</li> <li>- Industrial wastewater treatment facilities</li> <li>- Industry</li> <li>- Laboratories for research and testing</li> <li>- Manufacturing, light</li> </ul> | <ul style="list-style-type: none"> <li>- Professional offices</li> <li>- Public buildings and uses</li> <li>- Recycling facilities</li> <li>- Retail home heating fuel distributors</li> <li>- Sawmills</li> <li>- Solar power generation, commercial</li> <li>- Storage yard for forest products and minerals</li> <li>- Warehouses</li> <li>- Water withdrawal facilities</li> <li>- Wholesale businesses</li> </ul> |
|--|--|

801.2 Permitted Accessory Uses

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>- Accessory uses and buildings customary to approved uses</li> <li>- Essential services</li> <li>- Farm product sales per §1103.2</li> <li>- Home gardening, nurseries and greenhouses</li> <li>- Home based businesses, no impact, per §1103.3L (10)</li> <li>- Outdoor fuel burning appliances per Borough Ordinance 162</li> </ul> | <ul style="list-style-type: none"> <li>- Private garages, carports, sheds</li> <li>- Private swimming pools located in the rear yard or side yard of the dwelling lot per §1103.6</li> <li>- Retail sales as an accessory use</li> <li>- Signs permitted per Article XII excluding off-premises advertising signs</li> <li>- Solar collector, accessory per §1103.11</li> <li>- Wind turbine generator, accessory per §1103.10</li> <li>- Yard/garage sales</li> </ul> |
|--|--|

801.3 Special Exception Uses

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>- Bulk fuel storage facilities</li> <li>- Commercial communication device sites</li> <li>- Distribution centers/truck terminals</li> <li>- Junk yards and salvage yards</li> </ul> | <ul style="list-style-type: none"> <li>- Mineral processing</li> <li>- Power plants</li> <li>- Resource recovery facilities</li> <li>- Solid waste facilities</li> </ul> |
|---|--|

801.4 Conditional Uses

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>- All commercial uses in the VC District not otherwise listed in this §801</li> <li>- Animal husbandry, commercial</li> <li>- Crop production</li> </ul> | <ul style="list-style-type: none"> <li>- Group homes</li> <li>- Multiple-family dwellings</li> <li>- Single-family detached dwellings</li> <li>- Two-family attached and detached dwellings</li> </ul> |
|---|--|

NOTE: The intent in the HS and LI Districts is to set a lower minimum lot size to enable the development of smaller businesses and industries. If the development standards, parking standards, on-site sewage requirements, etc., dictate, a larger lot would be required. The minimum lot size applies to lots proposed to be subdivided. A section will be included in the ordinance to allow the development of pre-existing nonconforming lots to be developed provided the ordinance standards are satisfied.

<b>LI - LIMITED INDUSTRIAL DISTRICT</b> <b>SCHEDULE OF DEVELOPMENT STANDARDS</b> (Dwellings in the LI - Limited Industrial District shall comply with VR - Village Residential District standards.)												
Minimum Lot Area	Minimum Lot Width at Street R/W (feet)	Maximum Lot Depth to Width Ratio	Minimum Yards for Structures (feet)				Maximum Lot Coverage (percent)	Maximum Structure Height (feet)				
			Principal		Unattached Accessory			Principal	Unattached Accessory			
			Front	Each Side	Sum of Sides	Rear				Front	Each Side	Rear
30,000 sq ft	100	4 : 1	40	25	--	20	40	10	10	75	55	55
<b>Any Combination of Sewage Disposal and Water Supply</b>												
Minimum yards where nonresidential use adjoins RR or VR District →→			40	50	--	40	40	20	20			

**ARTICLE IX**  
**MHP – MOBILE HOME PARK DISTRICTS**

**§900 PURPOSE**

900.1 Applicability

The provisions established under this ordinance shall apply to all mobile home parks as defined in Article II. No person shall establish a mobile home park within Briar Creek Borough except as provided under this Article IX.

900.2 Temporary Parking of Mobile Homes

No person shall allow any mobile home to stand upon any street or right-of-way in Briar Creek Borough, without being attached to a motor vehicle. Temporary parking of a mobile home on any street or right-of-way shall not exceed the time limit established by pertinent state laws, but in no way shall exceed forty-eight (48) hours.

900.3 Occupancy

No person shall occupy any mobile home in a mobile home park in Briar Creek Borough unless in a mobile home park licensed under the provisions of §904.

**§901 USE PROVISIONS WITHIN A MOBILE HOME PARK**

901.1 Uses Permitted by Right

- Mobile home units when self-contained including cooking, sleeping, living and sanitary facilities
- Mobile home park office
- Mobile home park service buildings
- Group homes

901.2 Permitted Accessory Uses

- Accessory uses and buildings customary to approved uses
- Essential services
- Farm product sales per §1103.2
- Home gardening, nurseries and greenhouses
- Home based businesses, no impact, per §1103.3L (10)
- Outdoor fuel burning appliances per Borough Ordinance 162
- Private garages, carports, sheds
- Private swimming pools located in the rear yard or side yard of the dwelling lot per §1103.6
- Signs permitted per Article XII excluding off-premises advertising signs
- Solar collector, accessory per §1103.11
- Wind turbine generator, accessory per §1103.10
- Yard/garage sales

## §902 DESIGN STANDARDS

### 902.1 Density

A mobile home park shall not exceed four (4) units per acre, provided adequate community sewer and community water services are utilized.

### 902.2 Building Separation

Mobile home lots within a mobile home park shall be so designed that no mobile home shall be located less than twenty-five (25) feet from another mobile home.

### 902.3 Setback

All mobile homes, park office or service structures shall be located a minimum of one hundred (100) feet from any park boundary. Mobile homes shall be setback a minimum of fifty (50) feet from collector roads and a minimum of sixty (60) feet from arterial roads. Mobile homes shall be setback a minimum of twenty-five (25) feet from any internal park street.

### 902.4 Coverage Provisions

The lot coverage and paved area provisions of the district in which the mobile home is located shall apply. A minimum of twenty percent (20%) of a park shall be landscaped.

### 902.5 Installation of Mobile Homes

All mobile homes shall be placed on and secured to a foundation in accord with Uniform Construction Code requirements. An enclosure skirting of a suitable weather resistant material, shall be placed around the entire base of the mobile home.

### 902.6 Anchoring

All mobile home shall be anchored to the ground in accord with Uniform Construction Code requirements.

### 902.7 Minimum Habitable Floor Area

All mobile homes shall have a minimum of seven hundred (700) square feet, exclusive of additions and accessory structures.

### 902.8 Applicable General Standards

In addition to all other applicable standards, the following design standards shall apply to all mobile home parks:

- A. Landscaping standards per §1105.2.
- B. Storage standards per §1105.3.
- C. Off-street parking, traffic control and vehicle access and Interior circulation standards per §1104.

**§903 UTILITIES**903.1 Sewage Disposal

In all cases, a community sewage system shall be required. The sanitary sewage disposal standards established in the Briar Creek Subdivision and Land Development Ordinance shall apply. All systems shall be subject to the approval by the Pennsylvania Department of Environmental Protection.

903.2 Water Supply

In all cases, a community water supply system is required for both potable and fire protection purposes. Fire hydrants and their location shall meet the specifications of the Association of Fire Underwriters. Potable water supply system shall be subject to approval by the Pennsylvania Department of Environmental Protection. The water supply standards in Briar Creek Borough Subdivision and Land Development Ordinance shall apply.

903.3 Fuels

The following provisions shall apply to the use of fuels within a mobile home park:

- A. Natural Gas - Any mobile home provided with piped gas shall be required to have an emergency shutoff valve installed out-of-doors. The connection shall be fitted with an approved cap for use when a mobile home is not located on the site.
- B. Liquid Gas - Any mobile home provided with liquid gas tanks shall be installed and maintained as per standards established by the National Liquid Petroleum Gas Association.
- C. Fuel Oil - Any mobile home provided with fuel oil shall have all pipes and tanks securely placed. An emergency shutoff valve shall be installed out-of-doors.

**§904 LICENSES, PLANS AND PERMITS**904.1 Municipal Licensing

All mobile home parks shall be required to obtain a license from Briar Creek Borough prior to the installation and commencement of a new mobile home park, or extension of an existing mobile home park. A mobile home license shall be effective for twelve (12) months upon its issuance.

904.2 License Renewal

An annual renewal shall be required for the continuation of a mobile home park. An inspection of a mobile home park by the Zoning Officer shall be required prior to obtaining a renewal.

904.3 License Application

Any person desiring to establish, construct, operate, maintain or extend a mobile home park shall make a written application to Briar Creek Borough on the appropriate forms supplied by the Zoning Officer. All applications shall be accompanied by the following, and conform to the procedures established by the Briar Creek Borough Subdivision and Land Development Ordinance:

- A. The appropriate filing fee.

- B. The development plan detailing the installation or extension of a mobile home park in accordance with the applicable standards of the Briar Creek Borough Subdivision and Land Development Ordinance.
- C. Evidence of plan submittal to the Pennsylvania Department of Environmental Protection for review.

#### 904.4 Issuance of an Operating License

Upon completion or extension of a mobile home park, the applicant shall request the Borough Zoning Officer to undertake a final inspection of the park. Upon satisfactory inspection of all facilities by the Zoning Officer, a license to operate the mobile home park shall be issued.

#### 904.5 Permits and Certifications

The mobile home park owner or operator shall provide documentation that all required permits and certifications have been obtained.

### **§905 FEES**

Fees for building permits, operating licenses, transfer of ownership or management, and filing fees shall be established by resolution of the Borough Council.

### **§906 MOBILE HOME PARK MANAGEMENT**

#### 906.1 Registration

Every mobile home park shall include an office for the person in charge of such park. A copy of the Operating Permit shall be posted at all times in such office along with the Register of such mobile home park. The Register shall at all times be open for inspection by a Borough official. The Register shall include, but not be limited to, the following information:

- A. A number assigned to each mobile home lot or site.
- B. Names and addresses of all residents of the park.
- C. The arrival date of each mobile home to the park.

#### 906.2 Management Responsibilities

The following responsibilities shall apply to all mobile home park managers:

- A. Maintenance of the mobile home park in a clean and sanitary condition.
- B. Report all violations of this ordinance to the borough Zoning Officer.
- C. Prohibit open fires upon the premises.
- D. Notify the Borough Zoning Officer a minimum of twenty-four (24) hours in advance of any entry or departure of a mobile home unit or change of occupancy.



**ARTICLE X**  
**SPECIAL RESIDENTIAL STANDARDS**

**§1001 CONSERVATION SUBDIVISION DESIGN DEVELOPMENT** (Developer's option in RR District.)

1001.1 Concept

A key concept associated with conservation subdivision design is to focus on residential density instead of minimum lot size. In a standard subdivision the land is simply cut into as many lots as possible while meeting the minimum lot size requirement. Under conservation subdivision design, which is based on unit density instead of minimum lot size, the size of individual lots sold can vary in size, provided the total number of lots does not exceed the density which is based on the underlying minimum lot size. In conservation subdivision design, the maximum lot size is the critical element, as it really defines the minimum open space that must be conserved.

1001.2 Developer's Option

Conservation design development may be used in accord with this §1001 at the developer's option in the RR District.

1001.3 Purpose, Development Options, Applicability and Design Process

- A. Purpose - In addition to the general community development objectives in Article I and the intents for individual zoning districts, it is the purpose of Conservation Subdivision Design Development to:
1. Conserve undeveloped land for the purpose of protecting Primary and Secondary Conservation Areas in contiguous, un-fragmented, commonly managed landscapes to:
    - a. Protect large, intact wildlife habitat areas and connect patches of wildlife habitat to support greater biodiversity, maintain ecosystem processes and allow larger, healthier populations to persist; and
    - b. Minimize edge conditions and associated colonization by invasive plant species.
  2. Contribute to the creation of a community-wide Conservation Open Space system for the benefit of present and future residents;
  3. Protect productive agricultural and silvicultural soils for continued or future use by conserving blocks of land large enough to allow for efficient production operations;
  4. Conserve existing landscape character by minimizing views of new development from existing roads, thereby reducing perceived density;
  5. Encourage innovation and promote flexibility, economy and ingenuity in development;
  6. Provide multiple development options for landowners to reflect their varying circumstances and the individual characteristics of their properties;

7. Provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences;
  8. Provide homes with direct views of Conservation Open Space, organized around common greens;
  9. Provide for the conservation and maintenance of Conservation Open Space and for active or passive recreational use by residents;
  10. Provide greater efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the impervious cover required for residential development;
  11. Provide a wider range of feasible locations for stormwater and wastewater facilities in order to comply with prevailing state-of-the-art designs and best management practices;
  12. Protect water quality and reduce erosion and sedimentation by retaining existing vegetation and minimizing development on steep slopes;
  13. Implement land use, natural resource conservation, open space, and community policies set forth in the Borough's Comprehensive Plan.
- B. Conservation Subdivision Design Development Options - In order to achieve the purposes in §1001.3.A, this §1001.3.B provides for flexibility in designing new residential subdivisions by permitting the following by right (permitted use) development options:
1. Option 1 - *Basic Density and Basic Conservation* providing for residential lots/units at the density permitted by the Density and Conservation Open Space Table in §1001.6 with not less than forty (40) percent of the tract comprised of conservation open space.
  2. Option 2 - *Increased Density with Increased Conservation* providing residential lots/units at the density permitted by the Density Standards Table in §1001.6 with not less than fifty (50) percent of the tract comprised of conservation open space.
  3. Option 3 - *Greater Density with Greater Conservation* providing residential lots/units at the density permitted by the Density Standards Table in §1001.6 with not less than fifty-five (55) percent of the tract comprised of conservation open space.
- C. Conservation Design Process - All Conservation Subdivision Design Developments shall be designed using the Four-Step Conservation Design Process in accord with the Borough Subdivision and Land Development Ordinance.

#### 1001.4 General Regulations

The design of all new Conservation Subdivision Design Developments shall be governed by the following minimum standards:

- A. Tract Size and Ownership - The development tract shall be a minimum of five (5) acres and shall be held in single ownership.

- B. Primary Conservation Areas - The proposed design shall conserve the Primary Conservation Areas. Demonstration by the applicant that these features are conserved by the proposed design shall be prerequisite to all preliminary and final plan approvals under the Subdivision and Land Development Ordinance. Primary Conservation Areas include:
1. Delineated wetlands.
  2. Floodplain (including the floodway) as shown on the Borough Flood Insurance Rate Map.
  3. Slopes of twenty-five (25) percent or more.
- C. Secondary Conservation Areas - The protection of Secondary Conservation Areas shall be addressed through the Four-Step Design Process detailed in the Borough Subdivision and Land Development Ordinance.

#### 1001.5 Use Regulations

The following uses shall be permitted in Option 1, Option 2 and Option 3 Conservation Subdivision Design Developments:

- A. Single-family detached dwellings.
- B. Two-family dwelling units or townhouses.
- C. Conservation Open Space with the uses permitted by §1001.8.
- D. Home occupations in accord with this Ordinance
- E. Accessory uses on the same lot with and in accord with applicable district regulations.

#### 1001.6 Maximum Dwelling Units and Minimum Conservation Open Space

- A. Dwelling Units - The maximum number of dwelling units shall be determined by using one of two approaches: a calculation using the density factor in the Density and Conservation Open Space Table and the formulas in §1001.6.C, or by a Yield Plan detailed in §1001.6.D. The applicant shall determine which approach is most suitable.

<b>DENSITY AND CONSERVATION OPEN SPACE</b>					
<b>ALL ZONING DISTRICTS WHERE SINGLE-FAMILY DWELLINGS ARE PERMITTED</b>					
<b><u>OPTION 1</u></b>		<b><u>OPTION 2</u></b>		<b><u>OPTION 3</u></b>	
Basic Density and Basic Conservation  <u>10% density bonus<sup>1</sup></u>		Increased Density with Increased Conservation  <u>20% density bonus<sup>1</sup></u>		Greater Density with Greater Conservation  <u>30% density bonus<sup>1</sup></u>	
Density Factor  (SF ATA / DU <sup>2</sup> )	Minimum Conservation Open Space  Required <sup>3</sup>	Density Factor  (SF ATA / DU <sup>2</sup> )	Minimum Conservation Open Space  Required <sup>3</sup>	Density Factor  (SF ATA / DU <sup>2</sup> )	Minimum Conservation Open Space  Required <sup>3</sup>
<b>On-Site Sewage Disposal <u>AND</u> On-Site Water Supply</b>					
39,200	40% ATA	34,850	50% ATA	30,490	55% ATA
<b>Community Sewage Disposal <u>AND</u> On-Site Water Supply</b>					
27,000	40% ATA	24,000	50% ATA	21,000	55% ATA
<b>Community Sewage Disposal <u>AND</u> Community Water Supply</b>					
18,000	40% ATA	16,000	50% ATA	14,000	55% ATA
<sup>1</sup> Based on minimum lot size for standard subdivision not using conservation design.  Example: 43,560 - (10% x 43,560) = 39,204 (rounded to 39,200).  <sup>2</sup> SF ATA = square feet of Adjusted Tract Area in §1001.6.C.3.  <sup>3</sup> Plus Constrained Land calculated in §1001.6.C.2.					

B. Conservation Open Space - The minimum Conservation Open Space shall be as set forth in the Density and Conservation Open Space Table, regardless of which method is used to determine the maximum number of dwelling units.

1. Delineation - Conservation Open Space shall be delineated to include all Primary Conservation Areas and, in addition, sufficient Secondary Conservation Areas that, when added to the Primary Conservation Areas, shall not be less than the minimum required Conservation Open Space.
2. Common Greens - Part of the required (or provided, if not required) Conservation Open Space may be in the form of common greens. If provided, the percentage of open space in common greens shall be as follows:
  - a. A minimum of two (2) percent of the required Conservation Open Space when the average lot size is fifteen thousand (15,000) square feet or more.

- b. A minimum of three (3) percent of the required Conservation Open Space when the average lot size is less than fifteen thousand (15,000) square feet.
  - c. A maximum of five (5) percent of the required Conservation Open Space.
- C. Adjusted Tract Area Approach - Determination of the maximum number of dwelling units shall be based upon the following calculations:
- 1. Determine Gross Tract Area - Gross tract area shall equal the acreage within the legally described parcel minus existing public or private road rights-of-way.

<b>CONSTRAINED LAND</b>				
	<b>Resource</b>	<b>Area of Resource (acres)</b>	<b>Protection Factor</b>	<b>Constrained Land (acres)</b>
A	existing utility rights-of-way		x 1.00	=
B	that portion of lands under conservation easement that are restricted from further development		x 1.00	=
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 0.25	=
E	wetlands as determined by a delineation		x 0.95	=
F	prohibitive steep slopes (25% or greater)		x 0.85	=
G	precautionary steep slopes (15% to less than 25%)		x 0.25	=
H	ponds, lakes and streams to the high water mark		x 1.00	=
I	<b>CONSTRAINED LAND = SUM OF A through H =</b>			

- 2. Determine Constrained Land - Constrained land consists of the resources listed in the Constrained Land Table multiplied by a protection factor and totalled. If two (2) or more resources overlap, only the resource with the highest protection factor shall be used.
- 3. Determine Adjusted Tract Area (ATA) - Adjusted Tract Area equals the gross tract area minus the constrained land.

<b>ADJUSTED TRACT AREA</b>	
A	gross tract area _____ acres
B	minus Constrained Land from Constrained Land Table in §1001.6.C.2. - _____ acres
C	equals Adjusted Tract Area = _____ acres ATA

4. Maximum Number of Dwelling Units - In Options 1, 2 and 3, the maximum number of dwelling units equals the Adjusted Tract Area (ATA) divided by the applicable density factor set forth in the Density and Conservation Open Space Table. Where calculations result in fractional numbers, the fraction shall be rounded down to the next whole number.

MAXIMUM NUMBER OF DWELLING UNITS		
A	Adjusted Tract Area (from the Adjusted Tract Area Table in §1001.6.C.3 converted to square feet)	_____ SF
B	divided by density factor (from the Density and Conservation Open Space Table in §1001.6)	÷ _____
C	equals maximum number of dwelling units	= _____ DU

D. Yield Plan Approach (applicable to Options 1, 2 and 3)

1. Number of Units Permitted

- a. Option 1 - For Option 1, the maximum number of dwelling units shall be determined by a layout with conventional lotting using the standards in the schedule of Development Standards in Article IV. The number of units permitted in the Conservation Subdivision Design Development shall equal the number of units on the Yield Plan, provided it meets the requirements of this section and the Subdivision and Land Development Ordinance applicable to conventional subdivisions.
  - b. Option 2 - For Option 2, the maximum number of units permitted shall equal the number of units on an Option 1 Yield Plan, multiplied by a factor of 1.25.<sup>1</sup>
  - c. Option 3 - For Option 3, the maximum number of units permitted shall equal the number of units on an Option 1 Yield Plan, multiplied by a factor of 1.43.<sup>2</sup>
2. Constrained Lands - For the purposes of meeting the minimum lot size requirement in the Option 1 Yield Plan the constrained land as calculated in the Constrained Land Table in §1001.6.C.2 shall not be included.

3. Plan Requirements

- a. SALDO Requirements - Yield Plans must be prepared in accord with the standards of the Subdivision and Land Development Ordinance, containing proposed lots, streets, rights-of-way, and other pertinent features. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplain, steep slopes, existing easements or encumbrances and, if un-sewered, the suitability of soils for subsurface sewage disposal.
- b. Resource Identification - The Yield Plan must identify the site's primary and secondary

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<sup>1</sup>The 1.25 multiplication factor was determined by dividing the Option 1 required minimum lot size by the Option 2 density factor (43,560 ÷ 34,850 = 1.25).

<sup>2</sup>The 1.43 multiplication factor was determined by dividing the Option 1 required minimum lot size by the Option 3 density factor (43,560 ÷ 30,490 = 1.43).

conservation areas, as identified in the Existing Resources/Site Analysis, and demonstrate that the primary conservation areas could be successfully absorbed in the development process without disturbance, by allocating this area to proposed single-family dwelling lots which conform to the required dimensional standards. The Yield Plan shall be based upon accurate mapping of wetlands, 100 year floodplain and land with slopes greater than fifteen (15) percent.

- c. Individual Sewage Disposal Systems - On sites not served by central sewage disposal, density shall be further determined by evaluating the number of homes that could be supported by soils-based individual on-lot sewage disposal systems. For the purposes of determining density under this Section, this standard shall exclude holding tanks, individual stream discharge systems and evapotranspiration systems.

Based on the Existing Resources/Site Analysis and observations made during an on-site visit of the property, the Borough shall select a ten (10) percent sample of the lots considered to be marginal for on-lot sewage disposal. The applicant shall provide evidence that these lots meet the standards for an individual on-lot sewage disposal system and system replacement area before the applicant shall be granted the full density determined by the Yield Plan. Should any of the lots in a sample fail to meet the standard for individual septic system, those lots shall be deducted from the yield plan and a second ten (10) percent sample shall be selected by the Borough and tested for compliance. This process shall be repeated until all lots in a given sample meet the standard for an individual soils-based on-lot sewage disposal system.

- E. Total Number of Dwelling Units - The total number of dwelling units permitted on a development site equals the maximum number of dwelling units permitted in §1001.6.C (Adjusted Tract Acreage) or §1001.6.D (Yield Plan), as selected by the applicant.
- F. Preservation of Historic Dwellings - To encourage the preservation of historic dwellings, such preserved dwellings shall not count toward the permitted maximum number of dwelling units, provided:
1. Such dwellings are at least seventy-five (75) years old;
  2. The dwelling is preserved in accord with the National Park Service historic preservation standards; and
  3. The dwelling is placed in a landscape context that respects its historical status and appearance, as determined by the Borough Council.

#### 1001.7 Dimensional and Design Standards for Option 1, Option 2 and Option 3

- A. Option 1, Option 2 and Option 3 - The standards in the following Dimensional Standards for Single-Family Dwellings Option 1, 2 and 3 Table shall apply to Option 1, Option 2 and Option 3.

<b>DIMENSIONAL STANDARDS FOR SINGLE-FAMILY DETACHED DWELLINGS Option 1, Option 2 and Option 3</b>				
<b>Type of water supply and sewage disposal → →</b>	<b>central water &amp; central sewage</b>	<b>on-lot water &amp; central sewage</b>	<b>central water &amp; on-lot sewage</b>	<b>on-lot water &amp; on-lot sewage</b>
Minimum Individual Lot Area	5,000 square feet	21,780 square feet	32,670 square feet	43,560 square feet
Maximum Depth to Width Ratio	5 to 1			
Flag Lots	permitted in accord with provisions of the Subdivision and Land Development Ordinance			
<b>Setback Regulations</b>				
- minimum front	20 feet			
- minimum rear	30 feet 20 feet where the rear setback adjoins conservation open space			
- minimum side	5 feet 30 feet aggregate	15 feet		

B. Maximum Lot Coverage - Maximum lot coverage for single-family dwellings in Options 1 through 3 shall be limited in accord with the following Maximum Lot Coverage table.

<b>MAXIMUM LOT COVERAGE FOR SINGLE-FAMILY DWELLINGS Option 1, Option 2, and Option 3</b>	
<b>Lot Area</b>	<b>Maximum Lot Coverage</b>
less than 10,000 SF	50%
10,000 - 19,999 SF	40%
20,000 - 43,560 SF	30%
more than 43,560 SF	reduce limit by 1.5% for each additional acre or fraction thereof but not reduced to less than 10%

C. Dimensional Standards for Two-Family Dwellings and Townhouses - The standards in the Dimensional Standards for Two-family Dwellings and Townhouses Table shall apply:



<b>DIMENSIONAL STANDARDS FOR TWO-FAMILY DWELLINGS AND TOWNHOUSES</b>	
<b>Option 1, Option 2 and Option 3</b>	
minimum individual lot area	none
separation of principal buildings	35 feet
if individual lots are provided: minimum lot width	18 feet (24 feet if a 2-car garage or parking of two cars side-by-side is provided in the front)
setback from any adjoining internal street, street right-of-way, common parking area or sidewalk	20 feet

- D. Water Supply and Sewage Disposal for Two-Family and Townhouses - Two-family dwellings and townhouses shall be served by a water supply system and a community sewage disposal system.
- E. Dwelling Lots / Conservation Open Space - No part of any dwelling lot shall encroach upon Conservation Open Space.
- F. Setbacks - All new dwelling units shall meet the setback requirements in the following Dwelling Setbacks Table:

<b>DWELLING SETBACKS</b>		
<b>from:</b>	<b>Single-Family</b>	<b>Two-Family &amp; Townhouses</b>
external Borough or State road rights-of-way	100 feet	150 feet
other perimeter boundaries of the development tract	50 feet	100 feet
crop land or pasture land not on the development parcel	100 feet	100 feet
buildings or barnyards housing livestock not on the development parcel	300 feet	300 feet
active recreation areas such as courts and play fields not on the development parcel (not including tot lots)	150 feet	150 feet

1001.8 Uses Permitted on Conservation Open Space

The following uses are permitted in Conservation Open Space areas:

- A. Open Land - Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).
- B. Agriculture and Horticulture – If permitted in the Zoning District and in compliance with minimum parcel sizes and other applicable standards, agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings. Specifically

excluded are dwellings, commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.

- C. Horses - If permitted in the Zoning District and in compliance with minimum parcel sizes and other applicable standards, pasture land for horses used solely for recreational purposes and equestrian facilities not consuming more than fifty (50) percent of the minimum required Conservation Open Space.
- D. Forestry - Forestry in keeping with established best management practices for selective harvesting and sustained yield forestry as published by the Pennsylvania Bureau of Forestry.
- E. Neighborhood Open Space - Uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses.
- F. Recreation - Active non-commercial recreation areas, such as playing fields, playgrounds and bikeways, not requiring supporting structures. Such recreational uses shall meet the following standards:
  - 1. Such areas shall not consume more than fifty (50) percent of the minimum required Conservation Open Space or five (5) acres, whichever is less. The 5-acre limit may be increased to ten (10) acres on development parcels two hundred (200) acres or larger.
  - 2. Playing fields and playgrounds shall not be located within one hundred (100) feet of the tract boundary or a dwelling unit within the development parcel.
  - 3. Minimum parking facilities for the same, as determined by the Borough Council, may also be permitted. Such lots may be paved with gravel and shall be unlighted, properly drained and provide safe ingress and egress.
- G. Golf Courses - Audubon International Signature Golf Courses and their accessory facilities and parking areas, when permitted by the underlying zoning district, may comprise up to fifty (50) percent of the minimum ATA of the required Conservation Open Space. This use shall not include driving ranges or miniature golf. The gross floor area devoted to sales of golf equipment, clothing, food and other similar items shall not exceed 1,200 square feet. Accessory facilities and parking areas shall not count toward the minimum Conservation Open Space requirement.
- H. Water/Sewer - Water supply systems, sewage disposal systems, stormwater management systems and associated easements provided the total area does not exceed twenty (20) percent of the minimum ATA required in the Conservation Open Space. The following standards shall apply:
  - 1. Water Supply Systems
    - a. Drainage easements for water lines may be counted toward the minimum Conservation Open Space requirement.
    - b. Land used for ground-level well structures and associated parking exceeding five thousand (5,000) square feet shall not count toward the minimum Conservation Open Space requirement.
  - 2. Sewage Disposal Systems
    - a. Sewage treatment lagoons, structures, structure access areas and parking lots shall not count toward the Conservation Open Space requirement.

- b. Soil absorption areas shall be appropriate for active or passive recreation.
  - c. Sewage disposal areas in Conservation Open Space shall be appropriate for active or passive recreation or shall be managed as meadows or forests; and may be counted toward the minimum Conservation Open Space requirements.
  - d. Absorption fields serving individual dwelling units may be located in the Conservation Open Space, but individual treatment tanks shall be located within the lots they serve.
  - e. Each proposed absorption field area located in the Conservation Open Space shall be situated in the closest proximity to the lot served.
  - f. The responsibility for the maintenance of any individual absorption system shall be clearly defined including adequate surety, and an easement for the installation and maintenance of any such system shall be provided.
  - g. Drainage easements for sewer lines may be counted toward the minimum Conservation Open Space requirement.
3. Stormwater Management Systems - The following stormwater management practices may be counted toward the minimum Conservation Open Space requirement, provided they meet the guidelines in the Pennsylvania Stormwater Best Management Practices Manual:
- a. Infiltration basin, provided the berms do not exceed 36 inches in height;
  - b. Subsurface infiltration bed;
  - c. Infiltration trench;
  - d. Rain garden;
  - e. Vegetated swale;
  - f. Infiltration berm provided the berms do not exceed 24 inches in height.
- I. Easements - Easements for drainage, access, sewer or water lines, or other public purposes.
- J. Utility Rights-of-Way - Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required Conservation Open Space.

1001.9 Conservation Open Space Design and Other Standards

- A. Four-Step Design - Conservation Open Space in all options shall be identified and laid out in accord with the Four-Step Design Process and Conservation Open Spaces Design Standards in the Subdivision and Land Development Ordinance, which begins with the identification of primary and secondary conservation areas.
- B. Map of Potential Conservation Lands - Conservation Open Space shall be laid out in accordance with the Borough's Map of Potential Conservation Lands to ensure that, over time, an interconnected network of Conservation Open Space will be created.
- C. Layout - The Conservation Open Space shall be in the largest blocks possible and shall be laid

out to ensure that an interconnected network of open space will be provided.

- D. Permanence, Ownership and Maintenance - The required Conservation Open Space shall be subject to permanent conservation easements prohibiting future development, prohibiting its use to meet open space requirements for any other development, and defining the range of permitted activities. The Conservation Open Space shall be owned and maintained in accord with the Borough Subdivision and Land Development Ordinance.
- E. Use by Development Residents - In no case shall the amount of land available for the common use and enjoyment of the subdivision residents be less than twenty (20) percent of the Adjusted Tract Area. Not less than fifteen (15) percent of the Conservation Open Space shall be free of wetlands, floodway, and slopes over fifteen (15) percent; and, this minimum percentage shall be included in the Conservation Open Space set aside for the common use and enjoyment of the subdivision residents.
- F. Trails - When the Borough Council determines a benefit to residents of the development in the form of trails or open space links, the applicant shall provide such linkages. In establishing the need for such linkages, the Borough Council may consider:
1. Implementation of the Borough Comprehensive Plan, Open Space Plan, trail map or official map;
  2. Trails integral to children's access to schools and parks;
  3. Impact on woodland and stream corridors.
- G. Buffers for Adjacent Public Park Land - Where the proposed development adjoins public park, state forest or state game land, a natural Conservation Open Space buffer at least one-hundred-fifty (150) feet in width shall be provided within the development along its common boundary with such public land, within which no new structures or other improvements shall be constructed, nor shall any clearing of trees or under story growth be permitted, except as may be necessary for street or trail construction or for the removal of invasive plant species.
1. Where existing vegetation provides an adequate buffer, as determined by the Borough Council, the depth may be reduced to seventy-five (75) feet.
  2. Where the buffer is unwooded, the Borough Council may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through restricted mowing policies and the periodic removal of invasive plant species.
- H. Building lots - No portion of any building lot may be used for meeting the minimum Conservation Open Space requirement.
- I. Access - Pedestrian and maintenance access shall be provided to Conservation Open Space in accord with the following requirements:
1. No more than fifteen (15) lots shall be contiguous to each other without a centrally located access point meeting the following standards:
    - a. The width of the access strip shall not be less than twenty (20) feet.
    - b. The access strip shall extend the full depth of the adjacent lots.

2. Access to Conservation Open Space used for agriculture or horticulture may be restricted or prohibited for public safety and to prevent interference with agricultural operations.
- J. Landscaping - Conservation Open Space that is not wooded or farmed shall be landscaped in accord with the landscaping requirements and Conservation Open Space management plan standards.
- K. Exterior Views - Views of dwellings from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the this Ordinance and the Borough Subdivision and Land Development Ordinance.

#### 1001.10 Modification of Area and Bulk Standards via Conditional Use

Applicable area and bulk requirements, but not density requirements, may be modified up to fifty (50) percent subject to conditional use approval by the Borough Council. Any conditional use approval to permit such modification(s) shall be subject to the following criteria:

- A. Ordinance Consistency - The design and modifications shall be consistent with the purposes and the design standards contained in this Ordinance.
- B. Street System - The design and modifications shall not produce lots or street systems that would be impractical in terms of layout or circulation, or detract from the appearance of the development or surrounding community, and shall not adversely affect emergency vehicle access.
- C. Quality of Design - The applicant shall demonstrate to the Borough Council that the proposed modification(s) will produce equal or better development design and open space conservation results than could be achieved without the requested modification.
- D. Burden; Conditions - If the Borough Council determines that the applicant has met the burden of proof, it may grant a conditional use for the modification of the requirements. The Borough Council may impose such conditions as will, in its judgment, secure the objectives and purposes of this Ordinance.

### **§1002 TWO-FAMILY DWELLINGS**

Where permitted by the Use Regulations, two-family dwellings shall comply with the requirements of this §1002 and other applicable standards in this Ordinance.

#### 1002.1 Common Property Line

In cases where a two-family dwelling is a duplex involving a common (i.e. party) wall and common property line, said wall shall be located on the common property line separating the adjoining lots. The minimum lot size shall comply with the Schedule of Development Standards for the District.

#### 1002.2 Single Parcel

In cases where the two-family dwelling is located on a single parcel with side-by-side units or with one (1) unit located on the second floor above a first floor dwelling unit, the lot size shall comply with the Schedule of Development Standards for the District. If such a two-family dwelling is proposed on two (2) or more separate lots of record, said lots shall be combined into one (1) lot prior to the issuance of a Zoning Permit.

### §1003 MULTI-FAMILY DWELLING DESIGN STANDARDS

The following standards shall apply to the design of residential development involving multi-family dwellings, including townhouses, apartment buildings and triplexes:

#### 1003.1 Length; Number of Units

The maximum length of a multi-family building shall be one hundred and sixty (160) feet, and it shall contain no more than eight (8) dwelling units.

#### 1003.2 Building Design

Dwelling buildings shall be designed to provide individual dwelling units with views and direct access to common open space and parking areas.

#### 1003.3 Open Space

- A. A minimum of thirty (30) percent of the development shall be designed, used and maintained as common open space for the enjoyment of development residents.
- B. The common open space shall provide opportunities for recreation and shall comply with §1001.8 and §1001.9 unless otherwise regulated by this §1003.

#### 1003.4 Building Clusters

Buildings shall be arranged in clusters so as to create efficient access to common parking, provide adequate buffer areas from adjacent residential lots and avoid parallel rows of buildings. Where clustering is not feasible due to the physical conditions of the tract, no more than three (3) abutting, parallel buildings shall be permitted.

#### 1003.5 Setbacks

Dwelling units shall comply with the following setback requirements:

- A. Minimum setback from tract/public rights-of-way: 75 feet.
- B. Minimum setback from common parking areas: 20 feet.
- C. Minimum setback between buildings (face to face): 50 feet.
- D. Minimum setback between buildings (end to end): 30 feet.

#### 1003.6 Water and Sewer

The applicant shall demonstrate that adequate public water and sewer facilities are available to serve the development. Evidence of system approval shall be obtained from the Pennsylvania Department of Environmental Protection prior to development approval.

#### 1003.7 Outdoor Lighting

Outdoor lighting within the development shall be designed so as to eliminate direct illumination and glare onto adjacent residential properties and in compliance with §1105.16.

## §1004 COMMON OPEN SPACE STANDARDS

Unless otherwise regulated by this ordinance for a particular type of development, the following regulations shall apply to the design, ownership and maintenance of common open space, where required by this Ordinance, including, but not limited to, mobile home parks, multi-family developments and the residential cluster design option:

### 1004.1 Design Regulations

- A. Environmentally Sensitive Areas - Common open space shall preserve environmentally sensitive areas, including designated Flood Hazard Districts and wetland areas, and slope which exceed twenty-five (25) percent slope.
- B. Active Recreation - A minimum of fifty (50) percent of the required common open space area shall be suitable for active recreation and shall not be comprised of areas with slopes in excess of fifteen (15) percent or wetlands.
- C. Access - All common open space areas shall be designed to provide direct or easy access by all residents for which the open space is to be available.
- D. Width - All common open space tracts shall have a minimum width of seventy-five (75) feet.

### 1004.2 Ownership and Maintenance

Common open space shall be owned and maintained by one of the following options:

- A. Fee Simple Dedication - The Borough may from time to time, but shall not be required, to accept the common open space for dedication for public use.
- B. Homeowners Association - The common open space may be held by an association comprised of property owners in a manner found acceptable by Borough Council. Said association shall establish bylaws, a maintenance schedule, association fees and budget.
- C. Condominium - The common open space may be controlled through the use of condominium agreements found acceptable to the Borough Council. Such agreements shall be in conformance with the Pennsylvania Unit Property Act.
- D. Developer Maintained - In the event that the developer elects to hold ownership of the tract, the maintenance of the common open space shall remain his responsibility.

## §1005 CONVERSION TO DWELLINGS

Any conversion of any building to a residential use or the conversion of any dwelling to accommodate additional dwelling units shall comply with the standards in this §1005 and the other requirements applicable to the proposed dwelling type.

### 1005.1 Allowed Use in District

The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units, or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this Ordinance.

### 1005.2 Standards

The resulting occupancy shall comply with the requirements governing new construction in such district with respect to dwelling unit, living space, lot coverage, dimensions of setbacks and other open spaces, off-street parking, and other applicable standards.

### **§1006 MOBILE HOMES ON INDIVIDUAL LOTS**

It is the intent of this §1006 to provide for the placement of mobile homes on individual building sites not located in a mobile home park.

#### **1006.1 Bulk Requirements**

Mobile homes not located in a mobile home park shall comply with lot areas, setback, height, and other requirements established by this Chapter applicable to single-family dwelling.

#### **1006.2 Foundation**

Mobile homes not located in a mobile home park shall be placed upon and be permanently attached to a complete, permanent, frost-free foundation meeting the requirements of the PA Uniform Construction Code.

### **§1007 GROUP HOMES**

Group homes shall be permitted in any lawful single-family dwelling unit in accord with the Use Regulations, this §1007 and other applicable standards of this Zoning Ordinance.

#### **1007.1 Supervision**

There shall be adequate supervision as needed by an adequate number of person(s) trained in the field for which the group home is intended.

#### **1007.2 Certification**

The use shall be licensed or certified under an applicable State, County or Federal program for group housing, if applicable. A copy of any such license or certification shall be filed with the Borough, and shall be required to be shown to the Zoning Officer in the future upon request. The group home shall notify the Borough within fourteen (14) days if there is a change in the type of clients, the sponsoring agency, or the maximum number of residents or if an applicable certification/license expires, is suspended or is withdrawn.

#### **1007.3 Parking**

One off-street parking space shall be provided for each employee on duty at any one time, and every two (2) residents of a type reasonably expected to be capable of driving a vehicle. Off-street parking areas of more than five (5) spaces shall be buffered from adjacent existing single -family dwellings by a planting screen meeting the requirements of §1105.1 of this Zoning Ordinance.

#### **1007.4 Appearance**

If the group home is within a RR or VR 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.

#### **1007.5 Bulk and Density**



The construction of new group homes shall comply with the minimum lot size and other bulk and density requirements applicable to single-family residential dwellings.

#### 1007.6 Number of Residents

Not more than eight (8) 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.

### **§1008 BOARDING AND LODGING HOUSES**

The following provisions shall apply to boarding and lodging houses:

#### 1008.1 Number of Residents

A maximum of ten (10) boarders shall be permitted to reside in the boarding and lodging house.

#### 1008.2 Kitchen Facilities

Each boarding and lodging house shall contain a kitchen with all facilities which is available to all boarders. Sanitary facilities may be shared.

#### 1008.3 Owner and/or Manager

The owner and/or manager shall reside on the property.

#### 1008.4 Exterior Changes

There shall be no exterior changes to a building, excluding safety measures including fire escapes.

### **§1009 FUNCTIONAL FAMILIES**

#### 1009.1 Purpose

This §1009 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.

#### 1009.2 Special Exception; Standards

The Zoning Hearing Board shall consider each application for a functional family as a special exception in accord with the standards of §1408.4 and, among others, the following considerations:

- (1) The 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 shall 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.
  - (e) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

### 1009.3 Conditions

The Zoning Hearing Board may impose such additional conditions as it deems necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed.

## ARTICLE XI SUPPLEMENTAL PROVISIONS

### §1100 INTRODUCTION: PROHIBITED USES

#### 1100.1 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.

#### 1100.2 Prohibited Uses

Except as otherwise provided in this Ordinance, no building may be erected, altered or used, and no lot may be used for any trade, industry, business or other activity which creates a public nuisance or is noxiously offensive by reason of odor, dust, smoke, gas, vibration, illumination or noise.

### §1101 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 yard. No lot, yard, or other space shall be so reduced in area or dimension as to make it less than the minimum required by this Ordinance except as follows:

#### 1101.1 Nonconforming Lots of Record

See §1311 of this Zoning Ordinance.

#### 1101.2 Access Drives

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

#### 1101.3 Front Yard Exception

Where a vacant lot exists between two (2) improved lots, each of which has a building within twenty-five (25) feet of the property line separating the parcels, a building may be erected on the vacant lot with a front yard not less than the greater front yard of the two (2) adjoining buildings. However, the front yard setback shall not in any case be reduced to less than fifteen (15) feet.

#### 1101.4 Height Limitations

Unless otherwise regulated by this Ordinance, height regulations shall not apply to spires, belfries, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, monuments, water towers, masts and aerials, television antennae, public utility structures that are not buildings, silos, chimneys, ventilators, and parapet walls extending not more than four (4) feet above the regulated height of the building, skylights, bulkheads, and ornamental or necessary mechanical appurtenances. Any such non-agricultural structure which exceeds a height of fifty (50) feet and any such agricultural structure which exceeds a height of one hundred (100) feet shall be considered a conditional use.

#### 1101.5 Projections into Yards (See §1103.1 for accessory structures.)

All parts of structures shall meet the required setbacks except that projections into required yards shall be permitted only as follows:

- A. Patios and Terraces - Patios and terraces with a fence or railing not more than three (3) feet in height may be located in required yards not less than twenty (20) feet to any public road right-of-way or ten (10) to any property line.
- B. Open Fire Escapes - Open fire escapes shall not project into any yard more than four and one-half (4.5) feet.
- C. Architectural Features - Chimneys, cornices, eaves, gutters, bay windows and similar architectural features may extend not more than two (2) feet into any yard.

#### 1101.6 Reduction of Required Area or Space

The area or dimension of any existing lot, yard, parking area or other space shall not be reduced to less than the minimum required by this Ordinance.

### §1102 **UNIQUE LOTS, YARDS AND BUILDING LOCATIONS**

#### 1102.1 Two or More Uses on a Lot

- A. Development Standards - Two (2) or more principal buildings or uses located on a parcel in single ownership shall conform to all the requirements of this Ordinance which would normally apply to each building or use if each were on a separate district lot, including but not limited to setbacks, parking, lot coverage, and sewage disposal requirements.
- B. Residential Density - For the purposes of density of residential structures, lot size shall be increased to maintain the density required by this Ordinance - For example, the parcel size required for three (3) single-family dwellings on one parcel would be determined by multiplying the minimum lot size for one (1) dwelling by a factor of three (3).
- C. Nonresidential Uses - In the case of nonresidential uses, there shall be no limit on the number of uses or structures on a single parcel provided all other standards of this Ordinance are satisfied. This shall not apply to adult businesses, junkyards, natural resource uses, solid waste facilities, or other uses with a special minimum parcel size requirement listed in this Ordinance, in which case the parcel size shall be increased to provide for the minimum land area for each use on the parcel.
- D. Residential and Nonresidential on the Same Lot
  - 1. RR Districts – In RR Districts residential dwellings provided for in the District Use Regulations shall be permitted on the same lot as a permitted nonresidential use provided the lot is of sufficient size to meet the residential unit density required by this Ordinance in addition to the land area needed to meet the density requirement for the nonresidential use.
  - 2. VC, HS and LI Districts – In VC, HS and LI Districts one (1) residential unit per property shall be permitted in association with a non-residential use without an increase in the minimum lot size requirement provided said unit is attached to and is an integral part of the principal non-residential structure. The residential unit shall be occupied only by the owner or employee of the non-residential use. Any additional residential dwelling units, if provided

for in the District by the Use Regulations, shall be permitted on the same lot as a non-residential use only if the lot is of sufficient size to meet the residential unit density required by this Zoning Ordinance in addition to the land area needed to meet the density requirement for the non-residential use.

- E. Structure Separation - Principal structures located on the same lot shall be separated by a distance at least equal to the height of the highest adjoining structure, but in no case less than twenty (20) feet. (See §1103.1 for accessory structures.)

#### 1102.2 Street Frontage / Front Yards

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

#### 1102.3 Clear View at Street Intersections

Clear sight triangles shall be provided at all intersections with the public road. The minimum distance between centerlines shall be fifty (50) feet where a local street is involved and seventy-five (75) feet where a collector street is involved. Driveway entrances shall be located so as to provide safe access to the intersecting road. To accomplish this, Pennsylvania Code, Title 67, Transportation, Department of Transportation, Chapter 44 1, Access to and Occupancy of Highways by Driveways and Local Roads, shall be used and the requirements therein shall be followed, subject to the review of the Borough Zoning Officer. Where a state route is involved the minimum distance shall be seventy-five (75) feet or as required by PennDOT.

### §1103 ACCESSORY STRUCTURES AND USES

#### 1103.1 Accessory Structures

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

- A. Unattached Accessory Structures - An unattached accessory structure shall comply with the yard requirements established for each District.
- B. Attached Accessory Structures - An accessory structure attached to a principal building shall comply with the yard requirements for principal structures established for each District.
- C. Containers, Truck Trailers
1. Sea containers, storage containers, truck trailers, and similar structures located on a lot for more than thirty (30) days shall only be permitted in the LI District and shall be considered accessory structures.
  2. Such structures shall maintain a setback of one hundred (100) feet from public road rights-of-way and the side and rear yards applicable to principal structures in the LI District. Side and rear yards shall be twice the normal setback in cases where the structure adjoins a residential use or VR District.
  3. All such structures shall be screened in accord with §1105.1 and shall be maintained in good condition.

### 1103.2 Sale of Farm Products

The display and sale of farm products shall comply with the following standards:

- A. The operation shall be designed as an accessory use, incidental to an agricultural activity.
- B. A minimum of three (3) off-street parking spaces shall be provided on the lot where farm products are to be sold.

### 1103.3 Home Occupations

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

- A. Incidental and Secondary - The home occupation must be clearly incidental and secondary to the use of the dwelling as a residence.
- B. Area - The total area used by all home occupations on the premises shall not exceed twenty-five (25) percent of the gross floor area of the dwelling unit or six hundred (600) square feet, whichever is less. The use of an accessory structure shall not exceed six hundred (600) square feet in gross floor area.
- C. Outside the Dwelling - There shall be no evidence visible from outside the dwelling (show windows, business displays, advertising, etc.) that the residence is being operated as a home occupation except for a sign, if permitted, and required parking area. No outdoor display or display visible from outdoors, or outdoor storage of materials, goods, products, supplies, or equipment used in the home occupation(s) shall be permitted.
- D. Employees - The home occupation(s) shall be conducted only by members of the family residing in the dwelling and not more than two (2) persons other than residents of the dwelling shall be employed on the premises.
- E. Parking - Off-street parking shall be provided on the premises as required by this Ordinance to prevent parking on any public or private street right-of-way, with a minimum of two (2) spaces provided in addition to that required for the residence.
- F. Nuisances - No home occupation use shall generate nuisances such as traffic, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than what is usually experienced in the residential neighborhood.
- G. Retail or Wholesale - No goods or items for retail or wholesale sale shall be permitted except for items hand crafted on the premises or goods and items incidental to the operation of an approved home occupation with the total display and/or storage area limited to indoors and not more than two hundred (200) square feet.
- H. Tractor-Trailer Trucks - The use shall not require servicing by, deliveries by or parking of tractor-trailer trucks. In the VR District, the use shall not require the parking or servicing by a vehicle

with more than 26,000 pounds registered gross vehicle weight, except for deliveries of a maximum of two (2) times per day.

- I. Sign - One (1) sign not more than ten (10) square feet for each face shall be permitted in accord with Article XII.
- J. Performance Standards - The performance standards in §1105 shall apply.
- K. Prohibited Uses - The following uses shall not be permitted as home occupations: commercial stables, veterinarians, commercial kennels, motor vehicle or small engine repair shops, retail or wholesale sales, restaurant, crematoria, funeral parlors or other uses not meeting the requirements of this §1103.3.
- L. Accessory Uses - The following types of uses shall be permitted as accessory uses in all districts:
  - 1. Professional offices for individual practitioners.
  - 2. Rooming and/or housing of not more than two (2) persons.
  - 3. Custom dressmaking or tailoring.
  - 4. Foster family care for not more than four (4) children simultaneously.
  - 5. Day care that provides care for six (6) or fewer children at any one time who are not relatives of the care giver.
  - 6. Tutoring for not more than four (4) children simultaneously.
  - 7. Mail order or sales businesses not involving customer contact on the premises or wholesale brokering not involving stock on the premises.
  - 8. Businesses involving the use of personal computers for sales or services and which do not involve customer contact on the premises.
  - 9. Single practitioner beauty shops and barbershops.
  - 10. No-impact home-based businesses as defined in Article II.
- M. Special Exceptions - All applications for home occupations not specifically enumerated as permitted in §1103.3L or excluded by §1103.3K, shall be considered special exceptions.

#### 1103.4 Private Parking Areas, Garages Accessory to Residential Uses

Accessory off-street parking areas or garages serving the residential or non-residential parking demand created by the principal building are permitted in accord with §1104. Accessory garages shall conform with §1103.1.

#### 1103.5 Home Gardening, Nurseries and Greenhouses

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

#### 1103.6 Private Outdoor Swimming Pools

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

- A. The swimming pool shall be for the private use of the residents of the dwelling unit or for their guests.

- B. The pool and any associated deck or patio shall be permitted only in rear yards and shall comply with setbacks for accessory structures.
- C. A fence shall be provided in accord with PA Uniform Construction Code requirements.

#### 1103.7 Stables, Private

Private stables are permitted in accord with District Use Regulations subject to the requirements of §1106.5B.

#### 1103.8 Heliports in Association with an Approved Use

Heliports in association with an approved use, in addition to all other applicable Ordinance requirements, shall comply with the following standards.

- A. Allowed only in the LI District as a special exception.
- B. The applicant shall document compliance with all applicable state and federal regulations.
- C. The landing pad shall be a minimum of five hundred (500) feet from any RR, VR or MHP District or any existing dwelling not located on the parcel for which the heliport is proposed.

#### 1103.9 Satellite Dish Antennae

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

#### 1103.10 Wind Turbine Generators, Accessory

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

- A. Excess Electricity - Accessory wind turbine generators shall provide power for the principal use and/or accessory use of the property on which it is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
- B. Height - The applicant shall demonstrate that the accessory wind turbine generator and support structure is no higher than required by the manufacturer's standards. Any accessory wind turbine generator which exceeds a height of seventy-five (75) feet as measured from the highest point of the rotor plane or vertical axis shall be considered a conditional use.
- C. Minimum Parcel Size; Setback
  - 1. A minimum lot size of three-fourths (0.75) acres shall be required for an accessory wind turbine generator.
  - 2. No part of the wind turbine generator, support structure, blades or vertical axis shall be located from any property line and any public road rights-of-way less than ten (10) feet plus



the total height of the wind turbine as measured from the highest point of the generator, rotor plane, or support structure, whichever is higher.

3. Guy wire anchors shall not extend closer than ten (10) feet to any property line or road-right-of-way.

D. Uniform Construction Code; Manufacturer's Standards

1. Applications for accessory wind turbine generators shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings, documenting compliance with the Uniform Construction Code.
2. The generator and support structure shall be installed in accord with all Uniform Construction Code and manufacturer requirements.
3. Prior to the issuance of a certificate of use, the applicant shall provide documentation to the satisfaction of the Zoning Officer that the generator and support structure have been installed in accord with all Uniform Construction Code and manufacturer requirements. If deemed necessary by the Zoning Officer, the Zoning Officer may require certification from a registered professional engineer or a representative of the manufacturer.

E. Climb Prevention, Locks and Fence

1. Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
2. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent access by non-authorized persons.

F. Noise and Shadow Flicker

1. Audible sound from an accessory wind turbine generator shall not exceed forty-five (45) dBA as measured at the property line of the parcel on which the accessory wind turbine generator is located. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1. 1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*, or replacement document.
2. Best efforts shall be used to minimize shadow flicker on any other parcel.

G. Color and Lighting; FAA and PA DOT Notice - Accessory wind turbine generators and support structures, including rotors, shall be a non-obtrusive color such as white, off-white or gray. Wind turbines shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No wind turbine may be artificially lighted, except as required by FAA requirements.

H. Site Plan - A plot plan shall be provided to document all required setbacks.

I. Removal - The wind turbine and support structure shall be immediately removed when it is no longer in service and failure to do so shall constitute a zoning violation.

1103.11 Solar Collectors, Accessory

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

- A. Districts; Standards - Accessory solar collectors and associated energy storage facilities are permitted in all districts only in compliance with this §1103.11 and other applicable standards of this Ordinance.
- B. Excess Electricity - Accessory solar collectors shall provide power for the principal use and/or accessory use of the property on which it is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
- C. Mounting - A solar energy system may be roof mounted or ground mounted.
- D. Height
  - 1. Roof Mounted - A roof mounted system may be mounted on a principal building or accessory building. A roof mounted system whether mounted on the principal building or accessory building, shall not exceed the maximum building height or accessory building height specified for the underlying zoning district.
  - 2. Freestanding - A freestanding system shall not exceed the maximum building height for accessory buildings.
- E. Setback - The following setbacks shall apply.
  - 1. Roof Mounted - In no instance shall any part of the solar energy system extend beyond the edge of the roof.
  - 2. Freestanding - Freestanding solar collectors shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- F. Mechanical Equipment - Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district and shall be screened from any adjacent property.
- G. Power Lines - All power transmission lines from a freestanding solar energy system to any building or other structure shall be located underground.
- H. Uniform Construction Code; Manufacturer's Standards - The system shall be installed in accord with Uniform Construction Code and manufacturer's standards.
- I. Removal - The solar collectors and all associated equipment and facilities shall be immediately removed when it is no longer in service and failure to do so shall constitute a zoning violation.

#### 1103.12 Temporary Uses

- A. Definition - A use accessory to another permitted principal use that operates at a fixed location for a temporary period of time.

- B. Zoning Permit Required - No temporary use shall be established unless a zoning permit evidencing the compliance of such use with the provisions of this §1103.12 and other applicable provisions of this Ordinance shall have first been issued.
- C. Particular Temporary Uses Permitted - The following are temporary uses which are subject to the following specific regulations and standards, in addition to the other requirements specified in this Ordinance.
1. Contractor's Office and Construction Equipment Sheds
    - a. Permitted in any district where use is incidental to a construction project. Office or shed shall not contain sleeping or cooking accommodations.
    - b. Maximum length of permit shall be one (1) year.
    - c. Office or shed shall be removed upon completion of construction project.
    - d. Required water supply and sanitary facilities shall be provided.
  2. Real Estate Sales Office
    - a. Permitted in any district for any new subdivision approved in accord with the Subdivision Ordinance. The office may not contain sleeping or cooking accommodations. A model home may be used as a temporary sales office.
    - b. Maximum length of permit shall be one hundred and twenty (120) days.
    - c. The office shall be removed upon completion of the development of the subdivision.
    - d. Required water supply and sanitary facilities shall be provided.
  3. Temporary Shelter
    - a. When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home or recreational vehicle (see definition in Article II) located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations.
    - b. Required water supply and sanitary facilities must be provided.
    - c. Maximum length of permit shall be twelve (12) months, but the zoning officer may extend the permit for a period or periods not to exceed sixty (60) days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least fifteen (15) days prior to expiration of the original permit.
    - d. The mobile home shall be removed from the property prior to issuance of any occupancy permit for the new or rehabilitated residence.
- D. Temporary Uses by Conditional Use - For temporary structures or uses that are not specifically permitted by right by this Ordinance, and other than customary accessory uses and other than those uses that were lawfully occurring on a periodic basis prior to the adoption of this

Ordinance, a temporary permit may be issued by the Borough Council as a conditional use of structures or uses that would not otherwise be permitted, subject to the following additional provisions:

1. Duration - The Borough Council shall establish a limit on the duration of the use. In the case of a special event, except under special circumstances, this should be a maximum of seven (7) days in any 60-day period. The Borough Council may grant a single approval once for numerous occurrences of an event.
2. Statement from Owner - The applicant shall present a statement from the owner of record of the land accepting responsibility to ensure that the use or structure is removed once the permit expires.
3. Removal - Such structure or use shall be removed completely upon expiration of the permit without cost to the Borough. If the structure or use is not removed in a timely fashion after proper notification, the Borough may remove the use or structure at the cost of the person who owns the land upon which the structure or use is located.
4. Conditions - The temporary use or structure shall: 1) be compatible with adjacent uses and 2) clearly be of a temporary nature.
5. Fee - The Borough Council may waive and/or return the required application fee if the applicant is an Internal Revenue Service recognized and well-established nonprofit organization, and the applicant clearly shows that the proposed use is temporary and will be used to clearly primarily serve a charitable or public service purpose.
6. Nonprofit - Only a well-established and Internal Revenue Service recognized nonprofit organization proposing a temporary use to clearly primarily serve a charitable or public service purpose shall be eligible to receive approval for a temporary commercial use in a district where that use is not permitted.
7. Special Events - For a special event that will attract significant numbers of the public, the Borough Council may deny the use if it determines that the following will not be generally appropriate: sanitary and water service, traffic control, off-street parking and protection of the public health and safety.

E. Additional Regulations

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

## §1104 OFF-STREET PARKING AND LOADING

This 1104 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.

### 1104.1 Availability and Use of Facilities

- A. Availability - The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term *parking space* includes either covered garage space or uncovered parking lot space located off the public right-of-way.
- B. Location of Parking - Required off-street parking spaces shall be on the same lot with the principal use served, except as approved in §1104.10 or §1104.11.
- C. Continuing Obligation of Parking and Loading Spaces - All required numbers of parking spaces and off-street loading spaces shall be available as long as the use or building which the spaces serve still exists, and such spaces shall not be reduced in number below the minimum required by this Ordinance.
- D. Non-parking Use - Required off-street parking, loading, and unloading facilities and access ways shall not be used for any other purpose, including, but not limited to, sales, display or storage areas, or the parking of any vehicles for which the area was not approved (e.g., parking of tractor trailers in required passenger vehicle areas).
- E. Existing Parking - Any parking spaces serving such preexisting structures or uses at the time of the adoption of this Ordinance shall not in the future be reduced in number below the number required by this Ordinance. If a new principal nonresidential building is constructed on a lot, then any existing parking on such lot that serves such building shall be reconfigured to comply with this Ordinance, including, but not limited to, required parking and areas reserved for additional parking if needed, requirements for channelization of traffic from adjacent streets, channelization of traffic within the lot, minimum aisle widths, paving and landscaping.
- F. Garages and Carports - Garages and carports not in the public right-of-way may be considered parking spaces.

### 1104.2 Site Plan; Design

- A. Site Plan - The project application shall include a site plan that shows the parking, loading and unloading area, and access design.
- B. General - Parking spaces, loading and unloading areas, and access ways shall be laid out to result in safe and orderly use and to fully address all of the following: vehicular access onto and off the site, vehicular movement within the site, pedestrian patterns and any drive through facilities. No parking area shall cause a safety hazard or impediment to traffic on or off the lot.
- C. Pedestrian Access and Circulation - The parking and access plan shall include details of pedestrian access to the site and pedestrian circulation within the site. The intent shall be to facilitate pedestrian access and provide safe and convenient circulation from parking areas to the structure or use.

- D. Design - Off-street parking areas, load and unloading areas, access ways, fire lanes, traffic flow signs, pavement markings, and other necessary facilities shall be designed and provided in accord with the most current Urban Land Institute or Institute of Transportation Engineers methodology, or other generally accepted methodology approved by the Borough. Notwithstanding the above, all parking spaces and the overall design shall be ample in size for the vehicles for which use is intended.

1104.3 Lighting

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

1104.4 Public Rights-of-Way

Parking, loading and unloading of vehicles shall not be permitted on public rights-of-way, 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.

1104.5 Number of Spaces

A. Parking Required

1. Any structure or building which is hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with off- street parking spaces adequate to serve such use but with not less than the minimum spaces, as set forth in the following Table, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.
2. For projects involving more than one use and/or structure the total number of parking spaces required shall be determined by summing the number of spaces for each individual use.
3. Additional parking for the handicapped shall be provided in accord with federal requirements.
4. For uses not specifically provided in the Table, the Borough Council, with the recommendation of the Planning Commission, shall determine the required number of spaces based upon the similarity of the proposed use to the uses provided.

USE	PARKING SPACES REQUIRED
A. Dwellings	2 per dwelling unit
B. Homes for handicapped or infirm, nursing homes, group care homes, halfway houses and similar uses	1 per every 2 beds
C. Hotels, motels, boarding and tourist homes, bed and breakfast establishments and other uses providing overnight accommodations	1.1 per bedroom
D. Sales and rental of goods, merchandise and	

equipment	
1. Retail establishments	1 per 200 SFGFA open to the public
2. Wholesale establishments	1 per 800 SFGFA
3. Flea markets	1 per 200 square feet of lot area designated for display or sales
E. Offices, research facilities and services not primarily related to goods	
1. Serving customers or clients on premises such as attorneys, physicians, insurance and travel agents	1 per 200 SFGFA
2. Drive-in banks	1 per 200 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
3. Serving little or few customers or clients on premises, such as corporate offices	1 per 250 SFGFA
4. Funeral homes	1 per 100 SFGFA open to the public
F. Manufacturing, processing, renovating, assembling goods, merchandise and equipment	1 per 600 SFGFA
G. Educational, cultural religious social, fraternal uses	
1. Public schools	1.75 per classroom for elementary and middle schools; and 5 per classroom for high schools
2. Trade and vocational schools, colleges	1 per 100 SFGFA open to the public
3. Churches, synagogues and temples	1 per every 4 seats used for services
4. Libraries and museums, social, fraternal clubs and lodges; and similar uses	1 per 300 SFGFA open to the public
H. Recreation, amusement and entertainment	
1. Bowling alleys, skating rinks, indoor athletic or exercise facilities and similar uses	1 per every 4 persons of fully utilized design capacity (if measurable in such fashion), otherwise 1 per 200 SFGFA
2. Movie theaters, stadiums and similar uses with seating accommodations	1 per every 4 seats
3. Public and private outdoor recreation facilities such as golf courses, swimming pools and similar uses	1 per 200 SFGFA open to the public plus 1 per every 3 persons of fully utilized design capacity
4. Commercial water craft docking facilities, including such facilities at waterfront marinas	2 per every 3 slips
I. Hospitals, clinics and other medical treatment facilities	2 per bed or 1 per 200 SFGFA, whichever is greater
J. Restaurants, bars, taverns and other eating establishments	1 per 2 seats plus reservoir lane capacity equal to 5 spaces per drive-in window
K. Vehicle related uses (See definition of vehicle in Article II.)	
1. Sales, service, repair	1 per 250 SFGFA
2. Gas sales	1 per 250 SFGFA plus sufficient parking area at pumps which does not interfere with other required spaces
3. Car wash	1 per 100 SFGFA plus 2 reservoir spaces in front of each stall for self-serve and 5 reservoir spaces for conveyor type

L. Warehousing and storage	1 per 4,000 SFGFA
M. Miscellaneous uses	
1. Veterinary	1 per 200 SFGFA open to the public
2. Nursery schools and day care	1 per 150 SFGFA open to the public
3. Greenhouses	1 per 200 SFGFA open to the public
4. Emergency services	1 per 200 SFGFA open to the public
5. Junk and scrap yards	1 per 200 SFGFA open to the public
6. Post office	1 per 200 SFGFA open to the public
<p>Note: SFGFA means "square feet of gross floor area". Gross floor area is the sum of the total horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, or any space where the floor-to-ceiling height is less than six feet.</p>	

- B. Reserved Parking Disturbance and Stormwater - The reserve parking areas shall remain undisturbed or shall be landscaped, but shall be included in the calculations of lot coverage area and for stormwater management. The stormwater facilities shall be constructed in accord with the approved sequencing design as parking areas are constructed.
- C. 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.
- D. Multiple Uses (See also §1104.11.) - 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.
- E. Handicapped Parking - Parking for the handicapped shall be provided in accord with the Americans With Disabilities Act and shall count as part of the spaces required for the use by this §1104.



#### 1104.6 Loading and Unloading Areas

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

#### 1104.7 Access to Off-street Parking and Loading Areas

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

- A. Residential Street Access - Unless clearly impractical, all residential lots shall have direct access only to a local street. Where lots are created having frontage along existing collector or arterial roads, the proposed street pattern shall provide reverse frontage access to a local street within the development, rather than access onto the collector or arterial road. Front yard setback shall be calculated from the local road.
- B. Double Frontage - Where a lot is created or exists between two (2) parallel roads, access from both roads shall be prohibited. In such cases, the provisions of §1104.7A shall apply.
- C. Access Intersection Distance - Unless otherwise required by PennDOT for access to a state road, all access ways from lots to a public street shall be located a minimum distance from an intersection, based on the classification of a road as defined by the Comprehensive Plan, as follows:
  - 1. Local Road Intersecting Local Road - Fifty (50) feet.
  - 2. Local Road Intersecting Collector Road - Seventy-five (75) feet.
  - 3. Local Road Intersecting Arterial Road - One hundred (100) feet.

- D. Width - Unless otherwise required by PennDOT for access to a state road, the width of the access way onto a public street at the right-of-way shall be as follows:

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

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

1104.8 Parking and Loading Area Setbacks

- A. Roads and Property Lines - All 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 or adjoining property lines by a landscaped buffer area not less than ten (10) feet in width unless adjoining uses share parking in accord with §1104.11.
1. Measurement - The width of the buffer shall be measured from property lines and from the curb line or from the legal right-of-way line after development if no curbs will be provided.
  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. Sidewalks - Sidewalks, existing or proposed, may be included in the buffer area.
- B. Buildings - Parking spaces serving principal nonresidential buildings and multi-family dwellings shall be located a minimum of ten (10) 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.

#### 1104.9 Grading and Drainage; Paving

- A. Grading and Drainage - Parking and loading facilities, including driveways, shall be graded and adequately drained to prevent erosion or excessive water flow across streets or adjoining properties.
- B. Surfacing - Except for landscaped areas, all portions of required parking, loading facilities and access ways shall be surfaced with a durable surface such as gravel, asphalt, concrete, paving block or porous pavement or pavers.
- C. Low or Seasonal Usage - The Council may, as a conditional use, allow parking areas with low or seasonal usage to be maintained in grass or other suitable surfaces. For example, the Council may allow parking spaces to be grass, while major aisles are covered by stone.

#### 1104.10 Off-lot Parking

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

#### 1104.11 Joint Use Parking

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

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

- D. Common Property Line - The joint-use parking area may span a common property line thereby eliminating the setback required in §1104.8.

#### 1104.12 Shopping Carts

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

#### 1104.13 Merchandise

No merchandise, materials, or goods shall be stored or displayed in any parking lot unless approved in accord with §1105.3.

#### 1104.14 Snow Storage and Removal

All plans for proposed parking areas of 50 or more spaces shall include details for adequate snow storage and removal.

### **§1105 PERFORMANCE STANDARDS**

The intent of this §1105 is to regulate the development and operation of all development in the Borough and to protect the environment and the public health, safety and general welfare. The following performance standards shall apply to all proposed new or expanded nonresidential uses. The standards in this §1105 shall not apply to residential uses or normal agricultural uses unless explicitly referenced by a specific section, but shall apply to concentrated animal feeding operations and any agricultural use which is considered a land development as defined by this Ordinance.

#### 1105.1 Yards and Buffers

Unless otherwise regulated by this Ordinance, where a commercial, light manufacturing or industrial use is proposed contiguous to any existing residential use or any VR or MHP District the minimum size of the abutting yard shall be increased by fifty (50) percent and a landscaped buffer not less than ten (10) feet in width shall be provided in accord with this §1105.1. If larger setbacks and/or buffers are required by another provision of this Ordinance or the Subdivision and Land Development Ordinance, the larger shall apply.

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

- A. Type And Extent - In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
- B. Width - The width of the required buffer, as determined by the Borough, shall not be less than twenty (20) feet with no planting less than five (5) feet from any property line.

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

#### 1105.2 Landscaping and Shade Trees

- A. Landscaping - Landscaping shall be provided for multi-family dwellings and all nonresidential development excluding normal agricultural uses. The landscaping plan shall include the overall design of the landscaping proposed, the type and size of vegetation to be utilized, and details of installation. Landscaping shall be installed to the following minimum standards.
  - 1. All disturbed areas of the site shall be included in the landscaping plan, and those areas immediately adjacent to buildings and walkways shall be given extra consideration.
  - 2. Adequate pedestrian walkways shall be provided for access from parking areas and to common use areas and shall be an integral part of the landscaping; and shall be consistent with the architectural type of the project and shall be a minimum of four (4) feet in width.
  - 3. Plants shall be noninvasive species of Pennsylvania and of a type which are proven successful in the Borough's climate.
  - 4. The variety of landscape materials shall be consistent with building architecture and the surrounding area and plant type shall be appropriate for the size and location of the space it is to occupy.
  - 5. Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.
  - 6. Artificial landscape materials shall not be used in place of live trees, shrubs and vegetative ground cover.
  - 7. Adequate soil preparation in accord with accepted landscape industry practices shall be required.

8. It shall be the responsibility of the property owner to maintain all landscaping in good growing condition and free of weeds, debris and brush, and replace any dying or dead plants or deteriorating landscape material.

B. Shade Trees - Any residential or commercial development proposing the creation of a new public road(s) shall provide shade trees along its length. The design shall be as follows:

1. Trees shall be separated by no more than fifty (50) feet, measured parallel to the street, and no more than one hundred (100) feet measured diagonally across the proposed street. Trees are not to be located within the Borough right-of-way.
2. All trees shall be a minimum of fifteen (15) feet in height, from good nursery stock, and of a noninvasive species indigenous to the area having a deep root system.
3. Planting species may be mixed, provided each grows to a height which will provide adequate shade during the summer along the entire road.
4. Shade trees shall be continually maintained. The applicant shall be responsible for plantings for a period of one (1) year upon dedication of the road(s). All non-surviving trees shall be replaced within six (6) months. The failure to do so shall constitute a violation of the zoning permit. The landowner shall be responsible for maintenance after the one (1) year period expires.

#### 1105.3 Operations and Storage (See also §1103.1.)

A. Building Requirement - All facilities and operations of any principal use (with the exception of nurseries, agriculture and the display for sales purposes of new or used cars, motorcycles, trucks, trailers, vehicles, or farm equipment, in operative condition or other similar uses) including the storage of raw material, finished products, fuel, machinery and equipment and any other materials or supplies shall be enclosed and carried out within a building except as follows:

1. One (1) outdoor sales area meeting the required setbacks for the district shall be permitted not to exceed the lesser of ten (10) percent of the interior retail sales space or five hundred (500) square feet.
2. Outdoor storage for other uses may be approved as a conditional use and larger setbacks and/or buffers to afford protection to adjoining uses and any public road rights-of-way may be required.

B. Required Setbacks - Unenclosed uses and activities shall, in any case, meet the required setbacks for principal structures, unless a greater setback is required by the Borough.

C. Storage - Storage of equipment, supplies, products or any other materials shall not be permitted in any required setback areas.

#### 1105.4 Fire and Explosion Hazards

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

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

#### 1105.5 Radioactivity or Electric Disturbance

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

#### 1105.6 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 of time. 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 as a consequence 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 chapter, 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 ten (10) dBA above the Ambient Noise Level.
- b. An increase in excess of ten (10) dBA shall be permitted provided the owner/operator of the Noise Source acquires a noise easement in form and content approved by the Borough

(solely with respect to the noise easement) from the affected property owner which establishes the maximum increase. However no increase shall be permitted for properties separated by any public road right-of-way and in no case shall the maximum noise level exceed the level established by §1105.6B3.

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 accordance with §1105.6C below for a continuous two (2)-week period no more than two (2) years prior to the start of construction of such project.

3. Maximum Noise Level

<b>Maximum Sound Levels</b>					
Period	Receiving Land Limits (dBA)				
	Existing Dwelling	Zoning District			
		RR, VR, MHP	VC	HS	LI
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.					

Notwithstanding any of the foregoing provisions of this §1105.6B in no event shall a Noise Source produce an A-Weighted Noise Level outside the boundaries of the property on which the Noise Source is located (or in the case of a project considered a single Noise Source, the boundaries of the collective project area) at a level in excess of the limits established in the Maximum Sound Levels Table.

C. Measurements

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 (1) year to the start of construction of such project.
- b. Measurements should be attempted to be performed near outside boundaries which are closest in proximity to where the Noise Source will be located and/or where noise is reasonably expected to be the loudest.
- c. The measurements must be made by an independent professional using the commonly-accepted measurement procedures specified in ANSI/ASA S1.13-2005 (R2010) standard “American National Standard Methods for the Measurement of Sound Pressure Levels In Air” or the current revision of that standard.

#### D. Investigation of Complaints

##### 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 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 shall conduct an average background A-weighted Noise Level measurement before and after the operation of the Suspect Source using commonly-accepted measurement equipment and standards; provided that at the election of the owner/operator, the owner/operator may engage an independent professional to conduct such measurements mutually agreed to by the Borough, at the cost of the owner/operator.
- b. At the direction of the Zoning Officer, the owner/operator of the Suspect Source shall operate the equipment according to normal operating procedures according to design limits, or the maximum approved limits of the conditional use approval, whichever is lower, for the duration of the test.

- c. The owner/operator may be required to operate the equipment in any mode or for any use that the equipment is normally or occasionally used. The owner/operator shall not be required to operate the equipment in any manner inconsistent with the design or normal use, nor in any unsafe manner.

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 fifteen (15) minutes. If manual measurements are being taken, the measurements shall be recorded every fifteen (15) seconds. If an automatic recording device is being used, the recording interval shall be one second, or the closest fixed or variable interval allowed by the meter and recording equipment.

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 (5) minutes and need not be any longer than fifteen (15) minutes.
- b. If manual measurements are being taken, the measurements shall be recorded every fifteen (15) seconds. If an automatic recording device is being used, the recording interval shall be one (1) second, or the closest fixed or variable interval allowed by the meter and recording equipment.
- c. The equation for deducing the A-weighted Noise Level (Leq) being produced by the Suspect Source (Ls) shall be as set forth below where L1 equals the measured average A-weighted Noise Level (Leq) of the background without the Suspect Source in operation and L2 equals the measured average A-weighted Noise Level (Leq) of the background with the Suspect Source in operation. Basically, Ls equals L2 minus L1 as shown in log notation below which is the basis for decibel calculations.

$$L_s = 10 \log_{10} \left( 10^{\frac{L_2}{10}} - 10^{\frac{L_1}{10}} \right)$$

- E. Report - After completion of the background noise level measurements before and after the operation of the Suspect Source, the report of the Zoning Officer (or the independent professional, if engaged by the owner/operator of the Suspect Source) shall include:

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 - Applicants for a specific proposed use shall be required to demonstrate that the proposed use will not violate the standards in this §1105.6F by providing reasonable documentary evidence, which may include:

1. 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
2. Environmental noise measurements from similar operations and sites (same number and types of equipment, comparable topography and prevailing weather conditions).

Given the inherent vagaries of acoustic predictions and the variability of acoustic measurements, the Borough Council may apply conditions which are more conservative than would be indicated by the studies. In any case, the acceptance of proposed control or mitigation measures does not relieve the applicant from complying with the standards provided in this chapter and/or a conditional use approval.

G. Exceptions - The standards in this §1105.6 do not apply to:

1. Radiated noise levels for vehicles or other operations subject to state or federal preemption; however, the operators of violating sources may offer modifications to radiated noise levels of equipment as a curative means.
2. The operation of lawn mowers, leaf blowers, string trimmers, chain saws, and other small yard maintenance equipment between 8 AM and 6 PM local time.
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.

#### 1105.7 Vibration

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

#### 1105.8 Odors

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

#### 1105.9 Other Forms of Air Pollution

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

#### 1105.10 Surface and Ground Water Protection

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

#### 1105.11 Stormwater Management and Soil Erosion Control

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

#### 1105.12 Waste Materials

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

### 1105.13 Settling and/or Storage Ponds and Reservoirs

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

### 1105.14 Security

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

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

### 1105.15 Travel Routes; Access

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

### 1105.16 Lighting and Glare

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

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

- C. Shielding - No light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source.
- D. Glare - No direct or sky-reflected glare, whether from overhead lighting, floodlights or from high-temperature processes or otherwise, shall be permitted. This shall not apply to the lighting of the United States, Pennsylvania or other government flags where the minimal amount of light is used to illuminate the flag.
- E. Nuisances - The intensity, height and shielding of lighting shall provide for adequate and proper safety, and shall not be a nuisance or hazard to drivers and residents of the Borough.
- F. Height - The maximum height of light standards shall not exceed the maximum building height of the District but in no case greater than thirty-five (35) feet. This limitation shall not apply to lights needed for air safety.
- G. Flashing - Flashing, flickering or strobe lights are prohibited, except for non-advertising seasonal lights between October 25<sup>th</sup> and January 10<sup>th</sup>.
- H. Building Lighting - The exterior accent lighting of commercial, industrial, institutional and other nonresidential buildings shall be permitted in accord with the following:
1. The lighting accentuates an architectural or aesthetic element of the building, not the entire building.
  2. The light shall only be directed onto the building facade and shall not spill over beyond the plane of the building.
  3. Upward aimed lighting is prohibited. The lighting shall be aimed downward, shall be fully shielded and shall be mounted as flush to the wall as possible.
  4. Lights that outline property lines, sales areas or any portion of a structure, or any other lighting which has the effect of advertising or drawing attention to the property or a particular business or commercial activity, shall not be permitted except in accord with §1204.2.

#### 1105.17 Water Supply

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

#### 1105.18 Sewage Disposal

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

#### 1105.19 Other Regulations

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

## §1106 STANDARDS FOR SPECIFIC USES

In addition to all other applicable standards in this Ordinance, the standards in this §1106 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.

### 1106.1 Adult Businesses

- A. Findings - In adopting these standards which apply to adult businesses, the Borough has made the following findings in regard to the secondary effects on the health, safety and welfare of the citizens of the Borough. The findings are based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Borough, and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 427 U.S. 50 (1976), and *Northend Cinema, Inc., v. Seattle*, 585 P. 2d 1153 (Wash. 1978), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Saint Paul, Minnesota; Manatee County, Florida; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin Texas; Seattle, Washington; Oklahoma City, Oklahoma; Beaumont, Texas; and New York City, New York; and also on findings found in the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, June 6, 1989, State of Minnesota.
1. Health Concerns - The concern over sexually transmitted diseases is a legitimate health concern which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.
  2. Behavior - Certain employees of sexually oriented business regulated by this Ordinance as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.
  3. Sexual Acts - Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this Ordinance as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.
  4. Unhealthy Conditions - Offering and providing such space, encourages such activities, which create unhealthy conditions.
  5. Sexual Activities - Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
  6. Communicable Diseases - At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, non



- B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.
7. Unhealthy Conditions - Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
  8. Bodily Fluids - Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult oriented films.
  9. Accountability - Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
  10. Externalities - There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
  11. Operational Characteristics. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
  12. Reason for Control - The Borough desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime; preserve the quality of life, preserve property values and the character of the surrounding community.
- B. Intent - It is the intent of this §1106.1 to:
1. Secondary Effects - Regulate adult business in order to promote the public health, safety and welfare by minimizing the secondary effects on the community which are associated with such businesses, and which include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution), and drive residents and businesses to move elsewhere.
  2. Zoning District - Designate a zoning district where adult businesses are permitted, and establish reasonable, content neutral standards applicable to such uses.
  3. Content - Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.
  4. First Amendment - Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the U.S. Constitution.

5. Intended Market - Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
  6. PA Code - Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.
- C. Conditional use - Adult businesses are classified as conditional uses in the District specified in the Use Regulations.
- D. Standards - In addition to the other applicable general standards and the conditional use criteria contained in this Ordinance, the following standards shall apply to adult businesses:
1. Setback - Adult businesses shall not be located less than two hundred (200) feet from any:
    - (a) Dwelling.
    - (b) Place of worship.
    - (c) Public or private school or college.
    - (d) Public park or public recreation facility.
    - (e) Public library.
    - (f) Public museum.
    - (g) Child day care center.
    - (h) Commercial enterprises catering primarily to persons less than eighteen (18) years of age.
    - (i) Gaming establishment.
  2. Similar businesses - Adult businesses shall not be located within two hundred (200) feet of any other adult business.
  3. Measurement - The setback distances established in this §1106.1 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.
  4. Enlargement - An existing, lawful nonconforming adult business may be expanded as a conditional use once in total floor area beyond the floor area that lawfully existed in such use at the time of adoption of this provision of the Zoning Ordinance, but only in accord with Article XIII.
  5. Limit of One Use - It shall be a violation of this Ordinance for any person to cause or permit: the operation, establishment, or maintenance of more than one (1) adult business in the same building, structure or portion thereof, or an increase of floor area of any adult business in any building, structure, or portion thereof that contains another adult business.
  6. Nonconformity - Any adult business lawfully operating on the date of enactment of this Ordinance that is in violation of any of the provisions of this §1106.1 shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, altered or extended, except as permitted in Subsection 4 above. The use may be changed to a conforming use. However, under no circumstances shall a non-conforming use as defined and regulated by this Ordinance be changed to any type of adult business.
  7. Location of New Neighboring Uses - An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant of a conditional use

- permit, a use from which an adult business is required to provide a setback under §1106.1D1 above is developed within the required setback distance.
8. Lighting - Overhead lighting shall be provided to illuminate all improved areas of the property; and said lighting shall be in compliance with all requirements of this Ordinance.
  9. Visibility and Signs - No sexually explicit material, signs, display, silhouette or word shall be visible at any time from outside of the building. Exterior signs shall comply with the provisions of Article XII; however, business identification signs shall be limited to a maximum of twenty (20) square feet and signs attached to the building facade shall be limited to a maximum total of ten (10) square feet. Content of such signs shall be limited to only the text of the name of the business and the hours of operation.
  10. Exemption for Modeling Class - Any modeling class which involves a person appearing in a state of nudity and which is operated by or involves any of the following shall be exempt from the provisions of this §1106.1.
    - a. By a proprietary school, licensed by the State, or an academically accredited college or university;
    - b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;
    - c. In a structure
      - (1) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
      - (2) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
      - (3) where no more than one (1) nude model is on the premises at any one time; or
      - (4) by an organization which qualifies under §501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

1106.2 Agricultural Uses - Crop Production and Animal Husbandry (See §1106.5D for animals on residential lots.)

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

- A. Crop Production - Crop production shall be permitted in any district on any size parcel of land.
- B. Animal Husbandry - Animal husbandry shall be permitted only in those districts as designated on the Use Regulations and in addition to other applicable ordinance standards, the following shall apply:
  - (1) Parcel Size - The keeping of more than two (2) smaller animals for commercial breeding, raising, boarding, or one larger animal or fowl, shall require a minimum of two (2) acres plus one-half (0.5) acre for each additional large animal.

- (2) Fencing or Shelter - Adequate fencing or shelter shall be provided to keep livestock contained within the boundaries of the property.
  - (3) Setbacks - The minimum front, side and rear yard setback distances shall be one hundred (100) feet for any stables, barns or other animal housing structures and for the indoor or outside storage of by-products or waste.
  - (4) Retail Sales - Minor retail sales incidental to animal husbandry shall be permitted.
- C. State Protected Agricultural Operations - Nothing in this Zoning Ordinance is intended to preclude the rights and protections of bona fide agricultural operations afforded by the Pennsylvania Right To Farm Law, as amended; the Pennsylvania Agricultural Securities Area Law, as amended; and other applicable state statutes. Such rights and protections, in terms of limiting the application of the standards in this Zoning Ordinance, shall be afforded to such uses of land which meet the minimum definition of agricultural use as established by the applicable state statute.

### 1106.3 Airports and Heliports

The standards in this §1106.3, in addition to other applicable standards in this Zoning Ordinance, shall apply to all existing and proposed airports. For the purposes of this §1106.3 airports shall include heliports.

- A. Conditional Use - The development of a new airport and any change to an existing airport which would affect the location of airport surface zones, approach zones, or hazard zones, shall be considered conditional uses. In addition to the other requirements of this Ordinance, the requirements of this §1106.3 shall apply to any airport conditional use application. The following shall constitute changes at an airport requiring conditional use approval:
1. Any extension of a runway's length;
  2. Any change in the height of a runway;
  3. The paving of any previously unpaved portions of a runway, if such paving results in any change in airport rating category under 67 Pa. Code §471.5 as amended, effecting or altering the location or extent of any airport hazard zone;
  4. Any change of runway direction or alignment;
  5. Any change in the status of taxiways or holding areas effecting the location areas of airport hazard zones;
  6. Any change in airport rating category under 67 Pa. Code §471.5 as amended, effecting or altering the location or extent of any airport hazard zone.
  7. Any other physical, legal or rating change, or change in methods of operation, flight paths or change in instrumentation or technology resulting in a change in the location or extent of any airport hazard zone.
- B. Application Contents - The application for conditional use shall contain the following documents and information:

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

G. Standards

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

1106.4 Amusement Parks

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

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

1106.5 Animals, Keeping of

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

- meeting the setbacks in §1106.5C5 until disposed of and proof of such disposal shall be provided to the Borough.
6. Retail Sales - Minor retail sales incidental to the kennel/animal shelter shall be permitted.
- B. Stables, Private - Private stables are permitted as an accessory use to a single-family residence subject to the following conditions:
1. Parcel Size - A minimum parcel of two (2) acres shall be required for the residence and stable.
  2. Number of Horses - No more than one (1) horse shall be kept except that one (1) additional horse may be kept for each additional one-half (0.5) acre of land.
  3. Setbacks - No stable building, corral or manure storage area shall be located within fifty (50) feet or an adjoining property line or any public or private road right-of-way.
  4. Existing Structures - On parcels meeting the minimum parcel size requirement, the use of an existing structure for housing of horses, which structure does not meet the required setbacks may be permitted as a conditional use provided the applicant can document that no nuisances will be created due to noise, odor or other factors; and, the Borough can establish adequate conditions to assure the same.
  5. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by adequate fences or other means.
  6. Erosion and Sedimentation; Manure Management - The applicant shall provide a plan for soil erosion and sedimentation control and manure management.
  7. Uses Permitted - The types of uses permitted shall be breeding, raising, boarding, keeping and sale of horses, and necessary buildings and structures.
- C. Stables, Commercial and Horses for Hire - Commercial stables, including horses for hire, shall, in addition to all other applicable requirements of this Ordinance, comply with the following requirements:
1. Parcel Size - A minimum parcel of ten (10) acres shall be required and a single-family residence for the owner or manager shall be permitted on the premises provided all other sections of this Ordinance and other applicable standards are met.
  2. Number of Horses - No more than twenty (20) horses are kept with the exception that one (1) additional horse may be kept for each additional one-half (0.5) acre of land.
  3. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by adequate fences or other means.
  4. Parking - Adequate off-street parking shall be provided pursuant to §1104 with one (1) space provided for each non-resident employee and one (1) space per two (2) horses kept on the premises.
  5. Setbacks - No stable building, corral or manure storage area shall be located within two hundred (200) feet of an adjoining property line and any public or private road right-of-way.

6. Erosion and Sedimentation; Manure Management - The applicant shall provide a plan for soil erosion and sedimentation control and manure management.
  7. Uses Permitted - The following types of uses shall be permitted as part of the horse farm operation:
    - a. Breeding, raising, keeping and sale of horses, and necessary buildings and structures.
    - b. Training of horses, and necessary buildings and structures, including facilities for training only.
    - c. Boarding of horses, and necessary buildings and structures.
    - d. The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests.
    - e. Sale of horses other than the horses raised or boarded on the premises.
    - f. Retail sales of any goods or merchandise which are incidental and accessory to the stable use.
- D. Animals on Residential Lots - (See §1106.5B for private stables.) A reasonable number of customary household pets or domestic animals may be kept on a residential lot without a zoning permit.
1. Reasonable Number - Defined as the amount of animals an individual can manage within the restrictions of this Ordinance.
  2. Containment - All animals shall be contained within the owner's property.
  3. Nuisance - All premises shall be subject to all provisions of the Borough Nuisance Ordinance.
  4. Parcel size - The keeping of hooved animals not customarily considered pets shall require a minimum lot area of two (2) acres.
  5. Setbacks - Stables, coops, runways or animal exercise pens shall be located more than fifty (50) feet from lot lines or road right-of-way lines.
  6. Commercial Operations - The keeping of animals or fowl for any commercial purpose shall be defined as animal husbandry and shall meet the requirements of §1106.2B.
  7. Wastes - All animal waste shall be managed to prevent any violation of the Borough Nuisance Ordinance.
- E. Zoos, Menageries, and Wild and Exotic Animals - Menageries and zoos and the keeping of wild and exotic animals shall, in addition to all other applicable Borough, state and federal requirements, comply with the following:
1. Minimum Parcel - A minimum parcel size of five (5) acres shall be required.



2. Sanitary Condition - All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained.
  3. Treatment of Animals - The permit holder shall use every reasonable precaution to assure that the animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any means.
  4. Incompatible Animals - Animals which are enemies by nature or are temperamentally unsuited shall not be quartered together or so near each other as to cause the animals fear or to be abused, tormented or annoyed.
  5. Offensive Odors and Noise - The permit holder shall maintain the premises so as to eliminate offensive odors or excessive noise.
  6. Peace and Quiet - The permit holder shall not permit any condition causing disturbance of the peace and quiet of his neighbors.
  7. Animal Escape - Animals shall be maintained in quarters so constructed as to prevent their escape. The permit holder assumes full responsibility for recapturing any animal that escapes from his premises. The permit holder shall make adequate provisions and safeguards to protect the public from the animals.
  8. Other Regulations - The operation shall conform to all applicable local, state and federal laws and regulations.
  9. Pen Setback - Any building, pen, corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or animal waste storage shall not be located within two hundred (200) feet of any adjoining property line and one hundred fifty (150) feet from any public or private road right-of-way.
  10. Waste Material - All waste materials generated on the premises shall be disposed of at a PA DEP-approved facility, and a detailed plan for the same shall be included with the zoning application. In any case, all animal wastes shall be stored in water-tight containers in an area meeting the setbacks in §1106.5C5 until disposed of and proof of such disposal shall be provided to the Borough.
- F. Veterinary Clinics - Veterinary clinics with outdoor facilities shall, in addition to all other applicable Borough, state and federal requirements, comply with the following:
1. Large Animals - The building and paddocks shall be located at least two hundred (200) feet from all property lines. All other open pens at any veterinary clinic shall comply with the setbacks for kennels in §1106.5A.
  2. Pets - Clinics for pets shall be located in either a soundproof building with no objectionable odors produced outside the building, in which case all regular district regulations shall apply; or an enclosed building with open pens, in which case the building and pens shall comply with the requirements for kennels in §1106.5A.

#### 1106.6 Bed and Breakfast Establishments

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

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

#### 1106.7 Bulk Fuel Storage Facilities; Retail Heating Fuel Distributors

- A. Bulk Fuel Storage Facilities - In addition to all other applicable standards, bulk fuel storage facilities shall be subject to the specific regulations and requirements in this section and shall be permitted only in those districts as specified in the Use Regulations. The Borough shall establish, as part of the conditional use process, such other conditions as increased setbacks and construction of dikes as necessary to protect the public health, safety and welfare.
  - 1. Setbacks - Storage tanks shall be located not less than one hundred fifty (150) feet from any property line or any road or street right-of-way line. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located not less than two hundred (200) feet from any property line and not less than one hundred fifty (150) feet from any road or street right-of-way line, wetland, watercourse or water body.
  - 2. Fence; Berm - The total tank storage area shall be entirely fenced with an eight (8) foot high industrial type security fence or have an equivalent protection barrier approved by the Borough. Bulk storage tanks shall be encircled by a moat or earthen berm to contain all potential spillage.
  - 3. Other Regulations - Bulk fuel storage facilities shall be developed in complete compliance with all applicable local, state, federal and insurance regulations and requirements and the applicant shall provide documentation confirming compliance.
- B. Retail Heating Fuel Distributors
  - 1. Use Regulations - Retail heating fuel distributors shall be limited to the storage and delivery of kerosene, heating oil, and propane to individual dwellings or commercial establishments for use on that premises and not for resale. NOTE: 1) Any operation involving the bulk storage of gasoline for distribution by delivery truck, or 2) any operation involving the bulk storage of any kerosene, heating oil, diesel fuel, gasoline, or propane for distribution to retail or wholesale establishments shall be considered a bulk fuel storage facility as defined in Article II.
  - 2. Setbacks - Storage tanks shall be located not less than seventy-five (75) feet from any property line or public road right-of-way, and shall not be less than two hundred (200) feet from any dwelling, school, church or other principal structure not located on the same parcel as the tank. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located not less than seventy-five (75) feet from any property line or public road right-of-way.

3. Screening - If natural vegetation and/or topography does not provide adequate screening, the Borough may require vegetative plantings, berms, fencing or other measures to screen any tank or other part of the operation.
4. Fence - A perimeter security fence of such height and design deemed adequate by the Borough may be required by the Borough.
5. Fuel Spill Containment - A fuel spill containment system adequate to contain the total volume of each storage tank shall be provided to prevent soil and water contamination.
6. Other Regulations - All tanks and operations shall comply with all applicable state, federal and insurance requirements, and proof of such compliance shall be provided by the applicant.

#### 1106.8 Bus Shelters

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

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

#### 1106.9 Car and Truck Washes

See §1106.25.

#### 1106.10 Cemeteries, Human and Pet

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

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

#### 1106.11 Commercial Communication Devices

The following regulations shall apply to commercial communication devices (CCD) including but not limited to, cellular phone antennae, antennae for communication service regulated by the PA Public Utility Commission, and other commercial antennae and associated facilities. Such CCD and support

structure and associated facilities shall be permitted only in the districts as provided in this §1106.11 and the Use Regulations.

A. Purposes

1. To accommodate the need for communication devices while regulating their location and number in the Borough in recognition of the need to protect the public health, safety and welfare.
2. To minimize the adverse visual effects of communication devices and support structures through proper design, siting and vegetative screening.
3. To avoid potential damage to adjacent properties from communication device support structure failure and falling ice, through engineering and proper siting of support structures.
4. To encourage the joint use of any commercial communication device support structures and to reduce the number of such structures needed in the future.

B. Permits; Use Regulations - A permit shall be required for every CCD and support structure installed at any location and the following use regulations shall apply:

1. Existing Tall Structures - A CCD site with a CCD that is attached to an existing communications tower, smoke stack, water tower, or other tall structure where the height of the CCD does not exceed the height of the existing structure by more than fifteen (15) feet shall be permitted in all districts as an accessory use and conditional use approval shall not be required. The applicant shall provide the following information:
  - a. Evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the Building or other Structure, considering wind and other loads associated with the antenna location.
  - b. Detailed construction and elevation drawings indicating how the antennas will be mounted on the Structure for review by the Borough for compliance with the applicable requirements.
  - c. Evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the CCD and associated equipment can be accomplished.
2. New Structures and CCD Exceeding Fifteen Feet on Existing Structures - A CCD site with a CCD that is either not mounted on an existing structure, or is more than fifteen (15) feet higher than the structure on which it is mounted shall be permitted only in those districts specified in the Use Regulations and shall require conditional use approval in accord with this §1106.11.
3. Associated Use - All other uses ancillary to the CCD (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the CCD site, unless otherwise permitted in the zoning district in which the CCD site is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the CCD.

4. CCD as a Second Principal Use - A telecommunications facility shall be permitted on a property with an existing use subject to the following land development standards:
  - a. The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
  - b. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the CCD and support structure shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
  - c. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  - d. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

C. Standards

1. Location Requirement and Number - The applicant shall demonstrate to the satisfaction of the Borough, using technological evidence, that the CCD and support structure must go where it is proposed, in order to satisfy its function in the company's grid system. The number of CCD to be installed at a site by an applicant may not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by that applicant. The applicant must document the need for the additional CCD to ensure the adequacy of current service and shall provide information on the general location of other towers/sites planned for the region.
2. Co-location; New Tower - If the applicant proposes to build a tower (as opposed to mounting the CCD on an existing structure), the Borough may require the applicant to demonstrate that it contacted in writing the owners of tall structures within a one (1) mile radius of the site proposed, asked for permission to install the CCD on those structures, and was denied for reasons other than economic ones. This would include smoke stacks, water towers, tall buildings, CCD support structures of other cellular phone companies, other communications towers (fire, police, etc.) and other tall structures. The Borough may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the CCD on an existing structure thereby documenting that there exists no other support structure which can reasonably serve the needs of the owner of the proposed CCD. A good faith effort shall demonstrate that one (1) or more of the following reasons apply to a particular structure:
  - a. The proposed equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
  - b. The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
  - c. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.

- d. Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the federal communications commission governing human exposure to electromagnetic radiation.
  - e. A commercially reasonable agreement could not be reached with the owners of such structures.
3. CCD Height - The applicant shall demonstrate that the CCD is at the minimum height required to function satisfactorily and provide adequate height for five (5) service providers. The Borough may require the tower to be designed and constructed to be stackable (structurally capable of being increased in height) so that additional antennae arrays can be accommodated in addition to the arrays on the original tower to facilitate future collocation. CD equipment buildings shall comply with the accessory structure height limitations of the applicable zoning district. The Borough may require stealth design (typically resembling a common tree) to ensure that the CCD is compatible with the surrounding landscape.
  4. Parcel Size; Setbacks - If a new CCD support structure is constructed (as opposed to mounting the CCD on an existing structure) or if the CCD height exceeds the height of the existing structure on which it is mounted by more than fifteen (15) feet, the minimum parcel size and setbacks in this §1106.11C4 shall apply.
    - a. Separate Parcel - If the CCD is manned and/or the parcel on which the CCD and support structure is a separate and distinct parcel, the zoning district minimum lot size shall apply and in all cases, the lot shall be of such size that all required setbacks are satisfied. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet. The distance between the base of the support structure and any adjoining property line (not lease, license or easement line) shall be equal to the height of the support structure and CCD.
    - b. Lease, License or Easement - If the CCD is unmanned and the land on which the CCD and support structure is leased, or is used by license or easement, the setback for any part of the CCD, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement and to the boundaries of the parent parcel shall be equal to the height of the support structure and CCD.
  5. CCD Support Structure Safety - The applicant shall demonstrate that the proposed CCD and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed CCD and support structure will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of any applicable building code. Within forty-five (45) days of initial operation, the owner and/or operator of the CCD and support structure shall provide a certification from a Pennsylvania registered professional engineer that the CCD and support structure comply with all applicable regulations.
  6. Fencing - A fence shall be required around the CCD support structure and other equipment, unless the CCD is mounted on an existing structure. The fence shall be a minimum of eight (8) feet in height.

7. Landscaping - Landscaping may be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the CCD and support structure site from neighboring properties. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping. If the CCD is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
8. Co-location; Other Uses - In order to reduce the number of CCD support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including but not limited to other cellular phone companies, and local fire, police, and ambulance companies. The applicant shall provide evidence of written contact with all wireless service providers who supply service within the Borough for the purpose of assessing the feasibility of co-located facilities. The proposed structure, if evidenced by need as determined by the Borough, shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.
9. Licenses; Other Regulations; Insurance - The applicant must demonstrate that it has obtained the required licenses from the Federal Communications Commission, the PA Public Utility Commission and other agencies. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the CCD; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the CCD and support structure.
10. Access; Required Parking - Access to the CCD and support structure shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length. If the CCD site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
11. Color and Lighting; FAA and PennDOT Notice - CCD support structures under two hundred (200) feet in height should be painted silver or have a galvanized finish retained, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures two hundred (200) feet in height or taller, those near airports, or those which are otherwise subject to Federal Aviation Administration (FAA) regulations shall comply with the said regulations. No CCD support structure may be artificially lighted except in accord with Federal Aviation Administration requirements. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PennDOT Bureau of Aviation, and the CCD and support structure shall comply with all FAA and PennDOT requirements.
12. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished.
13. Historic Structures - A CCD shall not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.

14. Discontinued Use - Should any CCD or support structure cease to be used as a communications facility, the owner or operator or then owner of the land on which the CCD and support structure is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Borough to remove the facility and assess the cost of removal to the foregoing parties. The Borough may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
15. Site Plan - A full site plan shall be required for all CCD and support structure sites, showing the CCD, CCD support structure, building, fencing, buffering, access, and all other items required in the Subdivision and Land Development Ordinance. The site plan shall not be required if the CCD is to be mounted on an existing structure and the CCD does not exceed the height of the existing structure by more than fifteen (15) feet.
16. Recording of Plan - Recording of a plat of subdivision or land development shall not be required for a lease, license or easement parcel on which a CCD and support structure is proposed to be constructed, provided the CCD is unmanned.

#### 1106.12 Cottage Industry

It is the intent of this subsection to regulate as conditional uses the operation of cottage industries to permit a variety of commercial uses in RR Districts under certain conditions established to minimize effects on neighboring properties and the District as a whole. The burden of proof shall be on the applicant to demonstrate that the standards will be met. Based upon the potential impacts and nuisances of a proposed cottage industry not specifically prohibited by this section, the Borough Council may determine that a particular type or intensity of use is unsuitable to be a cottage industry or that the proposed lot area or setbacks are not adequate. The following standards shall apply:

- A. Lot Area - The cottage industry must be conducted on a parcel of not less than two (2) acres.
- B. Outdoor Storage - No outdoor storage of materials, goods, products, supplies, or equipment used in the cottage industry shall be permitted unless approved per §1105.3.
- C. Employees - The cottage industry shall be conducted by members of the family residing in the dwelling on the premises and the number of nonresident employees shall not exceed five (5).
- D. Nuisances - No cottage industry 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 District.
- E. Tractor-trailer Trucks - The use shall not require the parking of tractor-trailer trucks, however, deliveries by tractor-trailer trucks shall be permitted.
- F. Sign - One (1) sign not more than ten (10) square feet for each face shall be permitted in accord with Article XII.
- G. Performance Standards – The performance standards in §1106 shall apply.
- H. Prohibited Uses - Any use not meeting the requirements of this §1106.12 and the following uses shall not be permitted as cottage industries:



- |   |                                     |
|---|-------------------------------------|
| -Abused person shelters                     | -Heliports-Hotels                   |
| -Adult businesses                           | -Junk yards                         |
| -Agricultural products processing           | -Manufacturing and industry         |
| -Airports                                   | -Motels                             |
| -Amusement parks                            | -Natural resources processing       |
| -Amusement arcades                          | -Natural resource uses              |
| -Banks                                      | -Race tracks                        |
| -Betting uses                               | -Recyclable facilities              |
| -Bulk fuel storage facilities               | -Restaurants, drive-in              |
| -Bus terminals                              | -Restaurants, traditional           |
| -Campgrounds and recreational vehicle parks | -Self-storage facilities            |
| -Car and truck washes                       | -Outdoor shooting ranges            |
| -Commercial communications device sites     | -Slaughter houses                   |
| -Convenience stores                         | -Solid waste facilities, public     |
| -Detention facilities                       | -Solid waste facilities, commercial |
| -Flea markets                               | -Solid waste staging areas          |
| -Funeral parlors                            | -Taverns                            |
| -Gasoline service station                   | -Theaters                           |
|   | -Truck terminals                    |

#### 1106.13 Day Care, Child

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

#### 1106.14 Flea Markets, Outdoor

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

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

#### 1106.15 Gaming Establishments

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

- A. Location - Gaming establishments shall not be located less than one hundred (100) feet from any parcel of land containing any of the following:
  1. Dwelling.
  2. Place of worship.
  3. Public or private school or college.

4. Public park or public recreation facility.
  5. Public library.
  6. Public museum.
  7. Child day care center.
  8. Commercial enterprises catering primarily to persons under eighteen (18) years of age.
  9. Adult business.
- B. Similar Establishments - Gaming establishments shall not be located within one thousand (1,000) feet of any other gaming establishment.
- C. Measurement - The setback distances established in this §1106.15 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.
- D. Other Uses - Any gaming establishment offering other service such as a restaurant, lounge, etc., shall comply with all standards applicable to such other use.
- E. Accessory Games of Chance - Small games of chance conducted by nonprofit organizations in accord with the Pennsylvania Local Option Small Games of Chance Act (10 P.S. §§ 311-327), as amended, and other games of chance permitted by Pennsylvania law as accessory to commercial uses shall be permitted as an accessory.

#### 1106.16 Industrial Wastewater Treatment and Water Withdrawal

Industrial wastewater treatment facilities and water withdrawal facilities (referred to as facilities) shall be allowed only in those districts as specified in the Use Regulations. In addition to all other applicable standards of this Ordinance, the requirements of this §1106.16 shall apply.

- A. Setbacks - The following setbacks shall be maintained for the industrial wastewater treatment facilities and any truck parking or staging areas. Ancillary facilities such as offices, employee parking, and accessory structures shall comply with the buffer requirements in §1105.1.
1. Two hundred (200) feet to adjoining properties and public road rights-of-way.
  2. Three hundred (300) feet to any existing residential structure not located on the project parcel.
  3. Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland. This shall not apply to any required discharge or intake structures or facilities at the receiving stream or water supply.
- B. Buffer
1. An undisturbed area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.

2. Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide.
  3. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.
  4. It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- C. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the facility and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.
- D. 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.
- E. Local, State and Federal Regulations - The facilities shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.
- F. Informational Requirements
1. Application Information - The applicant and/or operator for all facilities shall provide the information required by this §1106.16, all other application information required by this Ordinance, and all other necessary information to enable the Borough to determine compliance with this Ordinance.
  2. DEP Application Information - A copy of all applications and information required by the applicable PA DEP Rules and Regulations.
  3. Conditions - The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval in accord with this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code.
- G. Reporting Requirements - For any facility approved by the Borough, the operator shall submit to the Borough copies of all DEP required or DEP issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

#### 1106.17 Junk Yards

Junk yards shall, in addition to the Borough Nuisance Ordinance and all other applicable regulations, comply with the following requirements:

- A. Parcel Size and Setbacks.
1. Parcel Size - Junk yards shall not be less than two (2) acres.
  2. Setbacks - All junk yards shall maintain a setback of not less than fifty (50) feet from any public road right-of-way unless state or federal regulations require a greater setback, fifty

- (50) feet from property lines, and two hundred (200) feet from any RR, VR or MHP District or any property the use of which is principally residential.
3. Body of Water, Stream, Wetland, or Well Setback - No junk yard shall be located closer than two hundred (200) feet to any body of water, stream, wetland, or well.
- B. Access - There shall be a minimum of two exterior points of entry to the junk yard, one specifically limited to the use of emergency vehicles.
- C. Fence - All junk yards shall be completely enclosed by a chain link fence not less than ten (10) feet in height and not less than ten (10) feet from any public road right-of-way and property lines. Evergreen trees five (5) to six (6) feet in height shall be placed on 12 foot centers immediately outside the fence. 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. Junk shall not be stacked so as to protrude above the fence. It is further provided that 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 as defined in this Ordinance.
- D. Buffer - All junk yards shall be screened from view from all adjoining properties and any public right-of-way and natural vegetative cover shall be maintained in all required setbacks. Vegetative plantings of sufficient density or fencing of such design to effect the required screening may be used. In any case, a buffer not less than twenty (20) feet wide shall be required in accord with §1105.1.
- E. Dumping Prohibited - The area used for a junk yard shall not be used as a dump area for trash or garbage.
- F. Burning Prohibited - No burning whatsoever shall be permitted on the premises.
- G. Hazardous Materials - To further protect ground water and surface water all batteries, coolants, gasoline, diesel fuel, engine oil, Freon and any other petroleum products and any other noxious or potentially contaminating materials shall be removed from all junk within two (2) working days after arrival to the premises and shall be disposed 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.
- H. Water Monitoring - 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 five hundred (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 (2) samples shall be collected; one (1) sample shall be taken from upstream of the junk yard drainage area and one (1) 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 analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Borough Council, and if said samples exceed the limits established by the Borough Council, and if said samples exceeding the limits established by the Pennsylvania Department of Environmental Resources, the junk yard shall cease operation until such time as the source of the contamination has been identified and corrected. Tests results shall be submitted to the Borough by the certified laboratory.

- I. Fire Lanes - Fire lanes of a minimum width of twenty (20) feet shall be maintained so that no area of junk shall span a distance of more than fifty (50) feet.
- J. Hours of Operation - Any activity associated with the operation of a junk yard that produces any noise audible beyond the property line shall be conducted only between the hours of 7:00 am and 8:00 pm and not on Sundays. During business hours, an adult attendant shall, at all times, remain on the premises.
- K. Height - No junk shall be stacked or piled to a height of greater than twelve (12) feet.
- L. Storage - Paper, rags, plastic materials, garbage, organic waste and other rubbish shall not be stored outside and shall not be accumulated or remain on any premises for more than one (1) month.
- M. Tires - Tires shall not be stored or stockpiled in any junkyard in an amount representing more than two (2) weeks accumulation.
- N. Public Nuisance - 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, and shall not constitute a nuisance due to hours of operation, noise, light or litter, the generation of dust, smoke or other pollutants, or the accumulation of stagnant water.
- O. Lock and Door Removal - Locks shall be removed from junk or abandoned vehicles and doors shall be removed from freezers and similar items to prevent entrapment of children.
- P. Financial Guarantees - Certain financial guarantees may be required from the owner/operator to insure the proper operation, maintenance and/or dissolution of the junk yard.

#### 1106.18 Mineral Extraction

In addition to other applicable standards of this Ordinance, this §1106.18 shall apply to mineral extraction.

- A. Findings - The Pennsylvania Municipalities Planning Code clearly recognizes mineral extraction as a lawful use. Along with other community effects, such uses can have impacts on water supply sources and are governed by state statutes that specify replacement and restoration of affected water supplies. Municipalities Planning Code §603(I) states that zoning ordinances shall provide for the reasonable development of minerals in each municipality. The Code definition of minerals is: *Any aggregate or mass of mineral matter, whether or 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.
- B. Intent - The intent of this section is to ensure the Borough is supplied with all necessary information for making an informed decision about the proposed mineral extraction and, in the case of conditional uses, to establish the foundation for any conditions required to protect the public health, safety and general welfare.
- C. Use Classification; Mineral Processing a Separate Use

1. Use Classification - Mineral extraction shall be allowed only in those districts as listed in the Use Regulations.
  2. Mineral Processing - (See also §1106.19.)
    - a. Separate and Distinct Use; Conditional Use in Specified District - Any use which involves the refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products, shall be considered mineral processing, a separate and distinct use regulated by this Zoning Ordinance
    - b. Incidental with Extraction Operation - This shall not preclude the incidental screening, washing, crushing and grading of materials originating on the site as part of a mineral extraction operation.
- D. Standards - In addition to the performance standards in §1106 and all other applicable standards of this Ordinance which are not preempted by state statute, mineral extraction shall comply with the following:
1. Setback - A setback of one hundred (100) feet shall be maintained between any disturbed area associated with any mineral extraction operation and adjoining properties and public road rights-of-way.
  2. 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.
  3. Conditional Use Buffers - In determining the type and extent of the buffer required for conditional uses, the Borough shall take into consideration the design of any project activities and/or structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
    - a. If required, the landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty (20) feet wide.
    - b. Buffers shall be designed in accord with §1105.1 and the design details shall be included on the site plan. Buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the 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.
  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.
  5. Conditions of Approval - If the Borough determines that the standards in §1106 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 operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations. Applicable laws and rules and regulations include, but are not limited to the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law.
- F. Informational Requirements - The applicant shall provide:
1. Borough application information - The applicant shall, at a minimum, provide the information required by this Zoning Ordinance and the information required for land developments in the Subdivision and Land Development Ordinance. In addition the applicant shall submit all other information required to enable the Borough to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval in accord with this Ordinance and §603(c)(2) of the Municipalities Planning Code.
  2. DEP Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection Rules and Regulations.
  3. Emergency Response - The Applicant shall develop a Emergency Preparedness, Prevention and Control Plan in accord with state and federal requirements and generally accepted practices and submit the Plan for review and comment by the Borough.
- G. Reporting Requirements - For any mineral extraction operation approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.
- H. Expansion of Nonconforming Mineral Extraction Operations - Mineral extraction operations which are nonconforming by location in a zoning district where such operations are not allowed by the Use Regulations may expand to the limits of the DEP permit in effect at the time the operation became nonconforming. Any such expansion shall comply with the requirements of this §1106.18.

#### 1106.19 Mineral Processing

Mineral processing is considered a conditional use. In addition to all other applicable standards of this Ordinance, the requirements of this §1106.19 shall apply.

- A. Location Requirements - Mineral processing operations shall comply with the following location requirements:
1. Setbacks - The following setbacks shall be maintained for any mineral processing operation:

- a. Property Lines, Road Rights-of-way - Two hundred (200) feet to adjoining properties and public road rights-of-way.
  - b. Residential Structures - Three hundred (300) feet to any existing residential structure not located on the project parcel.
  - c. Water bodies - Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland.
2. Buffer
- a. An undisturbed area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads. 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 twenty (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. Informational Requirements - The applicant shall provide the information required by this §1106.19C 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 in accord with §1408.2 and §603(c)(2) of the Municipalities Planning Code. The Applicant shall provide the following:
1. Application Information - The information required by this §1106.19, §1402.3C and all other necessary information to enable the Borough to assess compliance with this Ordinance
  2. DEP Application Information - A copy of all applications and information required by the applicable DEP Rules and Regulations.
- D. Reporting Requirements - For any mineral processing operation approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

#### 1106.20 Self-Storage Facilities



Self-storage facilities shall comply with the following standards in addition to all other applicable standards:

- A. District Requirements; Residential Setback - The facility shall comply with the normal setback, lot coverage and building height standards for the district except when adjacent to a residential use or VR District, the facility shall be setback a minimum of fifty (50) feet from said property line.
- B. Arterial Road - The facility shall be located on a designated arterial road as defined by the Briar Creek Borough Comprehensive Plan.
- C. Use - A self-storage facility shall be used only for storage and shall not be used for, including, but not limited to:
  - (1) Any other commercial, light manufacturing or industrial use.
  - (2) The servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
  - (3) Human habitation.
  - (4) The keeping or kenneling of animals.
  - (5) The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns or similar equipment.
  - (6) The storage of flammable or hazardous chemicals, perishable food stuffs, living organisms, explosives or similar substances.
- D. Outdoor Storage - No material, supplies, equipment or goods of any kind shall be stored outside of the self-storage facility structures, with the exception of the vehicles required for the operation of the self-storage facility or the storage of boats or vehicles as shown on an approved plan
- E. Storage in Setback Areas - No storage shall be permitted in any required setback area.

#### 1106.21 Shooting Ranges and Archery Ranges, Outdoor Commercial

This §1106.21 is intended to provide minimum standards to regulate commercial outdoor shooting ranges and 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
  - 1. Outdoor Shooting Ranges - All outdoor shooting ranges shall be situated not less than three hundred (300) feet from any property line and not less than five hundred (500) feet from any principal residential or principal nonresidential building existing on the effective date of this §1106.21. This shall not apply to structures on the same parcel as the shooting range.
  - 2. Outdoor Archery Ranges - All outdoor archery ranges shall be situated not less than two hundred (200) feet from any property line and not less than three hundred (300) feet from

- any principal residential or principal nonresidential building existing on the effective date of this §1106.21. This shall not apply to structures on the same parcel as the archery range.
- B. Safety Design - All ranges shall be designed and constructed with safety facilities to prevent accidental wild or ricocheting projectiles and stray arrows, and the Borough may require such additional safety features deemed necessary to meet the intent of this §1106.21. Such features may include but not be limited to increased setbacks, earthen berms and setbacks, range orientation, and a limitation of hours of operation.
  - C. Noise Reduction - All ranges shall be designed and operated to minimize any noise created by the facility and shall at a minimum comply with the requirements of §1105.6 unless more restrictive standards are required by the Borough as a condition of approval.
  - D. Hours of Operation - No firearm shall be discharged outdoors between sunset and 8:00 a.m. However, the Borough may establish more restrictive time limits as a condition of approval.
  - E. Fence - Security fencing may be required by the Borough of such extent and design to restrict accidental access to any range.
  - F. Posting - A three hundred (300) foot perimeter around any outdoor range shall be posted with warning signs to adequately inform anyone entering the area.
  - G. NRA, State and Federal Regulations/Guidelines - The applicant shall provide evidence of compliance with any applicable National Rifle Association guidelines and state and federal regulations and best management practices.

#### 1106.22 Solar Power Generation, Commercial

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

- A. Purposes - To accommodate the need for solar power facilities while regulating their location and number in the Borough in recognition of the need to protect the public health, safety and welfare.
- B. Permits; Use Regulations
  - 1. Permits - A permit shall be required for every solar power facility installed in the Borough.
  - 2. Associated Use - All other uses ancillary to the solar power facility (including a business office, maintenance depot, etc., greater than one thousand (1,000) sq. ft.) are prohibited from the solar power facility, unless otherwise permitted in the zoning district in which the solar power facility is located. This shall not prohibit the installation of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the solar power facility as accessory structures.
  - 3. Solar Power Facility as a Second Principal Use - A solar power facility shall be permitted on a property with an existing use subject to the following land development standards:
    - a. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the solar power facility shall apply, and the land remaining for

accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.

- b. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
- c. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed solar power facility and that vehicular access is provided to the solar power facility.

#### C. Standards and Design

1. Height - Solar collectors shall not exceed the principal structure height limitations for the underlying zoning district.
2. Parcel Size; Setbacks - Separate Parcel - If the parcel on which the solar power facility is a separate and distinct parcel or if the parcel is leased, the zoning district minimum lot size shall apply and in all cases, the lot shall be of such size that all required setbacks are satisfied to the property line and/or lease line. The setback of solar collectors, all structures, equipment containers and any associated mechanical facilities shall comply with setback requirements for principal structures of the underlying zoning district.
3. Fencing - A fence may be required around the facility or portions of the facility for safety reasons.
4. Landscaping - Landscaping may be required to screen as much of the solar power facility ground features as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the solar power facility ground features from neighboring properties. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping.
5. Licenses; Other Regulations; Insurance - The applicant shall demonstrate that it has obtained the required licenses from governing state and federal agencies, and agreement from the local electric utility. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the solar power facility; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the solar power facility.
6. Access; Required Parking - Access to the solar power facility shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a gravel or better surface for its entire length. If the solar power facility site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
7. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties shall not be disturbed or diminished, and this may be accomplished by remedial measures instituted by the solar power facility developer.

8. Glare - The applicant shall provide details about anticipated glare from the facility, including the time of day, time of year and direction of peak glare periods and document how potential nuisances to area properties and on public roads shall be controlled.
  9. Historic Structures - A solar power facility shall not be located within five hundred (500) feet of any structure listed on any public historic register.
  10. Standards; Certification - The design of the solar power facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories or other similar certifying organizations. The operator shall repair, maintain and replace the solar collectors and associated equipment in like manner as needed to keep the facility in good repair and operating condition.
  11. Uniform Construction Code - To the extent applicable, the solar power facility shall comply with the Pennsylvania Uniform Construction Code.
  12. Electrical Components - All electrical components of the solar power facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
  13. Warnings - A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
  14. Signs - No advertising material or signs other than warning, manufacturer and equipment information or indication of ownership shall be allowed on any equipment or structures.
  15. Transmission and Power Lines - On-site transmission and power lines shall, to the greatest extent possible, be placed underground.
  16. Stray Voltage/Electromagnetic Fields (EMF) - The operator shall use good industry practices to minimize the impact, if any, of stray voltage and/or EMF.
  17. Emergency Services - The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the solar power facility. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the solar power facility.
  18. Site Plan - A full site plan shall be required for all solar power facility sites, showing the solar power facility, fencing, screening, buffers, access, and all other items required by this Ordinance.
- D. Public Inquiries and Complaints - The solar power facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project, and the solar power facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.
- E. Decommissioning.

1. Time Limit - The solar power facility owner and operator shall, at its own expense, complete decommissioning of the solar power facility, or individual components, within twelve (12) months after the end of the useful life of the solar power facility or individual components. The solar power facility or individual components shall be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
2. Depth Requirement - Decommissioning shall include removal of collectors, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.
3. Disturbed Earth - Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
4. Professional Engineer - An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning (decommissioning costs) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (net decommissioning costs). Said estimates shall be submitted to the Borough after the first year of operation and every fifth year thereafter.
5. Financial Security Bond - The solar power facility owner or operator, prior to the issuance of a zoning permit, shall provide a financial security bond with the Borough as payee in an amount approved by the Borough Council, but not less than \$50,000, from a company and in a form and content acceptable to the Borough Council, to insure the decommissioning within one hundred eighty (180) days of the expiration of the license or lease and/or cessation of use. The bond shall remain in place for as long as the facilities exist at the site.
6. Funds - Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Borough.
7. Landowner Responsibility - If the solar power facility owner or operator fails to complete the decommissioning within the prescribed time period, then the landowner shall have one hundred eighty (180) days to complete decommissioning.
8. Borough Intervention - If neither the solar power facility owner or operator, nor the landowner complete decommissioning within the prescribed periods, then the Borough may take such measures as necessary to complete decommissioning. The entry into the record and submission of evidence of a participating landowner agreement to the Borough shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Borough may take such action as necessary to implement the decommissioning plan.
9. Release of Decommissioning Funds - The escrow agent shall release the decommissioning funds when the solar power facility owner or operator has demonstrated and the Borough concurs that decommissioning has been satisfactorily completed, or upon written approval of the Borough in order to implement the decommissioning plan.

#### 1106.23 Solid Waste Facilities

- A. Intent - The intent of this §1106.23 is to minimize the effects of solid waste facilities on the environment, the community and the public health, safety and general welfare by:

1. Controlling the location of facilities and establishing setbacks to minimize dispersal of material, provide adequate open space, minimize odors and limit the spread of vermin.
2. Requiring fencing and buffers to prevent the dispersal of material and minimize odors.
3. Establish base line testing and water quality safeguards to limit the leaching of any liquids into surface and ground water and minimize air and soil pollution.
4. Establishing reporting procedures to ensure the proper operation and maintenance of the facility.

B. Compliance; Application.

1. Compliance

- a. Solid waste facilities, including transfer stations, and staging areas, herein referred to as facilities shall, in addition to the other applicable standards in this Ordinance, be subject to all applicable state and federal regulations and the requirements of this §1106.23.
  - b. Where a difference exists between applicable State regulations and Borough regulations, it is intended for the purposes of this §1106.23 that the more stringent requirements shall apply.
2. Application. In addition to the application requirements of this Ordinance, the facility application shall include copies of all information, documents, plans and reports required by PA DEP.

C. Setbacks and Buffers

1. Setbacks - The facility shall comply with PA DEP requirements, but in no case shall any facility be operated less than:
  - a. Two hundred fifty (250) feet from a public or private right-of-way or property line.
  - b. Five hundred (500) feet from any occupied principal building unless the owner of the building has provided a written waiver consenting to the facility being closer. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. A closed landfill that submits an application to reopen and expand shall also be subject to this requirement.
2. Buffers - The setback areas shall remain unoccupied with no improvements except required fencing and access road(s). A buffer not less than twenty (20) feet in width shall be provided in all setback areas in accord with §1105.1 of this Ordinance and additional buffers and setbacks may be required.

D. Fencing - All facilities shall be completely enclosed by a chain link fence not less than ten (10) feet in height. All gates shall be closed and locked when closed for business. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence.

E. Storage and Loading/Unloading - Storage of materials, supplies or solid waste in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted. Any solid waste stored for more than three (3) hours shall be stored in an enclosed building. For any facility other than a sanitary landfill, all transfer, loading and unloading of solid waste shall only

occur within an enclosed building with negative pressure, and over an impervious surface which drains into a holding tank that is then adequately treated.

- F. Effluent Treatment - The facility shall provide for treatment and disposal for all liquid effluent and discharges generated by the facility due to the storage, loading or unloading, transfer, container or vehicle washing, or other activity undertaken in processing or transporting the solid waste. All such activities shall be conducted only over an impervious surface and all drainage shall be collected for treatment. Any water discharge from the facility after being treated by the wastewater treatment system shall meet all applicable Department of Environmental Protection regulations and Sewer Authority requirements.
- G. Dangerous Materials - No radioactive, hazardous, chemotherapeutic or infectious materials may be disposed of or stored or processed in any way, except for types and amounts of hazardous substances customarily kept in a commercial business for on-site use. Infectious materials are defined as medical wastes used or created in the treatment of persons or animals with seriously contagious diseases.
- H. Emergency Access - The operator of the facility shall cooperate fully with local emergency services. This should include allowing practice exercises on the site and the provision of all information needed by the emergency services to determine potential hazards. Adequate means of emergency access shall be provided and maintained.
- I. Hours of Operation - Under the authority granted to the Borough under State Act 101 of 1988, all such uses shall be permitted to operate only between the hours of 7:00 a.m. to 7:00 p.m. and are not permitted to operate on Sundays, Christmas Eve Day, Christmas Eve, New Year's Day, Memorial Day, 4th of July, Labor Day, or Thanksgiving Day. All deliveries of solid waste shall be made during the hours between 7:00 a.m. to 5:00 p.m. and not on Sundays or the above specified holidays.
- J. Nuisances - Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors. The applicant shall prove to the satisfaction of the Borough that the use would not routinely create noxious odors off of the tract. The operator shall regularly police the area of the facility and surrounding street to collect litter that may escape from the facility or truck. The applicant shall provide documentation to the satisfaction of the Borough that proposed facility shall operate in such a manner as to not create a general nuisance, endanger the public health, safety and welfare or inhibit the public's use or enjoyment of their property.
- K. Attendant and Inspections - An attendant shall be present during all periods of operation or dumping. The applicant shall, if granted a permit, allow access at any time to the facility for inspection by appropriate Borough Officials and provide the Borough with the name and phone number of a responsible person(s) to be contacted at any time in the event of an inspection.
- L. O & M and Reporting.
1. O & M - The operation and maintenance of the facility shall comply with all applicable State and Federal regulations as a condition of the continuance of any permit issued by the Borough. Violations of this condition shall also be considered to be violations of this Ordinance.
  2. Reporting - If the facility is approved by the Borough, the operator shall concurrently submit to the Borough a copy of all information, documents, plans and reports required by PA DEP, and shall forward to the Borough a copy of all correspondence, notices and documents

received from DEP which are related to the ongoing operation, maintenance and compliance of the facility.

3. Violation - The failure to comply with the requirements of this §1106.23L shall be a violation of this Ordinance.

#### 1106.24 Staging Areas for Equipment/Materials and Contractor Yards

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

##### A. Access to public roads.

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

##### B. Setbacks

1. Residential and Nonresidential Buildings - Contractor yards and staging areas for equipment/materials shall not be less than three hundred (300) feet from any existing principal residential, commercial, institutional, public or semi-public building, other than such building located on the property on which the facility is located.
2. Property Lines - Contractor yards and staging areas for equipment/materials shall not be less than fifty (50) feet from any property line other than a property line along a public road right-of-way.
3. Public Roads - Contractor yards and staging areas for equipment/materials Storage yards shall not be less than fifty (50) feet from any public road right-of-way.
4. Streams, Water bodies and Wetlands - Contractor yards and staging areas for equipment/materials shall not be less than one hundred (100) feet from any stream, water body or wetland.

- C. Slope - Contractor yards and staging areas for equipment/materials shall be located on gently sloping ground that will provide good drainage. Low spots and poorly drained places shall be avoided.

#### 1106.25 Vehicle and Equipment Related Uses

Vehicle related uses shall, in addition to all other applicable standards, shall comply with the standards in this §1106.25.



- A. Car and truck washes - The following standards shall apply to the location and design of a car or truck wash, whether designed as an automatic or self-wash facility:
1. Access - The facility shall be located and front onto a street designated by the Borough Comprehensive Plan as a collector street. No car wash shall provide access directly onto a designated arterial road.
  2. Lot Area - The minimum lot area for a car wash shall be 30,000 square feet.
  3. Setback - The facility shall be setback a minimum of fifty (50) feet from any street right-of-way to permit adequate stacking and parking area for cars entering and exiting the site, including areas for drying and polishing.
  4. Waiting Vehicles - Access and service aisles shall provide sufficient length to accommodate at least eight (8) vehicles outside of street rights-of-way for automatic washes, and two (2) vehicles for each washing bay in a self-wash facility.
  5. Drainage - No wash water shall drain off the surface of the site. The facility shall be designed so as to limit water from leaving the site, in order to avoid the potential for water and ice from building on public roads. This includes surface drainage and water dripping from cars as they leave the facility.
- B. Vehicle or Equipment Repair Operations and Vehicle or Equipment Sales or Rental Operations - In addition to all other applicable standards, all vehicle or equipment repair operations and all vehicle or equipment sales or rental operations of new and used automobiles, trucks, motorcycles, mobile homes, recreation vehicles, boats, and travel trailers and other vehicles and equipment shall be subject to the following specific regulations and requirements:
1. Repair and Service - All repair, service or similar activities shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes and glare.
  2. Exterior Storage
    - a. Parts and Other Materials - Exterior storage of dismantled vehicles, tires, auto parts and similar materials shall not be permitted except in a designated storage area in accord with §1105.3 Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.
    - b. Vehicles
      - (1) Only vehicles with current license and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored in any unscreened exterior area. Any vehicle stored for more than thirty (30) days shall be stored in a designated storage area in accord with §1105.3.
      - (2) Not more than four (4) vehicles per service stall may be stored outside a fully enclosed building.
      - (3) Proof of current license and current registration or ownership of any vehicle shall be required upon demand by the Zoning Officer.
    - c. Designated Storage Area

- (1) All operations storing parts, materials or vehicles outdoors shall establish a designated storage area meeting principal structure setback requirements.
- (2) A secure and durable fence, six (6) to ten (10) feet in height, shall be erected around the perimeter of the storage area and the area shall be screened.
- (3) The area shall be stabilized with paving or other suitable material to prevent mud and minimize dust.

3. Flammable Materials

- a. Exterior storage of flammable materials such as oil, kerosene, gasoline, etc., shall be prohibited at all times.
- b. Small propane bulk filling tanks are permitted if fully in compliance with all existing local, state and federal regulations and requirements.

4. Accessory Goods - Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products shall be permitted on the respective islands or provided for in a suitable and safe stand or rack that does not encroach upon the required aisles or parking areas.

5. Bulk Storage - The storage of gasoline and flammable oils in bulk shall be in compliance with state and federal regulations.

6. Pumps - Gasoline pumps and other service appliances may be located in the required front setback but shall not be situated closer than thirty (35) feet from the road right-of-way line and property lines.

7. Canopy - Any canopy structure over the pumping area shall not be less than twenty (20) feet from any highway right-of-way or lot line and shall not exceed a height of twenty (20) feet.

8. Floor Drainage - Floor drainage basins shall be plugged or flow into a holding tank and be disposed of periodically in accord with applicable regulations. Verification of proper disposal may be requested at any time by the Borough Zoning Officer or any authorized local, state, or federal agency.

9. Vehicle and Equipment Display - The outdoor display of new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers and other vehicles or equipment shall meet the side and rear setback requirements for accessory buildings.

C. Race Tracks - In addition to all other applicable standards, the following additional standards shall apply to race tracks:

1. Setbacks - All areas for the driving, testing and/or maintenance of motor vehicles shall not be less than five hundred (500) feet from any property line or public road right-of-way, and shall not be less than seven hundred and fifty (750) feet from any VR or MHP District. Greater setbacks and buffers may be required in accord with §1105.1 to address community effects.

2. Animal Race Tracks - In addition to the other standards in this §1106.25C, the following additional standards shall apply to animal race tracks:

- a. The race course for any animal race track shall not be less than five hundred (500) feet from any property line or public road right-of-way. Greater setbacks and buffers may be required in accord with §1105.1 to address community effects.
  - b. Any stable building, corral, kennel or other indoor or outdoor area used for the keeping or feeding of animals, concentrated confinement of animals or manure and animal waste storage shall not be less than one hundred (100) feet from any property line or public road right-of-way.
  - c. 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.
3. Buildings - All buildings on the race track parcel shall comply with Uniform Construction Code and PA Department of Labor and Industry Standards.
  4. Time Limitations - No race shall be conducted between the hours of 9:00 P.M. and 9:00 A.M., and all track lighting shall be extinguished by 10:00 P.M. However, the Borough may establish more restrictive time limits and limit the days of operation as a condition of approval.
  5. 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.
  6. 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. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.
  7. Storage - No vehicles, supplies, parts, or any other material shall be stored in any required setback areas normally required for the district.
  8. Fuel Documentation - Documentation shall be provided that all fuel and fuel storage areas comply with State and Federal requirements.
  9. Bond/Insurance - Based on the type and size of the race track, 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.

1106.26 Water Withdrawal Facilities See §1106.16.

1106.27 Wind Energy Facilities, Commercial

In addition to all other applicable standards in this Ordinance, the following regulations shall apply to commercial wind energy facilities:

- A. Purposes.

1. Need and Location - To accommodate the need for wind energy facilities while regulating their location and number in the Borough in recognition of the need to protect the public health, safety, and welfare.
  2. Adjacent Properties - To avoid potential damage to adjacent properties from wind turbine structure failure and falling ice, through engineering and proper siting of such structures.
- B. Number - The number of wind turbines on a particular parcel shall be governed by compliance with all setback, separation and height requirements.
- C. Permits; Use Regulations.
1. Permits - A zoning permit shall be required for every wind energy facility and wind turbine installed in the Borough.
  2. Associated Use - All other uses ancillary to the wind energy facility (including a business office, maintenance depot, etc., greater than one thousand (1,000) sq. ft.) are prohibited from the wind energy facility, unless otherwise permitted in the district in which the wind energy facility is located. This shall not prohibit the installation, as accessory structures, of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the wind energy facility.
  3. Wind Energy Facility as a Second Principal Use - A wind energy facility shall be permitted on a property with an existing use in districts where permitted subject to the following land development standards:
    - a. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the wind energy facility and wind turbines shall apply; and, the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
    - b. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
    - c. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.
- D. Standards
1. Wind Energy Facility Height - The applicant shall demonstrate that the wind turbines are at the minimum height required to function satisfactorily. No wind turbine that is taller than this minimum height shall be approved.
  2. Parcel Size; Setbacks
    - a. Separate Parcel - If the parcel on which the wind energy facility is a separate and distinct parcel, the district minimum lot size shall apply; and, in all cases, the lot shall be of such size that all required setbacks are satisfied.
    - b. Lease, License or Easement - If the land on which the wind energy facility is leased, or is used by license or easement, the setback for any wind turbine, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a

minimum of thirty (30) feet from the line of lease, license or easement. In any case, no wind turbine shall be located closer to any property line (not lease, license or easement line) than one and one tenth (1.1) times the turbine height, including the rotor plane.

- c. Public and Semi-Public Structures - No wind turbine shall be located less than two thousand (2,000) feet from any existing public or semi-public principal structure measured from the center point of the turbine base. (For the purposes of this §1106.27, existing principal structure shall mean any existing principal structure or any principal structure for which a zoning permit has been issued.)
  - d. Principal Structures on Wind Energy Facility Parcel - No wind turbine shall be located less than six hundred (600) feet from any existing principal structure on the wind energy facility parcel or lease, license or easement parcel as measured from the center point of the turbine base, unless the property owner provides written permission allowing for a lesser distance. (For the purposes of this §1106.27, existing principal structure shall mean any existing principal structure or any principal structure for which a zoning permit has been issued.) In no event shall the setback distance be less than one and one tenth (1.1) times the total height of the wind turbine as measured from the highest point of the turbine, including the rotor plane.
  - e. Principal Structures on Other Parcels - No wind turbine shall be located less than two thousand (2,000) feet from any principal structure existing on any other parcel prior to the erection of the wind turbine as measured from the center point of the turbine base unless the owner of such existing principal structure shall have executed a written waiver or non-disturbance easement, covenant or consent, any of the aforementioned which has been recorded in the Office of the County Recorder of Deeds, Columbia County, Pennsylvania. Such easement or covenant shall run with the land and, at a minimum, provided that the said property owner waives and releases any and all claims, damages and/or losses resulting from higher noise levels, visual impacts or flickering reflections and/or shadows which may arise as a result of the location of a wind turbine generator within the established setback distance of an existing principal structure on the property of the owner executing same. Such easement, covenant or consent shall meet such requirements as to form and content as may be required by the Borough. In no event shall the setback distance be less than one and one tenth (1.1) times the total height of the wind turbine as measured from the highest point of the turbine, including the rotor plane.
  - f. Property Lines and Public Roads - No wind turbine shall be located less than one and one tenth (1.1) times the total height of the wind turbine from property lines and public road rights-of-way as measured from the highest point of the turbine, including the rotor plane.
  - g. Communication and Electric Lines - No wind turbine shall be located less than one and one tenth (1.1) times the total height of the wind turbine from the nearest above ground public electric power line or public telephone line or other public communication line as measured from the highest point of the turbine including the rotor plane.
  - h. Horizontal Rotors - The required setbacks for windmills with horizontal rotors shall not be less than one and one tenth (1.1) times the height of the turbine tower or one and one tenth (1.1) times the height of the turbine tower plus the distance of the outer end of the rotor from the tower, whichever is greater.
3. Wind Energy Facility Design

- a. Standards; Certification - The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
  - b. Uniform Construction Code - The wind energy facility shall comply with the Pennsylvania Uniform Construction Code.
  - c. Controls and Brakes - All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
  - d. Electrical Components - All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
  - e. Warnings - A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
  - f. Signs - No advertising material or signs other than warning, equipment information or indicia of ownership shall be allowed on the wind turbine generators. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners, or waiving, fluttering or revolving devices, but not including weather devices.
  - g. Climb Prevention/Locks/Fence
    - (1) Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
    - (2) All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
    - (3) A fence may be required around each wind turbine support structure and other equipment. The fence shall be a minimum of eight (8) feet in height.
  - h. Emergency Services - The facility shall comply with all applicable local, state and federal fire code and emergency services guidelines; and, all wind turbine generators shall be equipped with portable fire extinguishers, unless the local fire department or Borough Engineer provides written documentation establishing that the same is not necessary.
  - i. Other Regulations - The applicant shall document compliance with all applicable state and federal regulations.
4. Noise and Shadow Flicker
- a. Audible sound from a wind energy facility shall not exceed forty-five (45) dBA as measured at the exterior of any occupied building on any other parcel. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall be equal to or exceed the minimum standards for precision described in

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

- b. The facility owner and operator shall use best efforts to minimize shadow flicker to any occupied building on any other parcel.
  - c. For the purposes of this Subsection 4, occupied building shall mean a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.
5. Landscaping - Landscaping shall be required to screen as much of the support structure as possible and any other ground level features (such as a building); and, in general, buffer the wind turbine and support structure site from neighboring properties. Any required vegetation shall be maintained in good condition. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping.
  6. Water Supplies - All wind turbine generator sites shall be designed and constructed in such a fashion as to avoid any disruption and or interference with private wells, springs and/or other water sources. In the event any problems occur with any private water source, which problems are proximately caused by the operator, the operator shall immediately supply potable water in such quality and quantity as supplied by the original private water source.
  7. Licenses - The applicant shall demonstrate that it has obtained the required licenses from the Borough and governing state and federal agencies.
  8. Access; Required Parking - Access to the wind energy facility shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length. If the wind energy facility site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift.
  9. Color and Lighting; FAA and PA DOT Notice - Wind turbines, including rotors, shall be a non-obtrusive color such as white, off-white or gray. Wind turbines shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No wind turbine may be artificially lighted, except as required by FAA requirements. If lighting is required, the lighting alternatives and design chosen shall minimize the disturbance to the surrounding views. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PA DOT Bureau of Aviation.
  10. Transmission and Power Lines - On-site transmission and power lines between wind turbines shall, to the greatest extent possible, be placed underground.
  11. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties shall not be disturbed or diminished; and, this may be accomplished by remedial measures instituted by the wind energy facility operator.
  12. Stray Voltage/Electromagnetic Fields (EMF) - The operator shall utilize Good Utility Practice to minimize the impact, if any, of stray voltage and/or EMF.

13. Water and Sewer - Water, other than for facility cooling and fire suppression purposes, and sewage facilities shall not be permitted at wind energy facility sites to preclude person(s) from living or staying on the site, unless such facilities serve a use otherwise approved in accord with this Ordinance.
14. Emergency Services - The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the wind energy facility. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.
15. Site Plan - A full site plan shall be required for all wind energy facility sites, showing the wind energy facility, wind turbines, building, fencing, buffering, access, and all other items required by this Ordinance and the Subdivision and Land Development Ordinance.
16. Certification - The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed wind energy facility and support structure shall be designed and constructed in accord with accepted engineering practices and all requirements of this Ordinance. Within 45 days of initial operation, the owner and/or operator of the wind energy facility shall provide a certification from a Pennsylvania registered professional engineer that the wind energy facility and all structures comply with all applicable regulations.
17. 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 Zoning Ordinance. Such towers shall be removed within eighteen (18) months of installation.



**ARTICLE XII  
SIGNS**

**§1201 INTENT AND PURPOSE**

Regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities in the Borough area without difficulty and confusion, to encourage the general attractiveness of the community and to protect property values therein. Accordingly, it is the intent of this Ordinance to establish regulations governing the display of signs which will:

- A. Promote and protect the public health, safety, comfort, morals, and convenience;
- B. Enhance the economy and the business and industry of the area by promoting the reasonable, orderly, and effective display of signs, and thereby encourage increased communication with the public;
- C. Restrict signs and lights which overload the public's capacity to receive information or which increase the probability of traffic congestion and accidents by distracting attention or obstructing vision;
- D. Reduce conflict among signs and sign lighting and between public and private signs, and;
- E. Promote signs which are compatible with their surroundings, are appropriate to the type of activity to which they pertain, and are expressive of the identity of proprietors and other persons displaying signs.

**§1202 DEFINITIONS**

The definitions in this §1202 shall supplement the definitions in Article II of this Ordinance as applicable to the regulation of signs.

A-FRAME OR SANDWICH BOARD SIGN - A movable sign consisting of two (2) faces connected and hinged at the top.

AWNING - A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted to a position against the building.



A-Frame / Sandwich



Awning

BANNER - A sign intended to be hung either with or without a frame possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind excluding flags, emblems,

and insignia or political, professional, religious, education, or corporate organizations providing that such flags, emblems, and insignia are displayed for noncommercial purposes.



Civic Event



Banner Sign

**BOARD AND OFF-PREMISES SIGN** - A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than upon the same lot where such sign is displayed. The term off-premises sign shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.

**BUSINESS SIGN** - A sign which directs attention to a business, profession, activity, commodity, service, product price, or entertainment conducted, sold, or offered upon the premises where such sign is located, or within the building to which such sign is affixed.



Billboard/Off Premises

**CANOPY** - A rigid structure other than an awning made of cloth, metal, or other materials with frame affixed to a building and carried by a frame, which is generally supported by the ground.



Canopy Sign



Canopy Sign

**CONSTRUCTION SIGN** - A sign identifying individuals or companies involved in design, construction, wrecking, financing, or development when placed upon the premises where work is under construction, but only for the duration of construction or wrecking.



Construction Sign

**CONTRACTOR OR SUBCONTRACTOR SIGNS:** The temporary signs which identify the contractor or subcontractor engaged in the construction, reconstruction or repair of a building or buildings on a lot or parcel or property.

**CURB LEVEL** - The level of the established curb in the front of a building or other structure measured at the center of such front. Where no curb elevation has been established, the mean elevation of the center line of the street fronting and building structure shall be considered curb level.

**DIRECTIONAL SIGN** - A sign, providing no advertising of any kind, which provides direction or instruction to guide persons to facilities intended to serve the public, including, but not specifically limited to, those signs identifying rest rooms, public telephones, public walkways, parking areas, and other similar facilities.

**DIRECTORY SIGN** - A sign which indicates the name and/or address of the occupant, the address of the premises, and/or identification of any legal business or occupation which may exist at the premises.



**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.

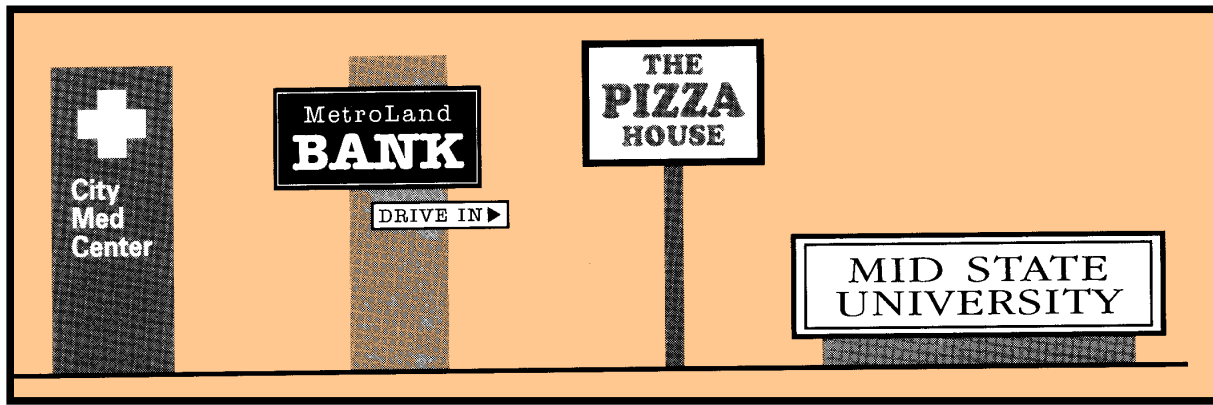
**EXTERNAL ILLUMINATION** - Illumination of a sign which is affected by an artificial source of light which is not contained within the sign itself.

**FLASHING SIGN** - An illuminated sign on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated. For the purpose of this Ordinance, any moving illuminated sign affected by intermittent lighting shall be deemed to be a flashing sign. This shall not include permitted electronic text message signs.

**GRADE** - The average level of the finished surface of the ground adjacent to a sign or the exterior wall of the building to which a sign is affixed.

**GROSS SURFACE AREA** - The entire area within a single continuous perimeter composed of a single face enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures, together with all material or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall not be included in gross surface area; however, if any portion of the required structural supports become enclosed for decorative or architectural purposes, that portion will be included in the total gross surface area of the sign.

Directory Sign



MONUMENT PYLON POLE GROUND  
Common Freestanding Ground Sign Types

**GROUND SIGN** - A sign supported by structures or supports or upon the ground and not attached or dependent for support from any building.

**HEIGHT, SIGN:** The vertical distance measured from the highest point of the sign, excluding decorative embellishments, to the surface grade beneath the sign.

**ILLUMINATED SIGN** - A sign in which an artificial source of light is used in connection with the display of such sign.

**INSTRUCTIONAL SIGN** - A sign, providing no advertising of any kind, which provides direction or instruction to guide persons to facilities intended to serve the public, including, but not specifically limited to, those signs identifying rest rooms, public telephones, public walkway, parking areas, and other similar facilities.

**INTERNAL ILLUMINATION** - Illumination of a sign which is affected by an artificial source of light, which is contained within the sign itself.

**ITEM OF INFORMATION** - A word, an abbreviation, a number, a symbol, or a geometric shape contained in a sign. A sign which combines several different geometric shapes of unusual configuration, is assessed one (1) item of information for each non-continuous plane.

**MARQUEE** - A permanent roof-like structure extending from part of the wall of a building, but not supported by the ground, and constructed of durable material such as metal or glass.



Marquee Sign



Neon Sign

MOVING SIGN - A sign which, in whole or in part, revolves, rotates, swings, undulates, or otherwise attracts attention through the movement of parts or through the impression of movement, including automatic, electrically controlled copy changes, but not including flags, banners, or pennants.

NEON OR OTHER GAS TUBE ILLUMINATION - Illumination affected by a light source consisting of a neon or other gas tube which is bent to form letters, symbols, or other shapes.

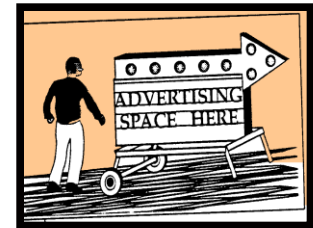
NON-CONFORMING SIGN - A sign which does not adhere to one (1) or more of the provisions contained in this Ordinance.

OPEN SIGN - A sign in which the area exposed to wind is less than fifty (50%) percent of such sign's aggregate gross surface area.

PERMANENT SIGN - A permanent sign displayed in the Borough on and after the effective date of this Ordinance.

POLITICAL SIGN - A temporary sign identifying a political candidate, issues, or party.

PORTABLE SIGN - A sign not permanently affixed to the ground, a building, or other structure, which may be moved from place to place.

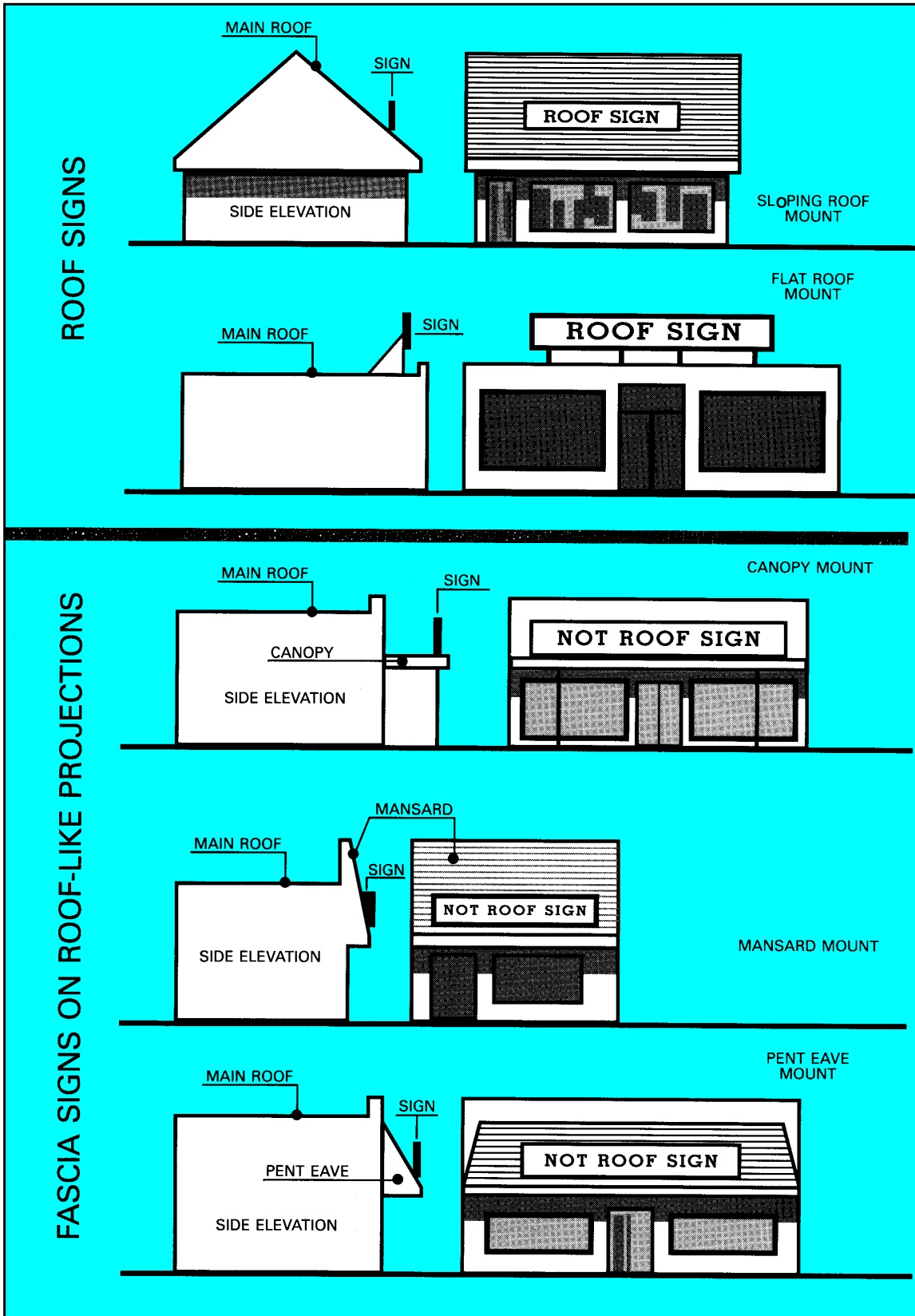


Portable Sign

PROJECTING SIGN - A sign which is affixed to a building or wall and extends beyond the line of such building or wall or beyond the surface of that portion of the building or wall to which it is affixed by more than fifteen (15) inches.

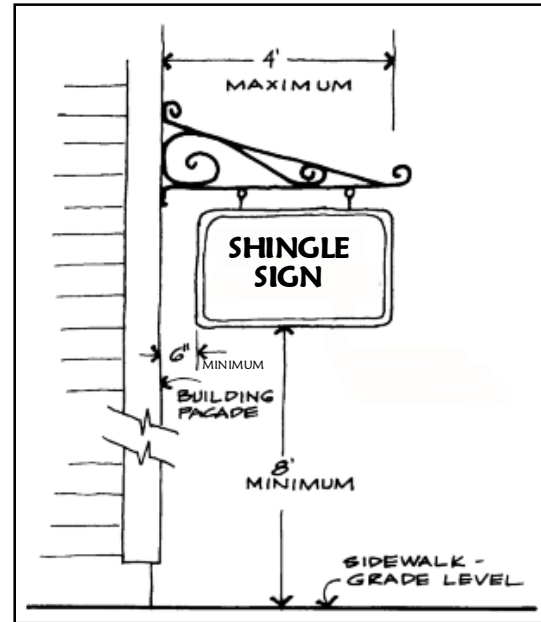
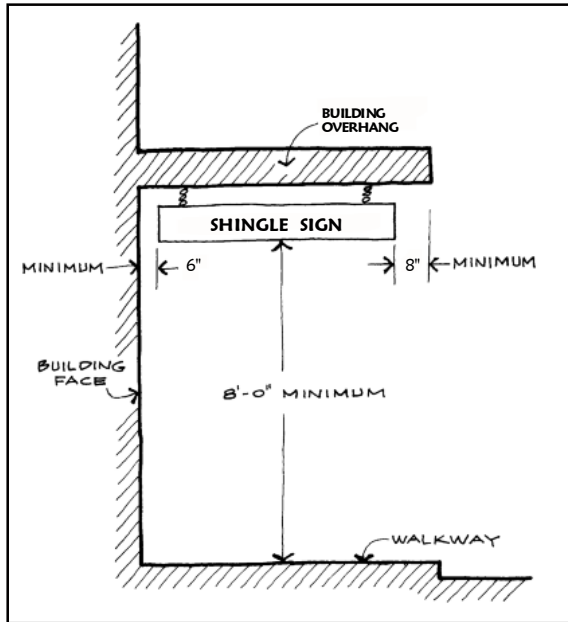
REAL ESTATE SIGN - A sign which is used to offer for sale, lease, or rent the premises upon which such sign is placed.

ROOF SIGN - A sign erected or maintained in whole or in part upon, against, or directly above the parapet line or roof of the building.



**SERVICE ISLAND** - A set of one or more fuel dispensing pumps arranged in proximity to each other as a raised, concrete island surrounded by paving.

**SHINGLE SIGN** - A sign, other than a wall sign, that is wholly or partly dependent upon a building for support and projects from such building, or a sign that is attached to the underside of a building overhang.



**SIGN** - Any identification, description, illustration, advertisement, or device illuminated or non-illuminated which is visible to the general public and directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, flag, banner, pennant, or placard designed to advertise, identify, or convey information.

**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.

**TEMPORARY SIGN** - A non-permanent sign erected, affixed, or maintained on a premises for a short, usually fixed, period of time.

**WALL SIGN** - A sign attached directly to an exterior wall of a building or dependent upon a building for support with the exposed face of the sign located in a place substantially parallel to such exterior building wall to which the sign is attached or supported.



Wall Sign

**WARNING SIGN** - A sign containing no advertising material, warning the public of the existence of danger.

WINDOW SIGN - A sign attached to, placed upon, or painted on the interior of a window or door of a building which is intended for viewing from the exterior of such building.



Window Signs



**§1203 GENERAL PROVISIONS**

1203.1 Basis of Which Signs Are Regulated

The display of signs in the Borough is hereby regulated on the basis of the following factors.

- A. The type of activity displaying the sign; and
- B. The following four (4) design features.
  - 1. the type of sign
  - 2. the area of the sign
  - 3. the height of the sign
  - 4. the location of the sign

In addition, certain signs and certain activities are regulated on the basis of additional factors, as set forth in this Ordinance.

1203.2 Items of Information Allowed



- A. General Rules - Subject to the requirements of all other provisions of this Ordinance, each exposed face of a sign shall contain no more than eight (8) items of information. However, if the name of the occupant of the premises on which the sign is to be affixed contains more than eight (8) items of information, the name may be displayed on each exposed face of a sign, provided no other information is displayed on such sign.
- B. Certain Information Not Counted - In calculating items of information, the following shall be excluded;
1. Letters nineteen (19) inches or less in height which are carved into, or securely attached to a building in such a way that they are an architectural detail of the building; provided that the letters are not illuminated apart from the building, are not made of a reflective material, do not contrast sharply in color with the building, and do not exceed a thickness of one (1) inch; or
  2. That information pertaining to the date of erection, the sign permit number, the sign permit expiration date, and the voltage of any electrical apparatus to be used in connection with the sign on which it is to be displayed as specified herein.

## §1204 ILLUMINATION

All signs permitted by this Ordinance may be illuminated in compliance with this §1204.

### 1204.1 Electrical Permit

In addition to complying with the provisions of this Ordinance, all signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of the National Electrical Code.

### 1204.2 Illumination of Buildings, Structures, and Areas

- A. Unshielded Lighting - The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires, or any other type of support, to illuminate buildings, structures, outdoor sales areas, or outdoor storage area is prohibited except;
1. during the month of December for areas in which Christmas trees are offered for sale;
  2. on a temporary basis for areas in which carnivals, fairs, or other similar activities are held.
- B. Building/structure illumination. A building or other structure may be illuminated, but all lighting used for this purpose must be designated, located, shielded, and directed in such a manner that the light source is fixed and not directly visible from any adjacent publicly dedicated roadway and surrounding property.
- C. Glare; intensity. All signs shall be so designed located, shielded, and directed so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated roadways and surrounding property. No lighting from any sign shall be of such intensity to cause the distraction of drivers, create a nuisance on surrounding properties, or otherwise create a safety hazard.

## §1205 CONSTRUCTION SPECIFICATIONS

All permanent signs permitted by this Ordinance shall be constructed in accord with this §1205.

### 1205.1 Compliance with Applicable Codes

In addition to complying with the provisions of this Ordinance, all signs shall be constructed in accordance with the applicable provisions of the Uniform Construction Code.

#### 1205.2 Public Right-of-Way; Setback

- A. Public Right-of-Way - No sign shall be erected or maintained in a public street right-of-way except for:
1. Public signs exempted by §1207.15.
  2. No trespassing, no hunting, no fishing, no dumping, no parking, towing and other similar signs exempted by §1207.10.
  3. Temporary yard sale or garage sale, open house, or auction signs per §1208.8.
- B. Setback - Signs not exempted by §1207 shall comply with §1205.2A and maintain the required side and rear yard setback for the District in which the sign is located.

#### 1205.3 Auxiliary Specifications

All signs permitted by this Ordinance shall be constructed in accordance with the following provisions.

- A. Obstruction to Exit - No sign shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, door opening, or wall opening intended as a means of ingress or egress.
- B. Obstruction to Ventilation - No sign shall be erected, constructed, or maintained so as to interfere with any opening required for ventilation.
- C. Clearance from Electrical Power Lines and Communication Lines - All signs shall be located in such a way that they maintain horizontal and vertical clearance of all electrical power lines and communication lines in accordance with the applicable provisions of the National Electrical Code. However, in no instance shall a sign be erected or constructed within eight (8) feet of any electrical power line, conductor, or service drop, or any communication line, conductor, or service drop.
- D. Clearance from Surface and Underground Facilities - All signs and supporting structures shall maintain clearance and non-interference with all surface and underground facilities and conduits for water, sewage, gas, electricity, or communications equipment or lines. In addition, the placement of all signs and their supporting structures shall not interfere with natural or artificial drainage or surface or underground water.
- E. No obstruction to any existing warning or instructional sign - No sign shall be erected, constructed, or maintained so as to interfere with any existing warning or instructional sign.
- F. Intersections - No sign shall be erected which creates a traffic hazard at any street intersection and all signs shall comply with §1205.2.

#### 1205.4 Maintenance

Each sign shall be maintained in good order and repair at all times so that it does not constitute any danger or hazard to public safety, or a visual blight, and is free of peeling paint, major cracks, or loose and dangling materials.

#### 1205.5 Wind Loads

All signs, except those attached flat against the wall of a building shall be constructed to withstand minimum wind loads as set forth in the Uniform Construction Code.

#### 1205.6 Sign Faces

All signs may be multi-faced.

#### 1205.7 Freestanding Sign Landscaping

All freestanding business and residential identification signs shall be placed in a landscaped area of not less than four (4) square feet of landscaping for one (1) square foot of sign area, but in no case less than one hundred and twenty (120) square feet.

#### 1205.8 Wall Signs

Wall signs as permitted by this ordinance 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 twelve (12) inches from the wall, nor above or beyond the top and ends of the wall.

### **§1206 PROHIBITED SIGNS**

The signs listed in this §1206 are hereby expressly prohibited for erection, construction, repair, alteration, or relocation within the Borough except as otherwise permitted in this Ordinance.

#### 1206.1 "A" Frame or Sandwich Board Signs

"A" frame or sandwich board and sidewalk, or curb signs, except as provided for in §1210.5 of this Ordinance.

#### 1206.2 Banners and Pennants

Banners, pennants, streamers, balloons, and other gas-filled figures, except as a temporary sign in accord with §1208 of this Ordinance.

#### 1206.3 Moving and Flashing Signs

Signs which flash, revolve, rotate, swing, undulate, or move by any means, or otherwise attract attention through the movement or flashing of parts or animation or video display, including automatic, electronically controlled copy changes, or through the impression of movement or flashing. This shall not include time and temperature indicators, whose movement is either digital or analogue, or electronic signs or flags otherwise permitted by this Ordinance.

#### 1206.4 Portable and Wheeled Signs

Portable and wheeled signs, except as a temporary sign in accord with §1208 of this Ordinance.

#### 1206.5 Projecting Signs

Unless otherwise permitted by this ordinance, signs which are attached or otherwise affixed to a building and project more than twelve (12) inches beyond the wall surface of such building to which the sign is attached or otherwise affixed thereto.

#### 1206.6 Signs and Parked Vehicle, Trailers and/or Containers

Signs placed on or affixed to vehicles, trailers and/or containers which are parked on a public right-of-way, public property or private property, so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby.

#### 1206.7 Signs on Trees or Utility Poles

Signs which are attached or otherwise affixed to trees or other living vegetation, or utility poles. This shall not apply to political signs and noncommercial free speech signs outside the public road right-of-way or to no trespassing, no hunting, no fishing, no dumping, no parking, towing and other similar signs exempted by §1207.10.

#### 1206.8 Signs which Imitate Traffic Control Devices

Signs which imitate, interfere with, obstruct the view of, or can be confused with any authorized traffic control sign, signal, or other device.

#### 1206.9 Emissions

Any sign which emits any sound, odor or visible matter such as smoke.

#### 1206.10 Obscene or Pornographic

Obscene or pornographic signs or signs advertising obscene or pornographic information or materials. Any sign which exhibits statements, words or pictures of obscene or pornographic material or information, or contains advertising material or information for obscene or pornographic material or information.

#### 1206.11 Snipe Signs

Snipe signs. (See definition.)

#### 1206.12 Roof Signs

Roof signs. (See definition.)

### **§1207 EXEMPT SIGNS**

The following signs are hereby exempt from the provisions of this Ordinance, excepting for such instances where any sign listed herein is found to be unsafe or unlawful as provided for in other sections of this Ordinance.

#### 1207.1 Awning, Canopy, and Marquee Signs

Signs, not exceeding an aggregate gross surface area of four (4) square feet, indicating only the name of the activity conducted on the premises on which the sign is to be located and/or a brief generic description of the business being conducted by the activity. Advertising material of any kind is strictly prohibited on signs affixed to awnings, canopies, and marquees. An awning, canopy, or marquee sign shall not project beyond the edges of the awning, canopy, or marquee to which such sign is affixed.

#### 1207.2 Civic and Religious

Civic and religious organization signs indicating only the organization insignia, name, meeting place, and time. Such signs shall not exceed two (2) square feet for each exposed face and four (4) square feet aggregate gross surface area.

#### 1207.3 Directional or Instructional Signs

Signs, not exceeding four (4) feet in aggregate gross surface area, which provide direction or instruction to guide persons to facilities intended to serve the public, providing that such signs contain no advertising of any kind. Such signs include those identifying rest rooms, public telephones, public walkways, affiliation with motor clubs, acceptance of designated credit cards, and other similar signs providing direction or instruction to persons using a facility, but not including those signs accessory to parking areas.

#### 1207.4 Non-Commercial Flags, Emblems and Insignia

Flags, emblems, and insignia of political, professional, religious, educational, or fraternal organizations.

#### 1207.5 Governmental Signs

Governmental signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies indicating danger, and aids to services or safety which are erected by, or at the order of a public officer or employee in the performance of the officer's or employee's duties.

#### 1207.6 Holiday Decorations

Signs or other materials temporarily displayed on traditionally accepted civic, patriotic, or religious holidays related to observance of the civic, patriotic, or religious holiday.

#### 1207.7 Interior Signs

Signs not visible from the exterior of the structure which are fully located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs located within the inner or outer lobby, court or at the entrance of any theater when such signs are intended for patrons immediately adjacent to the signs.

#### 1207.8 Memorial Signs

Memorial plaques or tablets, grave markers, statutory, or other remembrances of persons or events which are non-commercial in nature.

#### 1207.9 Name and Address Plates

Signs, not exceeding two (2) square feet for each exposed face nor exceeding an aggregate gross surface area of four (4) square feet, indicating the name of the occupant, the address of the premises, and identification of any legal business or operation which may exist at the premises.

#### 1207.10 No Trespassing, No Hunting, No Fishing, No Dumping, No Parking, No Towing, and Other Similar Signs

No trespassing, no hunting, no fishing, no dumping, no parking, towing and other similar signs (as set forth in Title 75 of the Pennsylvania Vehicle Code and its regulations and as set forth in Title 18 of the Pennsylvania Crimes Code and its regulations).

#### 1207.11 Parking Lot Directional and Instructional Signs

The following signs if located on the same premises to which they apply.

- A. Directional Signs - Signs designating parking area entrances and exits limited to one (1) sign for each entrance and/or exit and not exceeding four (4) square feet for each exposed face. Parking lot directional signs shall not project higher than five (5) feet in height, as measured from the established grade of the parking area to which such signs are accessory.
- B. Instructional Signs - Signs designating the conditions of use or identity of parking areas and not exceeding eight (8) square feet for each exposed face nor exceeding an aggregate gross surface area of sixteen (16) square feet. Parking lot instructional signs shall not project higher than ten (10) feet for wall signs and seven (7) feet for ground signs, as measured from the established grade of the parking area(s) to which such signs are accessory.

#### 1207.12 Patron Advertising Signs

Signs erected on the perimeter of an organizational sponsored youth athletic field for the sole purpose of sponsoring or contributing to the organized youth athletic sport. Signs erected for this purpose shall be one sided with a maximum of thirty-two (32) square feet of gross surface area. Sponsors advertising on score boards may not exceed twenty-five percent (25%) of the gross surface area of the score board.

#### 1207.13 Plaques

Plaques, nameplates, or memorial signs, directly attached or affixed to the exterior walls of a building, not exceeding four (4) square feet in aggregate gross surface area.

#### 1207.14 Public Notices

Official notices posted by public officers or employees in the performance of the officer's or employee's duties.

#### 1207.15 Public Signs

Signs required by governmental bodies or specifically authorized for a public purpose by any law, statute, or ordinance. Such public signs may be on any type, number, area, height, location, or illumination as required by law, statute, or ordinance, and Borough owned and Public Sign maintained community information signs including electronic message displays.

#### 1207.16 Signs on Vehicles

Signs placed on or affixed to vehicles and/or trailers where the sign is incidental to the primary use of the vehicle or trailer. However, this is not in any way intended to permit signs placed on or affixed to vehicles and/or trailers, which are parked on a public right-of-way, public property, or private property so



as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or other property.

#### 1207.17 Symbols or Insignia

Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding two (2) square feet for each exposed face not exceeding four (4) square feet in aggregate gross surface area.

#### 1207.18 Vending Machine Signs

Permanent, non-flashing signs on vending machines, gasoline pumps, ice or milk containers, or other similar machines indicating only the contents of such devices, the pricing of the contents contained within, directional or instructional information as to use, and other similar information as to the use, and other similar information not exceeding four (4) square feet for each exposed face not exceeding an aggregate gross surface area of eight (8) square feet on each machine.

#### 1207.19 Warning Signs

Signs warning the public of the existence of danger, but containing no advertising material; to be removed within three (3) days upon the subsidence of danger. Such warning signs may be of any type, number, area, height, location, or illumination as deemed necessary to warn the public of the existence of danger.

#### 1207.20 Noncommercial Free Speech Signs

A sign with no commercial content which expresses personal ideas and values, advocates a position on an issue, or seeks converts and supporters and which does not meet the definition of a *political sign*.

### **§1208 TEMPORARY SIGNS**

Temporary signs may be erected and maintained in accordance with the provisions contained in this §1208.

#### 1208.1 General Conditions

- A. Illumination - Temporary signs may be illuminated subject to §1204.
- B. Sign Types - Temporary signs shall be limited to non-projecting wall signs, attached ground signs, or portable and wheeled signs as defined herein.

#### 1208.2 Temporary Business Signs

Temporary business signs identifying a special, unique, or limited activity, service, product, or sale of limited duration shall be subject to the following:

- A. Number - There shall not be more than two (2) permits for temporary business signs issued for the same premises within one (1) calendar year. Each temporary business sign permit may be erected and maintained for a period not to exceed thirty (30) days and shall be removed within three (3) days of the termination of the activity, service, project, or sale. Or, alternatively, a temporary business sign permit may be applied for a maximum of five (5) times during one (1) calendar year for the same premises; each permit shall be issued for a maximum of seven (7) days. It is expressly stated that temporary business sign permits shall be issued under one method

or the alternative and that the methods may not be used jointly or in combination during any one (1) calendar year.

B. District

1. RR, VR and MHP Districts - In RR, VR and MHP Districts temporary business signs shall not exceed two (2) square feet for each exposed face.
2. VC, HS and LI Districts - In VC, HS and LI Districts temporary business signs shall not exceed thirty-two (32) square feet for each exposed face.

C. Location - Temporary business signs shall be located only upon the zoning lot upon which the special, unique, or limited activity, service product, or sale is to occur. Such signs may be located in any required yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

D. Height

1. RR and VR Districts - In RR and VR Districts temporary business signs shall not exceed a height of seven (7) feet.
2. VC, HS and LI Districts - In VC, HS and LI Districts temporary business signs shall not exceed a height of fifteen (15) feet.

### 1208.3 Temporary Construction Signs

Temporary construction signs identifying the parties involved in the construction to occur or occurring on the premises on which the sign is placed shall be subject to the following:

A. Number - There shall not be more than one (1) temporary, construction sign for each project or development, except that where a project or development abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.

B. Area

1. RR, VR and MHP Districts - In RR, VR and MHP Districts temporary construction signs shall not exceed sixteen (16) square feet for each exposed face.
2. VC, HS and LI Districts - In VC, HS and LI Districts temporary construction signs shall not exceed thirty-two (32) square feet for each exposed face.

C. Location - Temporary construction signs shall be located only upon the premises upon which construction either is about to occur, or is occurring. Such signs may be located in any required yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

D. Height - Temporary construction signs shall not exceed a height of fifteen (15) feet.

E. Special Conditions - Temporary construction signs shall be permitted only as accessory to an approved building permit for a project or development. Temporary construction signs may be erected and maintained for a period not earlier than sixty (60) days prior to the commencement of construction of the project or development and must be removed prior to an occupancy permit being issued or if no occupancy permit is required, the sign shall be removed upon project completion.



#### 1208.4 Temporary Contractor or Subcontractor Signs

Temporary contractor or subcontractor signs for the sole purpose of designating the contractor(s) and subcontractor(s) engaged in the development of a property shall be subject to the following:

- A. Number - There shall be not more than one (1) temporary contractor or subcontractor sign for each contractor or subcontractor working on the premises.
- B. Area - Temporary contractor or subcontractor signs shall not exceed six (6) square feet for each exposed face.
- C. Location - Temporary contractor or subcontractor signs shall be located only upon the premises where the contractor or subcontractor is working. Such signs may be located in any required setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access to a public roadway.
- D. Height - Temporary contractor or subcontractor signs shall not exceed a height of four (4) feet.
- E. Special Conditions - Temporary contractor or subcontractor signs shall be removed within fourteen (14) days of completion of the contractor's or subcontractor's work.

#### 1208.5 Temporary Event Signs (Including Banners)

Temporary event signs announcing a campaign, drive, activity, or event of a civic, philanthropic, educational, or religious organization for non-commercial purposes shall be subject to the following:

- A. Number, Area, Height, And Location - The permitted number, area, height, location, and construction of temporary event signs shall be determined by the Zoning Officer with consideration given to the public intended purpose. In any event, no sign may exceed thirty-two (32) square feet for each exposed face.
- B. Timing - Temporary event signs may be erected and maintained for a period not to exceed thirty (30) days prior to the date of which the campaign, drive, activity, or event advertised is scheduled to occur and shall be removed within three (3) days of the termination of such campaign, drive, activity, or event.
- C. Limit on Number of Permits - No more than six (6) permits for temporary event signs shall be issued for the same premises within one (1) calendar year.

#### 1208.6 Temporary Political Signs

Temporary political signs announcing political candidates seeking office, political parties, and/or political and public issues contained on a ballot shall be removed within fourteen (14) days following the election for which the signs were posted.

#### 1208.7 Temporary Real Estate Signs

Temporary real estate signs advertising the sale, lease, or rent of the premises upon which such sign is located shall be subject to the following:

- A. Number - There shall be not more than one (1) temporary real estate sign for each zoning lot except that where a lot abuts two (2) or more streets, additional signs, one (1) oriented to each abutting street, shall be permitted.
- B. Area
  - 1. RR, VR and MHP Districts - In RR, VR and MHP Districts temporary real estate signs shall not exceed six (6) square feet for each exposed face.

2. VC, HS and LI Districts - In VC, HS and LI Districts temporary real estate signs shall not exceed sixteen (16) square feet for each exposed face.
- C. Location - Temporary real estate signs shall be located only upon the premises for sale, lease, or rent. Such signs may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- D. Height - Temporary real estate signs shall not exceed a height of fifteen (15) feet.
- E. Removal - Temporary real estate signs shall be removed within seven (7) days of the sale or lease of the premises upon which the sign is located.

#### 1208.8 Temporary Yard or Garage Sale, Open House, or Auction Signs

Temporary yard sale or garage sale, open house, or auction signs advertising the sale of items and the sales location shall be subject to the following:

- A. Area - In all zoning districts no temporary yard or garage sale signs shall exceed four (4) square feet for each exposed face.
- B. Location - A temporary yard or garage sale sign shall not create a public hazard.
- C. Height - Temporary yard or garage sale signs shall not exceed a height of thirty (30) inches.
- D. Timing - Temporary yard or garage sale signs may be erected no sooner than seven (7) days before the sale and must be removed no later than two (2) days after the sale.

#### 1208.9 Temporary Seasonal Farm Product Signs

Temporary seasonal farm product signs for the sole purpose of advertising the availability of seasonal farm products grown on the premises shall be subject to the following:

- A. Number - There shall be not more than two (2) temporary seasonal farm product signs for each premises.
- B. Area - The gross surface area of each sign shall not exceed twelve (12) square feet for each exposed face.
- C. Location - Temporary seasonal farm product signs shall be located only upon the premises where the seasonal farm products are sold. Such signs may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access to a public roadway.
- D. Height - Temporary contractor or subcontractor signs shall not project higher than ten (10) feet, as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is higher.
- E. Timing - Temporary seasonal farm product signs shall not be erected more than fifteen (15) days before the harvest of the produce and shall be removed within thirty (30) days from the end of the harvest.

### **§1209 RESIDENTIAL USES**

For all residential uses, only the following signs are hereby permitted and then only if accessory and incidental to a permitted use.

#### 1209.1 Building Name and Address Signs

Name and address signs of buildings containing six (6) or more residential units indicating only the name of the building, the name of the development in which it is located, the management thereof, and/or address of the premises shall be subject to the following:

- A. Type - Building name and address signs may be either wall signs or ground signs.
- B. Number - There shall not be more than one (1) name and address sign for each building except that where a building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
- C. Area - Building name and address signs shall not exceed four (4) square feet for exposed face.
- D. Location - Building name and address signs shall not be located closer than one-half the minimum setback required for the zoning district in which the sign is to be erected or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The location and arrangement of all building name and address signs shall be subject to the review and approval of the Zoning Officer.
- E. Height - Building name and address signs shall not exceed a height of fifteen (15) feet for wall signs and seven (7) feet for ground signs.

#### 1209.2 Residential Development Signs

Residential development signs indicating only the name of the development, the management or developer thereof, and/or the address or location of the development shall be subject to the following:

- (1) Type - The residential development signs shall be ground signs.
- (2) Number - There shall not be more than two (2) residential development signs for each point of vehicular access to a development.
- (3) Area - Residential development signs shall not exceed thirty-two (32) square feet for each exposed face.
- (4) Location - Residential development signs may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Officer.
- (5) Height - Residential development signs shall not exceed a height of seven (7) feet.

#### 1209.3 Exempt Signs

Exempt signs as specified in §1207 of this Ordinance.

#### 1209.4 Temporary Signs

Temporary signs as specified in §1208 of this Ordinance.

### **§1210 COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL USES**

For all commercial, industrial, and institutional uses (referred to as *business*), the signs included in this §1210 shall be permitted in accord with the applicable requirements and then only if accessory and incidental to a permitted use. All signs governed by this §1210 (except for billboards and off-premises signs) shall not be used for any message which is displayed in trade for any form of compensation unless the displayed product or service is offered upon the premises where the sign is located, and any sign which does not conform to this shall be considered a billboard subject to §1211.

### 1210.1 Commercial, Industrial, and Institutional Use Signs

Commercial, industrial, and institutional use signs, other than those subject to special conditions in later parts of this section, shall be subject to the following:

#### A. Wall Signs in RR, VR, VC and MHP Districts

1. Number - There shall be not more than one (1) wall sign for each principal building except that where the building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted and one (1) any side of a building which includes the main entrance of a business.
2. Area - The gross surface area of a wall sign shall not exceed two (2) square feet in area for each linear foot of the building wall to which the sign is to be affixed or one hundred (100) square feet, whichever is smaller. The gross surface area of a wall sign may be increased by twenty (20%) percent, except that the gross surface of the sign shall not exceed one hundred (100) square feet, if such wall sign:
  - a. consists only of individual, outlined alphabetic, numeric, and/or symbolic characters without background, except that provided by the building surface to which the sign is to be affixed; and
  - b. if illuminated, such illumination is achieved through shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters.
3. Length/Height - The sign shall not exceed twenty-five (25) feet in width and four (4) feet in height.
4. Location - A wall sign may be located on the outermost wall of any principal building, but shall not project more than twelve (12) inches from the wall to which the sign is to be affixed.
5. Height from Ground - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed.

#### B. Wall Signs in HS and LI Districts

1. Number - There shall be not more than one (1) wall sign for each principal building except that where the building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted and one (1) any side of a building which includes the main entrance of a business.
2. Area - The gross surface area of a wall sign shall not exceed four (4) square feet in area for each linear foot of the building wall to which the sign is to be affixed or one hundred twenty (120) square feet, whichever is smaller. The gross surface area of a wall sign may be increased by twenty (20%) percent, except that the gross surface of the sign shall not exceed one hundred twenty (120) square feet, if such wall sign:
  - a. consists only of individual, outlined alphabetic, numeric, and/or symbolic characters without background, except that provided by the building surface to which the sign is to be affixed; and
  - b. if illuminated, such illumination is achieved through shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters.

3. Length/Height - The sign shall not exceed thirty (30) feet in width and four (4) feet in height.
4. Location - A wall sign may be located on the outermost wall of any principal building, but shall not project more than twelve (12) inches from the wall to which the sign is to be affixed.
5. Height from Ground - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed.

#### C. Ground Signs

1. Number - There shall not be more than (1) ground sign for each premises.
2. Area
  - a. RR, VR, VC and MHP Districts - The gross surface area of a wall sign shall not exceed sixty-four (64) square feet for each exposed face.
  - b. HS and LI Districts - The gross surface area of a ground sign shall not exceed seventy-five (75) square feet for each exposed face.
3. Location - A ground sign may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
4. Height - A ground sign shall not exceed a height of twenty-five (25) feet.

#### 1210.2 Multi-Use Signs

Multi-use project signs shall be subject to the following:

##### A. Wall Signs

1. Number - There shall not be more than one (1) wall sign for each principal tenant or use contained in a multi-use project except that where a tenant or use abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
2. Area
  - a. RR, VR, VC and MHP Districts - The gross surface area of a wall sign shall not exceed two (2) square feet in area for each linear foot of the building wall to which the sign is to be affixed or one hundred (100) square feet, whichever is smaller.
  - b. HS and LI Districts - The gross surface area of a wall sign shall not exceed four (4) square feet in area for each linear foot of the building wall to which the sign is to be affixed or one hundred twenty (120) square feet, whichever is smaller.
3. Location - A wall sign may be located on the outermost wall of any principal building, but shall not project more than twelve (12) inches from the wall to which the sign is to be affixed. The location and arrangement of all wall signs shall be subject to the review and approval of the Zoning Officer.
4. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, whichever is lower.

##### B. Ground Signs

1. Number - There shall not be more than one (1) ground sign for each multi-use project.
2. Area - The gross surface area of a ground sign shall not exceed a maximum of one (1) square foot for each one and one-half (1) linear feet of front footage of the lot not to exceed:
  - a. RR, VR, VC and MHP Districts – Sixty-four (64) square feet..
  - b. HS and LI Districts – Seventy-five (75) square feet.
3. Location - A ground sign may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
4. Height - A ground sign shall not exceed a height of twenty-five (25) feet.
5. Directory signs - Each multi-use project ground sign may include affixed directly to it a directory indicating only the names of the tenants of the multi-use project in which the sign is to be located. The gross surface area of a directory sign shall not exceed ten (10) square feet for each exposed face. The information displayed by a multi-use project directory sign, which is in compliance with the foregoing requirements, shall not be treated as items of information as otherwise specified in §1203.2.

1210.3 Fuel Service Signs

In addition to the other signs permitted by this Article, the following signs shall be permitted for retail fuel sales establishments and shall be counted as part of the 160-square foot maximum sign area.

- A. Fuel Price Signs -One (1) sign with up to four (4) fuel prices attached to the business sign which may be an electronic sign in compliance with the applicable standards of §1215. The height of the letters/numerals shall not exceed the following and the sign shall be no larger than necessary to encompass the letters/numerals, but in no case shall exceed the width of the business sign.

# of Products Advertised	Maximum Letter Height
1 or 2	24 inches
3	15 inches
4	12 inches

- B. Canopy Signs - Service island canopy signs over fuel service islands indicating the brand, manufacturer and/or logo, shall be subject to the following:
  1. Location - Service island canopy signs shall be attached to the face of the canopy and shall not extend beyond the edges of the canopy.
  2. Number - There shall not be more than one (1) service island canopy sign on each face of the canopy.
  3. Area - The gross surface of a service island canopy sign shall not exceed fifty (50) percent of the surface area of the canopy face to which it is attached.

#### 1210.4 Window Signs

Interior and exterior window signs shall be permitted for retail/service/wholesale commercial premises subject to the following:

- A. Area - The total surface area of all window signs shall not exceed twenty-five (25) percent of the area of the window to which the signs are attached.
- B. Location - Window signs shall be permitted only in windows facing an abutting street or any side of a building which includes the main entrance of a business.

#### 1210.5 A-frame or Sandwich Board Signs

A-frame or sandwich board signs shall be permitted for retail/service/wholesale commercial establishments subject to the following:

- A. Each business establishment shall be limited to one (1) A-frame or sandwich board sign.
- B. The sign shall be comprised of two (2) boards of durable material with no attachments.
- C. The sign shall not exceed eight (8) square feet for each exposed face and shall not exceed thirty (30) inches in width.
- D. The sign shall not be illuminated.
- E. The sign shall be displayed only during the hours when the establishment is open for business and shall include advertising pertaining only to the establishment of location.
- F. The sign shall not be placed in such manner as to impede pedestrian or vehicle traffic or the opening of vehicle doors.
- G. The sign shall be sufficiently secured or weighted to resist overturning.
- H. The placement of the sign shall comply with PennDOT and Americans with Disabilities Act requirements.
- I. The sign shall not be displayed at any time when snow has accumulated on or has not been completely removed from the sidewalk in front of the premises where the sign is permitted.

#### 1210.6 Shingle Signs

In addition to the other signs permitted by this ordinance each business establishment with a separate entrance to the outside shall be permitted a shingle sign in accord with this §1210.6.

- A. A shingle sign shall not exceed six (6) square feet for each exposed face.
- B. Shingle signs shall be limited to two (2) sign faces.
- C. No portion of a shingle sign shall be less than eight (8) feet above any pedestrian walkway or the ground below the sign.
- D. No portion of a shingle sign shall project above the top of an eave or parapet.
- E. Shingle signs suspended from the underside of a building overhang shall be centered under the overhang.

- F. A shingle sign shall maintain a ten-foot separation from another shingle sign.
- G. Shingle signs shall be located at the business entrance.
- H. Single signs shall not be more than six (6) inches or less than one (1) inch thick.

1210.7 Awning, Canopy, or Marquee Signs (See §1210.3B for fuel service island canopy signs.)

- A. Number - There shall not be more than one (1) awning, canopy, or marquee sign exceeding an aggregated gross surface area of four (4) square feet for each principal building. Awning, canopy, and marquee signs which are four (4) square feet or less in aggregate gross surface area are exempt from the provisions of this Ordinance, as specified in §1207.1.
- B. Area - The gross surface area of an awning, canopy, or marquee sign shall not exceed sixteen (16) square feet, but shall be limited to not more than fifty (50%) percent of the gross surface area of the face of the awning, canopy, or marquee to which such sign is affixed.
- C. Height - Any awning, canopy, or marquee sign shall not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.
- D. Illumination - Only the face area of the letters or logos may be illuminated and all illumination must be internal behind the surface of the awning, canopy or marquee.

1210.8 Changeable Panel Signs

One (1) changeable panel sign board may be erected on the lot containing one (1) or more commercial, manufacturing, industrial, public or semi-public use, referred to as *business* in this section, subject to the following:

- A. Type - The changeable panel sign shall be a ground sign or may be attached to the same support of the permitted business identification ground sign.
- B. Number - One (1) changeable panel sign may be erected on the business parcel identifying special, unique, limited activities, services, products, or sale of limited duration occurring on the premises on which the changeable panel sign is located.
- C. Area - The gross surface area of a changeable panel sign shall not exceed ten (10) square feet for each exposed face.
- D. Location - A changeable panel sign shall maintain side and rear yard setbacks, and shall not extend within fifteen (15) feet of any point of vehicular access to a public roadway.
- E. Height - If the changeable panel sign is separate from the main freestanding sign, the changeable panel sign may not project higher than ten (10) feet, as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is higher. The changeable panel sign shall be separated by a minimum of twelve (12) inches from the main ground pole sign.

1210.9 Flags

Flags shall be permitted for commercial, manufacturing, industrial, public and semi-public uses, referred to as *business*, subject to the following:

- A. Business Identification - The flag shall identify the business.



- B. Flag Pole - The flag shall be suspended from a pole and the maximum height shall be thirty-six (36) feet. The flag pole shall be placed within a landscaped setting of not less than one (1) square foot for every one (1) foot of each flag pole.
- C. Area - The maximum area of the flag shall be twenty-four (24) feet.
- D. Government Flags – the display of governmental flags is not restricted by the provisions of this §1210.9

### **§1211 BILLBOARDS AND OFF-PREMISES SIGNS**

Billboards or off-premises signs shall only be erected in the HS District subject to compliance with all applicable requirements of this Ordinance and the following:

#### 1211.1 Number

One (1) billboard or off-premises sign may be erected, constructed, or maintained on any premises in a HS District only in accord with the following criteria.

#### 1211.2 Area

An off-premises sign or billboard shall not exceed three hundred (300) square feet in gross surface area, and each such sign shall have only one (1) exposed face.

#### 1211.3 Spacing

An off-premises sign or billboard shall not be closer than five hundred (500) feet to another off-premises sign or billboard along the same side of any street or highway.

#### 1211.4 Spacing at Intersections

An off-premises sign or billboard shall not be located within fifty (50) feet of any street intersection.

#### 1211.5 Location

An off-premises sign or billboard shall only be permitted in the Industrial Zoning District. The sign shall be located in accordance with the yard setbacks for structures located in the Industrial Zoning District.

#### 1211.6 Height

An off-premises sign or billboard shall not exceed a height of twenty-five (25) feet.

### **§1212 PERMITS**

#### 1212.1 Permit Required; Exemptions

Except for the following, no person may erect, alter, or relocate within the Borough any sign without first obtaining a sign permit from the Zoning Officer and paying the required fee.

- A. Exempt signs as specified in §1207.
- B. Real estate and temporary contractor/subcontractor signs.
- C. Routine maintenance or changing of the parts or copy of a sign, provided that the maintenance or change of parts or copy does not alter the surface area, height, or otherwise render the sign nonconforming.
- D. Any other sign as exempted from permit requirements by Borough policy.

#### 1212.2 Permit Application

Applications for sign permits shall be submitted to the Zoning Officer in accord with §1402.

## §1213 NONCONFORMING SIGNS

### 1213.1 Legal, Nonconforming Signs

Any sign lawfully existing or under construction on the effective date of this Ordinance, which does not conform to one (1) or more of the provisions of this Ordinance, may be continued in operation and maintained indefinitely as a legal nonconforming sign subject to compliance with the requirements of §1213.2.

### 1213.2 Maintenance and Repair of Legal Nonconforming Signs

- A. Normal Maintenance - Normal maintenance of legal nonconforming signs, including changing of copy, necessary repairs, and incidental alterations which do not extend or intensify the nonconforming features of the sign, shall be permitted.
- B. Alteration, Enlargement, or Extension - No alteration, enlargement, or extension shall be made to a legal nonconforming sign unless the alteration, enlargement, or extension will result in the elimination of the nonconforming features of the sign.
- C. Conversion - A nonconforming sign shall not be converted to an electronic message sign.
- D. Damage, Destruction, Disrepair - If a legal nonconforming sign is damaged or destroyed by any means, or falls into disrepair, to the extent of fifty (50%) percent or more of its replacement value at the time, the sign may not be rebuilt to its original condition and may not continue to be displayed.
- E. Replacement - Once a nonconforming sign is removed, abandoned or falls into disrepair, it may be replaced only with a sign conforming to district regulations.

## §1214 REMOVAL OF CERTAIN SIGNS

### 1214.1 Obsolete Signs

- A. Removal - Any sign, whether existing on or erected after the effective date of this Ordinance, which advertises a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located, shall be removed within ninety (90) days upon the cessation of such business or sale of such product by the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.
- B. Notice - If the Zoning Officer shall find that any such sign advertising a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located has not been removed within ninety (90) days upon the cessation of such business or sale of such product, he shall give written notices to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located.
- C. Time for Removal - Removal of the sign shall be affected within thirty (30) days after receipt of the notice from the Zoning Officer.
- D. Borough Action to Remove - If such sign is not removed after the conclusion of such thirty-day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

### 1214.2 Unsafe Signs

- A. Notice - If the Zoning Officer shall find that any sign is unsafe or insecure, or is a menace to the public, he shall give written notice to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located.
- B. Correction - Correction of the condition which caused the Zoning Officer to give such notice shall be effected within ten (10) days after receipt of the notice.
- C. Borough Action to Remove - If such condition is not corrected after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.
- D. 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.

### **§1215 ELECTRONIC MESSAGE SIGNS IN VC, HS AND LI DISTRICTS**

Electronic message signs shall be permitted only in VC, HS and LI Districts in accord with this §1215 and other applicable requirements.

#### 1215.1 Types of Signs

An electronic sign may be used in place of, but not in addition to, the types of signs listed in this §1215.1.

- A. Individual use wall sign - §1210.1A or B.
- B. Individual use ground sign - §1210.1C.
- C. Multi-use wall sign - §1210.2A.
- D. Multi-use ground sign - §1210.2B.
- E. Changeable panel sign - §1210.8.
- F. Billboard or off-premises sign - §1211.

#### 1215.2 Standards

In addition to the other applicable requirements of this Ordinance, electronic message signs shall comply with the following:

- A. One Sign - Only one (1) electronic message sign shall be permitted per development parcel. If the sign structure has two (2) sign faces, each sign face may be an electronic message sign unless otherwise restricted by this Ordinance.
- B. Size - The electronic message sign shall not exceed the maximum allowable size of a non-electronic message sign of the same type.
- C. Message Display
  - 1. Motion - Electronic message sign motion shall be limited to the transition from one message to another. The image shall be static, with no animation, streaming video, flashing, scrolling, fading, or other illusions of motion.
  - 2. Transition - Transitions for electronic message signs shall fade and content shall not change more than once every eight (8) seconds with a transition time not exceeding one (1) second.
  - 3. Continuation - The images and messages displayed shall be complete on display without continuation in content to the next image or message or to any other sign.

4. Projection - Images or messages projected onto buildings or other objects shall be prohibited.
- D. Luminance - Electronic message signs shall not 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.
1. Maximum - Electronic message signs shall have a maximum luminance of 5,000 nits during daylight hours. During the nighttime, such signs shall be limited to a maximum luminance of 150 nits.

LUMINANCE - A measure of the brightness of a surface which is emitting or reflecting light. The unit of measurement is candelas per square meter or nits (1 nit = 1 cd/m<sup>2</sup>).

NIT - A unit of measure of Luminance.

2. Dimmer Control - All electronic message signs shall be equipped with both a dimmer control and a photocell that automatically adjusts the display's luminance according to natural ambient light conditions.
3. Light Trespass - Electronic message signs shall comply with the light and glare requirements of this Ordinance. The maximum light trespass limit at the boundary line of RR, VR and MHP Districts and permanent open space shall be 0.1 foot-candles, and 1.0 foot-candles at lot lines in of VC, HS and LI Districts.
4. Measurement - Surface luminance measurements shall be made directly with a calibrated luminance meter in accord with manufacturer's specifications. Readings shall be taken from the area from which the sign will be visible, usually the road, and which is closest to being directly in front of the sign where the luminosity output is most focused. This reading shall be the measurement of an all-white image display to evaluate the worst-case scenario. With an all-white display, a maximum of two-hundred (200) nits shall be permitted during nighttime.
5. Certification - Prior to issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the sign luminance has been factory pre-set to not exceed five thousand (5,000) nits and that the intensity has been protected from end-user manipulation by password-protected software.
- E. Height - The electronic message sign shall not exceed the maximum allowable height of a non-electronic message sign of the same type.
- F. Structural Support - No more than one digital sign or billboard may be installed on a single structural support; that is, signs shall not be stacked vertically or horizontally
- G. Automatic Shut-Off - The controls for the sign shall include *fail safe* programming to freeze the static image or turn off the sign in the case of a malfunction to prevent a violation of ordinance provisions.
- H. Emergency Messages - The applicant shall be required to coordinate and permit message access from local, regional, state and national emergency services during emergency situations and such messages shall not be required to conform to the message standards in this §1215.

## ARTICLE XIII NONCONFORMITIES

### §1300 PURPOSE, APPLICABILITY, REGISTRATION, AND CONTINUATION AND CHANGE

#### 1300.1 Purpose

It is the purpose of this Article XIII to:

- A. Recognize that if, prior to the adoption of the original Borough Zoning Ordinance, as amended, reenacted and replaced, property was used for a then lawful purpose or in a then lawful manner which the Zoning Ordinance would render thereafter prohibited and nonconforming, such property is generally held to have acquired a vested right to continue such nonconforming use or nonconforming structure. Nevertheless, this does not preclude the Borough from regulating the change, alteration, reconstruction, reestablishment, extension, destruction and abandonment of nonconforming uses in accord with the Pennsylvania Municipalities Planning Code and general case law;
- B. Limit the injurious impact of nonconforming lots, structures and uses on other adjacent properties within a particular district and the community as a whole, while recognizing that the change, alteration, reconstruction, reestablishment, or extension of nonconforming lots, structures and uses may not be contrary to the public interest or the general purpose of this Zoning Ordinance, when failure to allow such change, alteration, reconstruction, reestablishment, or extension would itself lead to neighborhood or district deterioration;
- C. Prescribe those standards which are to be applied by the Borough in determining the reasonableness of a proposal to change, alter, reconstruct, reestablish, or extend a nonconforming use.

#### 1300.2 Applicability

The provisions and protections of this Article XIII shall apply only to those nonconforming lots, structures and uses which legally pre-existed the applicable provisions of this Ordinance, as amended, or which are recognized by §1302 or §1303. 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.

#### 1300.3 Registration

It shall be the responsibility of the party asserting a nonconformity to provide the evidence, including photographs, that the nonconformity is legal. A property owner may request a written certificate of nonconformity from the Zoning Officer after providing sufficient evidence. The Zoning Officer may submit any application for a Certificate of Nonconformance to the Planning Commission for the Commission's review and recommendation with regard to the evidence of nonconformity.

#### 1300.4 Continuation and Change

A lawful nonconforming lot, structure or use as defined by this Ordinance may be continued and may be sold and be continued by new owners subject to the other provisions of this Ordinance. Any expansion, alteration, extension or change in a nonconformity shall only proceed in compliance with this Article XIII.

## §1301 DEFINITIONS

### 1301.1 Nonconforming Lot

A lot the area or dimension of which was lawful prior to the effective date of this Ordinance, as amended, but which fails to conform to the requirements of the zoning district in which it is located by reasons of the adoption or amendment of this Ordinance.

### 1301.2 Nonconforming Structure

A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions of this Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment or prior to the application of this Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

### 1301.3 Nonconforming Structure, Alteration

As applied to a nonconforming structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

### 1301.4 Nonconforming Structure, Reconstruction

The rebuilding of a nonconforming structure damaged or destroyed by casualty to the exact or less nonconforming condition which existed prior to the casualty.

### 1301.5 Nonconforming Use

A use, whether of land or of structure, which does not comply with the applicable use provisions of this Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment, or prior to the application of this Ordinance or amendment to its location by reason of annexation.

### 1301.6 Nonconforming Use, Change

The conversion of a nonconforming use to a different use classification as enumerated in the Schedules of Uses.

### 1301.7 Nonconforming Use, Expansion

The extension of a nonconforming use throughout the structure which the said use partially occupies, or the extension of a nonconforming use onto property not already occupied by the said use.

### 1301.8 Nonconforming Use, Reestablishment

The reopening or reinstatement of a nonconforming use which has been discontinued by the owner of the said use, such reopening effected prior to the abandonment of the nonconforming use as determined under the provisions of this Ordinance.

## §1302 NONCONFORMITIES UNDER DEVELOPMENT

For the purposes of this Article XIII, a building, structure or use, legally permitted, planned and substantially under construction in compliance with existing Ordinances prior to the effective date of this Ordinance, or any amendment hereto, and completed within a one-year period after the effective date of this Ordinance or amendment hereto, shall be considered nonconforming.

## §1303 NONCONFORMITIES BY VARIANCE

A building, structure or use allowed by variance in a district where it is non-conforming with any regulations of this Ordinance, as amended, reenacted and replaced, shall be considered nonconforming for the purposes of this Ordinance.

## §1304 NORMAL MAINTENANCE AND REPAIR ACTIVITIES

Normal maintenance and repair, such as painting, replacement of siding, and similar activities is allowed, as well as those interior renovations which do not structurally alter the building or area or result in increased use of the building or area, or a change of nonconformity, or otherwise create more incompatibility with the permitted use provisions of this Ordinance. Such maintenance and repair activities shall, however, comply with all other applicable standards and permit requirements of this Ordinance.

## **§1305 CHANGES**

### 1305.1 Special Exceptions

All changes of nonconforming uses shall be considered special exceptions subject to the specific procedures and review criteria contained in this Ordinance and the review factors in §1310. A nonconforming use may only be changed to a use of equal or less nonconformity as determined by Zoning Hearing Board. The general standard shall be that no change of a nonconforming use shall be permitted if such change will result in the establishment of a use which is materially different from the existing use in terms of negative effects on the community and the long term application of the Zoning Ordinance to eliminate incompatible uses from specific zoning districts.

### 1305.2 Conforming Changes and Conversions

- A. Change - A change in a nonconforming use to a conforming use shall not be considered a special exception unless the proposed use is classified as a special exception by the Schedules of Uses in this Ordinance. A change of a nonconforming use to a conforming use shall be considered an abandonment of the nonconforming use which shall not thereafter revert to a nonconforming use.
- B. Conversion - The conversion of a nonconforming use to a nonconforming use of like classification shall not be considered a special exception. For example, a nonconforming retail establishment selling groceries proposed for conversion to a shoe store would not be considered a change in nonconforming use.

### 1305.3 Other Standards

All changes to nonconforming uses shall also be subject to all other applicable standards in this Ordinance.

## **§1306 EXPANSION**

### 1306.1 Special Exceptions

All expansions of nonconforming uses into more area of a structure or onto more area of property shall be considered special exceptions subject to the specific procedures and review criteria contained in this Ordinance, and the review factors in §1310.

### 1306.2 Expansion Limited to Same Parcel; New Structures Prohibited

Expansions of a nonconforming use shall be limited to the same parcel of property on which the nonconforming use is situated as said parcel existed on the effective date of this Ordinance, as amended. For any nonconforming uses not involving a structure, no new structures shall be permitted as part of an expansion.

### 1306.3 Expansion Limitation

An expansion of land or structure used for the nonconforming use shall be limited to a total increase not to exceed fifty (50) percent of land and fifty (50) percent of structure beyond what existed on the effective

date of this Ordinance, as amended. All such expansions of a nonconforming use may be permitted in successive increments for a total up to the increase permitted; and each increment shall be a separate application. Applications for successive increments shall only be entertained by the Zoning Hearing Board upon the completion of the previously approved expansion.

#### 1306.4 Compliance with Standards

In addition to complying with the requirements of this §1306, an expansion of a nonconforming use shall comply with all setback, height, lot coverage, parking and other standards of this Ordinance.

### **§1307 RECONSTRUCTION**

#### 1307.1 Conditions of Reconstruction

Any lawful nonconforming building, structure or use which has been damaged or destroyed by fire, explosion, windstorm or other external cause may be reconstructed in the same location, provided that:

- A. The application for a zoning permit is submitted within one (1) year of the date of the casualty;
- B. The nonconformity is not increased and no new nonconformity is created except for an expansion of a nonconforming use in compliance with §1306;
- C. It was not voluntarily demolished. (See §1307.5.)

#### 1307.2 Procedure - Permits

All applicable permits for the reconstruction of a nonconforming structure or use shall be required. Such reconstruction shall be considered a special exception if the reconstruction involves a change or extension of use as regulated by §1305 and §1306 of this Ordinance, respectively.

#### 1307.3 Time Extension

The Zoning Officer may for good cause grant a one-time extension of not more than one (1) year for the reconstruction of the nonconforming use. Said extension shall only be considered upon written application for same submitted by the property owner.

#### 1307.4 Reconstruction Prohibited

Any structure for which a reconstruction permit application has not been submitted within the required one-year period shall be deemed abandoned and any subsequent use of the land or structure shall be for conforming purposes only and said use shall in all respects conform to the applicable provisions of this Zoning Ordinance.

#### 1307.5 Demolition

If a nonconforming structure or use is voluntarily demolished to an extent which exceeds fifty (50) percent of the cost to replace the entire structure or use in accord with the most current construction standards, the reconstruction shall comply with current setback, lot coverage, height and other requirements of this Ordinance.

### **§1308 ABANDONMENT AND REESTABLISHMENT OF NONCONFORMITIES**

#### 1308.1 Abandonment

If a nonconforming use of land or structure ceases operations, is discontinued, is vacated or is otherwise abandoned for a period of one (1) year 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.

#### 1308.2 Agricultural Uses

Abandonment regulations shall not apply to agricultural uses.

### **§1309 ALTERATIONS OF NONCONFORMING STRUCTURES**

The alteration of nonconforming structures shall be permitted only in accord with this §1309 and other applicable standards in this Ordinance.

#### 1309.1 Permit

An alteration of a nonconforming structure shall require the applicable zoning permit. Such alteration shall be considered a special exception if the alteration involves a change or expansion of a nonconforming use as regulated by §1305 and §1306 of this Ordinance, respectively.

#### 1309.2 Compliance with Standards

An alteration of a nonconforming structure shall comply with all setback, height, lot coverage, parking and other standards of this Ordinance and shall not result in any increased nonconformity except for an expansion of a nonconforming use in compliance with §1306.

#### 1309.3 Nonconforming Setbacks

A single-family detached dwelling which is nonconforming as to a setback requirement may be extended along the nonconforming setback line a distance not to exceed fifty (50) percent of the length of the nonconforming part of the structure as it existed at the effective date of this Ordinance. However, the height of any such residential or commercial extension shall not exceed the lesser of the existing height of the nonconforming structure or the applicable district maximum height.

#### 1309.4 Increase in Area or Bulk Nonconformity

In the case where a proposed alteration of a nonconforming structure will result in an increased nonconformity of setback, height, lot coverage or other area or bulk standard, a variance shall be required from the Zoning Hearing Board.

### **§1310 REVIEW FACTORS**

In addition to other applicable requirements of this ordinance, the Zoning Hearing Board shall consider any nonconformity special exception application in terms of the effect on the following factors:

#### 1310.1 Nuisance Considerations

- A. Traffic generation.
- B. Noise, dust, fumes, gases, odor, glare, vibration, fire and explosion hazards and other nuisances.
- C. Amount and nature of outdoor storage.
- D. Hours of operation.
- E. Compatibility with the character of the surrounding neighborhood.
- F. Potential of the expansion to reduce existing congestion and alleviate parking shortages by improved site design, addition of parking and improved loading areas.

#### 1310.2 Specific Considerations

- A. Storage of Materials - There shall be no increase in the amount of materials, supplies and/or products that are stored outside a non-conforming facility, as on a lot in a non-conforming use, excepting those types of uses outlined in Subsection B below.

- B. Screening - Where the non-conforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a sawmill, farm machinery sales operation or similar operation), the use may only be expanded if a solid fence of wood and/or buffer, not less than six (6) feet in height, is present on all sides of the immediate area in use. Stored material shall not exceed the height of the screening material and nine (9) feet at the maximum. Setbacks and buffers shall be provided in accord with §1105.1.
- C. Setbacks - No addition, change or expansion of a non-conforming use shall further violate setback and/or height regulations of the district in which it is located.
- D. Parking and Traffic - In no case will a change, addition or expansion of a non-conforming use be allowed which would result in the diversion of traffic, or relocation of a driveway on the site to any point nearer a residential property, or result in violation of any of the parking and unloading requirements of this Ordinance. The Zoning Hearing Board may require vegetative screening of the parking area from nearby residential areas in accord with §1105.1.

### **§1311 USE OF NONCONFORMING LOTS OF RECORD**

#### 1311.1 Principal Permitted Uses Allowed

In all districts, a lawful nonconforming lot of record may be used for any permitted use in the District of location provided all applicable standards in this Ordinance are satisfied.

#### 1311.2 Combination Required

If a proposed use straddles adjoining nonconforming lots, the lots shall be combined into a single parcel in accord with the requirements of the Briar Creek Borough Subdivision and Land Development Ordinance.

## ARTICLE XIV ADMINISTRATION

### §1400 APPLICABILITY

#### 1400.1 Conformance

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

#### 1400.2 Authorization

This Ordinance regulates all matters and activities authorized by Article VI of the Pennsylvania MPC (hereinafter referred to as MPC).

#### 1400.3 Regulated Activities

Any of the following activities or any other activity or matter regulated by this Zoning Ordinance shall only be undertaken after the required permit or approval has been obtained in full compliance with this Ordinance:

- A. Erection, construction, movement, placement or extension of a structure, building or regulated sign;
- B. Change in the type of use or expansion of the use of a structure or area of land; and/or,
- C. Creation of a lot or alteration of lot lines.

#### 1400.4 Repairs and Maintenance

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

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

### §1401 GENERAL PROCEDURE FOR PERMITS

#### 1401.1 Use Permitted by Right or Accessory Use

Within ninety (90) days of receiving a proper and complete application for a use permitted by right or an accessory use, the Zoning Officer shall either:

- A. Issue the permit under this Ordinance; or,
- B. Refuse the permit, indicating at least one applicable reason, in writing, to the applicant or his/her representative.

#### 1401.2 Other Approvals or Reviews

Certain activities require approval of the Zoning Hearing Board and/or of the Borough Council, and/or the recommendations of the Planning Commission. In such case, the Zoning Officer shall not issue a Zoning Permit until such required review or approval occurs.

#### 1401.3 Appeal

See §1405.2 which describes processes to appeal actions of the Zoning Officer to the Zoning Hearing Board.

#### 1401.4 Timing

After a zoning permit has been received by the applicant, the applicant may undertake the action permitted by the permit under this Ordinance provided the work complies with other Borough Ordinances. However, it is recommended that applicants wait thirty (30) days to begin construction if there is a possibility of an appeal by another party to have the permit revoked. Any commencement of construction or a use within this thirty (30) day appeal period shall be at the risk of the applicant. (See Certificate of Use in §1402.7.)

### **§1402 PERMITS AND CERTIFICATES**

1402.1 Applicability See §1400.

#### 1402.2 Types of Uses

- A. Uses Permitted by Right and Accessory Uses - If a use is listed as a principal permitted use or an accessory use by this Ordinance, the Zoning Officer shall issue a permit in response to a complete application documenting compliance with this Ordinance.
- B. Special Exception Use or Application Requiring a Variance - A permit under this Ordinance for a use requiring a Special Exception or Variance shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board.
- C. Conditional Use - A permit under this Ordinance for a Conditional Use shall be issued by the Zoning Officer only upon the written order of the Borough Council.

#### 1402.3 Applications

- A. Applications - Any request for action by the Zoning Hearing Board, application for a conditional use, or for a permit under this Ordinance shall be made, in writing, on a form provided by the Borough and in accord with the procedures established by the Borough. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to the Borough employee responsible for processing such application. The applicant is responsible to ensure that a responsible Borough official notes the date of the official receipt on the application.
- B. Number of Copies - Unless waived by the Zoning Officer, five (5) copies of a site plan shall be submitted if an application requires action by the Zoning Hearing Board or Borough Council; and, two (2) copies shall be submitted if action by the Zoning Hearing Board or Borough Council is not required.
- C. Information Required - In the case of an application involving the construction of any new structure or any addition to an existing structure, all of the information required in this §1402.3

shall be provided by the applicant. However, the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, may determine, as part of the review process, that certain information is not required for a particular application, and upon such determination, the specified information need not be provided by the applicant.

In the case of an application which does not involve the construction of any new structure or any addition to an existing structure, a narrative providing details of the project shall be provided as required by this subsection. However, a plot plan, as required by Subsection 6 which follows, shall not generally be required unless the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, deems such plot plan necessary to evaluate and make a decision on the application. The Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, shall determine, as part of the review process, the type of information and level of detail of the plot plan if such plot plan is required.

In any case, the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, may require any other additional information or any level of detail deemed necessary to determine compliance with this Ordinance or to identify any impacts of the proposed use.

1. Name and address of the applicant, or appellant; and, the name and address of the owner of the affected property.
2. A description of the existing and proposed use(s) of the property, including numbers of dwelling units, minimum square feet of proposed dwelling units and number of proposed business establishments, if any.
3. A description of any proposed nonresidential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards, or other significant public health and safety hazards.
4. If a principal nonresidential use is proposed within close proximity to dwellings, a description of hours of operation and proposed methods of storing garbage outdoors on-site.
5. A listing of any specific sections of this Ordinances being appealed, with the reasons for any appeal.
6. A plot plan legible in every detail and drawn to scale, but not necessarily showing precise dimensions, which includes the following information:
  - a. Name of the development.
  - b. Name and address of land owner and/or land developer. (If a corporation, list names of officers.)
  - c. Location map.
  - d. North arrow, true or magnetic.
  - e. Graphic scale.
  - f. Written scale.
  - g. Date plot plan was completed.
  - h. Names of adjacent property owners and tax map numbers, including those across adjacent roads.
  - i. Proposed and existing street and lot layout, including street names and right-of-way widths.

j. Existing and proposed man-made and/or natural features:

- (1) Water courses, lakes and wetlands (with names).
- (2) Rock outcrops, ledges and stone fields.
- (3) Buildings, structures, signs and setbacks required by this Zoning Ordinance.
- (4) Approximate location of tree masses.
- (5) Utility lines, wells and sewage system(s).
- (6) Entrances, exits, access roads and parking areas, including the number of spaces.
- (7) Drainage and storm water management facilities.
- (8) Plans for any required buffer plantings.
- (9) Any and all other significant features.

7. Location of permanent and seasonal high water table areas and 100 year flood zones.

8. Tract boundaries accurately labeled.

9. The total acreage of the tract and extent of the areas of the site to be disturbed and percentage of lot coverage when the project is completed.

10. Location and type of rights-of-way or other existing restrictive covenants which might affect the subdivision and/or development.

11. A statement of the type of water supply and sewage disposal proposed.

12. The present Zoning District and major applicable lot requirements.

D. Other Laws - The Zoning Officer may withhold issuance of a permit under this Ordinance if there is clear knowledge by the Zoning Officer that such a use would violate another Borough, State or Federal law or regulation.

E. Ownership - No person other than a landowner or their specifically authorized agent or a tenant or lessee with written permission of the landowner shall submit a zoning application.

F. Advisory Reviews - The Zoning Officer may submit a copy of any plan and application to any appropriate agencies and/or individuals (such as the Planning Commission, the Columbia County Planning Commission, the County Conservation District or Borough Engineer) for review and comment.

G. Subdivision Approval - Applications for uses which also necessitate approvals under the Subdivision and Land Development Ordinance shall be processed in the manner provided for plat approval under that Ordinance. Such applications shall also contain all information or data normally required for a submission under that Ordinance. A zoning permit shall not be issued until the proposed use has been granted a Preliminary Approval under that Ordinance. However, no building or property shall be occupied or used until final subdivision approval has been granted and a Certificate of Use has been properly issued pursuant to §1402.7 of this Ordinance.

#### 1402.4 Issuance of Permit

No owner, contractor, worker or other person shall perform building or construction activity of any kind regulated by this Ordinance unless a valid zoning permit has been issued and posted for such work.

- A. Number of Copies - At least two (2) copies of any permit required under this Ordinance shall be made.
- B. Distribution - One (1) copy of any such permit shall be retained in Borough files; and, one (1) copy shall be retained by the applicant. A copy of any such permit shall be shown by the applicant to the Zoning Officer upon the Zoning Officer's request.
- C. Action - The Zoning Officer shall issue or deny a permit for a principal permitted use within a maximum of ninety (90) days after a complete, duly filed application and fees are submitted.

#### 1402.5 Revocation of Permits

If a zoning permit is revoked, the person holding the permit shall immediately surrender such permit and all copies to the Zoning Officer and any activity authorized by the permit shall cease. The Zoning Officer shall revoke a permit or approval issued under the provisions of this Ordinance in case of:

- A. False Information - Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based: (The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties); or,
- B. Violation of Conditions - Violation of any condition lawfully imposed upon a special exception, variance or conditional use; or,
- C. Unauthorized Activity - Any work being accomplished or land or structures being used in such a way that does not comply with this Ordinance or an approved site plan or approved permit application; or,
- D. Other - Any other just cause set forth in this Ordinance.

#### 1402.6 Changes to Approved Plans

- A. Approval Required - After the issuance of a permit and/or approval under this Ordinance, an approved application shall not be changed without the written consent of the Borough.
- B. Conditional Use or Special Exception - Changes to an approval by the Zoning Hearing Board as a special exception use or by the Borough Council as a conditional use shall require re-approval of the changes by such bodies if the Zoning Officer determines that such changes affect matters that were within the scope of approval of such body. Such approval by the Zoning Hearing Board or the Borough Council is not required for clearly minor technical adjustments or matters that are solely corrections of information that do not affect any of the significant features of the site plan or the intensity of the use, as determined by the Zoning Officer.
- C. Distribution - A copy of such adjustment or correction shall be provided, in writing, to the Chairperson of the Planning Commission, the President of the Borough Council or the Chairperson of the Zoning Hearing Board, as appropriate, if the change concerns a plan approved by such bodies.

#### 1402.7 Certificate of Use

- A. Requirement - A Certificate of Use shall be required from the Borough upon a change of use or completion of work authorized by a permit or approval under this Ordinance. It shall be unlawful to use and/or occupy a structure, building and/or land or portions thereof until such Certificate has been issued. A new Certificate of Use shall be required if a change in use of the property is proposed; and then such Certificate shall be issued only after all required approvals are obtained.

- B. Application - An application for a Certificate of Use shall be made on an official Borough form. If the use is in conformance with Borough ordinances and approvals, such Certificate shall be issued, in duplicate, within ten (10) business days of a properly submitted and duly filed application. A minimum of one (1) copy shall be retained in Borough records.
- C. Inspection - The Zoning Officer shall inspect such structure or land related to an application for a Certificate of Use. If the Zoning Officer determines, to the best of his/her current knowledge, that such work conforms with this Ordinance and applicable Borough codes, approvals and permits, then such Certificate of Use shall be issued.
- D. Availability - The applicant shall show a valid Certificate of Use to the Zoning Officer upon the Officer's request.

#### 1402.8 Expiration of Permits and Approvals

- A. Zoning Permits - When authorized by the issuance of a zoning permit, the permitted building construction shall be completed and/or the permitted use shall be established as a functional and constructive activity within twelve (12) months of issuance of the permit unless a written extension is granted by the Zoning Officer for good cause. Otherwise, the zoning permit shall be considered to have automatically expired at the end of such twelve (12) month period.
- B. Variance Approval - See §1407.4.
- C. Conditional Use Approval or Special Exception Approval - See §1408.5.

### §1403 FEES

#### 1403.1 Application Fees

As authorized by §617.3(e) and §908(1.1) of the MPC, the Borough Council shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure, for zoning permits, conditional use permits, Zoning Hearing Board proceedings and other matters pertaining to this Ordinance. Permits, certificates, conditional use permits, special exception permits and variances shall be issued only after all fees have been paid in full; and, the Zoning Hearing Board shall take no action on appeals until all fees have been paid in full.

#### 1403.2 Stenographer Fees

The appearance fee for a stenographer shall be shared equally by the applicant and the Borough as required by §908(7) of the MPC. The cost of the original transcript shall be paid by the Borough if the transcript is ordered by the Borough or shall be paid by the person appealing 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.

### §1404 ZONING OFFICER

#### 1404.1 Appointment

The Zoning Officer shall be appointed by the Borough Council in accord with §614 of the MPC. The Zoning Officer(s) shall not hold any elective office within the Borough, but may hold other appointed offices not in conflict with the MPC.



1404.2 Duties and Powers

The Zoning Officer shall:

- A. Administration - Administer this Ordinance.
- B. Information - Provide information to applicants regarding required procedures.
- C. Applications - Receive and examine all applications required under the terms of this Ordinance, and issue or refuse permits in accord with this Ordinance.
- D. Complaints - Receive written complaints of violation of this Ordinance, and issue a written notice of violation to any person violating any provision of this Ordinance.
- E. Records - Keep records of applications, permits, certificates, written decisions and interpretations issued, of variances and special exceptions granted by the Zoning Hearing Board, of conditional uses approved by the Borough Council, of complaints received, of inspections made, of reports rendered, and of notices or orders issued.
- F. Inspections - Make all required inspections and perform all other duties in accord with this Ordinance.
- G. Limit of Power - Not have the power to permit any activity which does not conform to this Ordinance, or all other Ordinances of the Borough known to the Zoning Officer.

**§1405 ZONING HEARING BOARD**1405.1 Membership and Qualifications

- A. Membership - The Borough Council shall create 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 MPC.
- B. Recommended Qualifications - Each Zoning Hearing Board member ought to:
  - 1. Become familiar with the MPC and the Zoning Ordinance and Subdivision and Land Development Ordinance;
  - 2. Attend at least one (1) seminar and/or workshop pertaining to municipal planning and/or zoning within each calendar year.
- C. Vacancies - The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of a term.
- D. Removal of Members - See §905 of the MPC.
- E. Organization
  - 1. Officers - The Board shall elect officers from its own membership who shall serve annual terms and may succeed themselves.
  - 2. Quorum - For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Board, except that the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may

waive further action by the Board as provided by §908 of the MPC. The quorum may be met by alternate members, serving as permitted by §906(b) of the MPC.

3. Rules - The Board may make, alter, and rescind rules and forms for its procedure, consistent with all applicable Borough ordinances and laws of the Commonwealth of Pennsylvania.

#### 1405.2 Jurisdiction

In accord with §909.1(a) of the MPC, the Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Substantive Validity Challenges - Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §609.1 (Landowner Curative Amendments) and §916.1(a) (2) (Validity of Ordinances) of the MPC;
- B. Procedural Validity Challenges - Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance;
- C. Zoning Officer Appeals - Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application thereof, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot;
- D. Variances - Applications for variances from the terms of this Ordinance pursuant to §910.2 of the MPC;
- E. Special Exceptions - Applications for special exceptions under this Ordinance pursuant to §912.1 of the MPC and the requirements of this Ordinance;
- F. Preliminary Opinion Appeal - Appeals from the Zoning Officer's determination under §916.2 (Preliminary Opinion) of the MPC;
- G. E & S and Stormwater Appeals - Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development applications.

### **§1406 ZONING HEARING BOARD -- HEARINGS AND DECISIONS**

The Zoning Hearing Board shall conduct hearings and make decisions in accord with §908 of the MPC.

### **§1407 VARIANCES**

The Zoning Hearing Board shall hear duly filed requests for variances.

#### 1407.1 Standards

The Board may grant a variance only in accord with the requirements of §910.2 of the MPC provided that **all** of the following findings are made where relevant in a given case. The applicant shall have the burden of proof to show compliance with such standards.

- A. Unique Physical Circumstances or Conditions - That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally

created by the provisions of this Ordinance in the neighborhood or District in which the property is located.

- B. Necessary for Reasonable Use - That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- C. Self-Creation - That such unnecessary hardship has not been created by the appellant.
- D. Neighborhood; Adjacent Property; Public Welfare - That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- E. Minimum Variance - That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

#### 1407.2 Re-Application

The Zoning Officer shall refuse to accept a proposed application that is not materially or significantly different from an appeal on the same property that was denied by the Board within the previous year.

#### 1407.3 Variance Conditions

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the MPC and this Ordinance, and to protect the public health, safety, and welfare.

#### 1407.4 Limitation of Approval

Any variance granted by the Zoning Hearing Board shall expire five (5) years from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to submit another application for the same. The Zoning Hearing Board may grant an extension of the time limitations for good cause.

### **§1408 CONDITIONAL USES AND SPECIAL EXCEPTIONS**

#### 1408.1 Applications

Applications for conditional uses and special exceptions shall, at a minimum, include the information required in §1408.6. In addition, the Planning Commission, Borough Council, or the Zoning Hearing Board shall require any other information deemed necessary.

#### 1408.2 Conditional Uses

Uses specified as conditional uses shall be permitted only after review and approval by the Borough Council pursuant to the express standards as provided for specific conditional uses in this Ordinance, in §1408.4, and any other applicable standards in this Ordinance.

- A. 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.
- B. Procedure

1. Submission - The applicant shall submit five (5) complete sets of any required plans and information to the Zoning Officer. The Zoning Officer shall refuse to accept an application which does not provide sufficient information to determine compliance with this Ordinance.
2. Distribution - The Zoning Officer shall distribute copies of the site plan to the Planning Commission and the Borough Council. A minimum of one (1) copy shall be retained in the Borough files. The applicable Volunteer Fire Company shall be given an opportunity for a review, if deemed appropriate by the Planning Commission.
3. Zoning Officer Review - The Zoning Officer shall report, in writing or in person, to the Planning Commission or the Borough Council stating whether the application complies with this Ordinance. The Zoning Officer may recommend a review by the Borough Engineer.
4. Planning Commission Review
  - a. The Planning Commission shall be provided with an opportunity to review any proposed conditional use. The Commission, at its option, may provide a written advisory review.
  - b. If such review is not received by the Borough Council within the time limit within which the Borough Council must issue its decision, or within thirty (30) days of such application being sent to the Planning Commission, then the Borough Council may make its decision without having received comments from the Planning Commission.
5. Borough Council Action - The Borough Council shall conduct hearings and make decisions in accordance with §908 and §913.2 of the MPC. In granting a conditional use, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it determines are necessary to implement the purposes of the MPC and this Ordinance, and to protect the public health, safety, and welfare.
6. Notice - In addition to the notice and posting requirements of the MPC, notice of all conditional use hearings shall be mailed to the owners of all properties contiguous to the parcel which is the subject of the hearing not less than fourteen (14) calendar days prior to the hearing. Such notice shall be by U.S. Mail to the last known address of the contiguous owners as listed in Columbia County tax assessment records.

#### 1408.3 Special Exceptions

Uses specified as special exceptions shall be permitted only after review and approval by the Zoning Hearing Board pursuant to the express standards and criteria as provided for specific special exceptions in this Ordinance and in §1408.4.

- A. 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 special exception.
- B. Procedure
  1. Copies - All applicants for a special exception use shall submit five (5) sets of plans for the proposed use to the Zoning Officer together with a written application.
  2. Information - All applications shall contain the information required in §1408.6.
  3. Borough Procedures

- a. The Zoning Officer shall forward the application to the Zoning Hearing Board, the Planning Commission, and the Zoning Hearing Board’s solicitor. A minimum of one (1) copy shall be retained in the Borough files.
  - b. The Zoning Officer shall, prior to the Zoning Hearing Board meeting at which the application will be discussed, review the application to determine compliance with this Ordinance and report these findings to the Zoning Hearing Board.
4. Planning Commission Review of Special Exception Uses
- a. The Planning Commission shall be provided with an opportunity to review any proposed special exception use. The Planning Commission, at its option, may provide a written advisory review.
  - b. If such review is not received by the Zoning Hearing Board within the time limit within which the Board must issue its decision, or within thirty (30) days of such application being sent to the Planning Commission, then the Zoning Hearing Board may make a decision without having received comments from the Planning Commission.
5. Zoning Hearing Board Action on Special Exception Uses
- a. The Board shall hear and decide a request for a special exception use under the procedures in §1408 of this ordinance and §908 of the MPC.
  - b. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it determines are necessary to implement the purposes of the MPC and this Ordinance, and to protect the public health, safety, and welfare.

#### 1408.4 Standards and Criteria

The standards and criteria applied to conditional uses and special exceptions are intended to ensure that the proposed use will be in harmony with the purposes, goals, objectives and standards of this Ordinance and other ordinances of the Borough. In addition to the applicable general provisions of this Ordinance and to the standards and criteria provided in this Ordinance for specific conditional uses and specific special exceptions, the following standards and criteria shall be applied in the review of applications for conditional uses and special exceptions:

- A. Comprehensive Plan; Ordinances - The proposed use shall be consistent with the purposes, goals, objectives and standards of the Comprehensive Plan, this Ordinance, and all other ordinances of the Borough.
- B. Location - The proposed use shall also be evaluated as to the degree to which the proposed location may be particularly suitable or unsuitable for the proposed use in terms of the physical characteristics of the site.
- C. Adverse Effects - The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, adjacent property values, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of this Ordinance, or any other plan, program, map or ordinance of the Borough or other government agency having jurisdiction to guide growth and development.

- D. Public Improvements - The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities, and services of the Borough, whether such services are provided by the Borough or some other entity. The applicant shall be wholly responsible for providing such improvements, facilities, utilities, and services as may be required to adequately serve the proposed use when the same are not available or are inadequate to serve the proposed use in the proposed location. As part of the application and as a condition of approval of the proposed use, the applicant shall be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with this and other Ordinances of the Borough. The permit approval shall be so conditioned.
- E. Additional Factors - The following additional factors shall be considered:
1. Location, arrangement, size, design and general site compatibility of buildings, lighting, and signs;
  2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls;
  3. Location, arrangement, appearance and sufficiency of off-street parking and loading;
  4. Adequacy and arrangement of pedestrian traffic, access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience;
  5. Adequacy of storm water and drainage facilities;
  6. Adequacy of water supply and sewage disposal facilities;
  7. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation;
  8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants;
  9. Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- F. Conditions of Approval - In instances where the supplemental standards contained herein do not adequately protect the general health, safety, and welfare of parties affected, all conditions and safeguards deemed necessary by the Borough Council or Zoning Hearing Board to protect the general health, safety, and welfare as well as to implement the purposes of this Ordinance and the MPC shall be imposed as conditions of approval in accord with §912.1 or §913.2 of the MPC, as the case may be. Conditions which may be imposed can include, but not be limited to, provisions for additional parking, traffic control, landscaping, setbacks, special measures addressing sales period activities, environmental controls and other measures which mitigate any potential adverse impact the use may have on adjoining uses.

#### 1408.5 Limitation of Approval

Any conditional use approval granted by the Borough Council and any special exception approval granted by the Zoning Hearing Board shall expire five (5) years from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to

submit another application for the same. The Borough Council or Zoning Hearing Board, as the case may be, may grant an extension of the time limitations for good cause.

#### 1408.6 Information Required

The applicant shall supply the information required by §1402.3C of this Ordinance and evidence regarding compliance with the express standards and criteria contained herein; and, data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the public health, safety, and welfare; and, the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

### **§1409 MEDIATION**

Parties to proceedings authorized by this Ordinance and the MPC may use the Mediation Option as authorized by and in accord with §908.1 of said Code.

### **§1410 TIME LIMITS FOR APPEALS**

The time limitations for appeals shall be as follows:

#### 1410.1 Zoning Hearing Board -- County Court

No person shall be allowed to file any appeal with the Zoning Hearing Board later than thirty (30) days after the officially issued decision of the Zoning Officer, or appeal to the County Court of Common Pleas later than thirty (30) days after the officially issued decision of the Borough Council or the Zoning Hearing Board, except as may be provided under §914.1 of the MPC.

#### 1410.2 Temporary Permits

This thirty (30) day time limit for appeal shall not apply to the revocation of a permit issued by the Zoning Officer under §1402.5.

#### 1410.3 Subdivision or Land Development Approval

The failure of an aggrieved person, other than the landowner, to appeal an adverse decision directly related to a preliminary subdivision or land development plan shall preclude an appeal from a final plan approval, except in the case where the final submission substantially deviates from the approved preliminary plan.

### **§1411 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 MPC, respectively.

### **§1412 PUBLIC UTILITY CORPORATION EXEMPTIONS**

See §619 of the MPC.

### **§1413 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.

### **§1414 AMENDMENTS**

The Borough Council may amend this Ordinance by complying with the requirements set forth in Article VI of the MPC. A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in §609.1 and §916.1 of the MPC.

### **§1415 VIOLATIONS**

#### 1415.1 Compliance

Failure to comply with any provision of this Ordinance; failure to secure or comply with a decision of the Borough Council or Zoning Hearing Board; or the failure to secure a permit, when required, prior to or (when ordered) after the erection, construction, extension, or addition to a building or prior to or after the use or change of use of land; or failure to secure a Certificate of Use Permit, shall be violations of this Ordinance.

#### 1415.2 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.

#### 1415.3 Enforcement Notice

When written notice of a violation of any of the provisions of this Ordinance is served by the Zoning Officer, personally or by certified mail, in the manner prescribed by §616.1 of the MPC and set forth in this §1415.3, such violation shall be discontinued or corrected as set forth in said notice.

- A. Violation - If it appears to the Borough that a violation of this Ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in §1415.3B.
- B. Notice Recipient(s) - The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested, in writing, by the owner of record.
- C. Notice Content - An enforcement notice shall state at least the following:
  - 1. The name of the owner of record and any other person against whom the Borough intends to take action;
  - 2. The location of the property in violation;
  - 3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance;
  - 4. The date before which the steps for compliance shall be commenced and the date before which the steps shall be completed;
  - 5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance;
  - 6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.
- D. Appeal - In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough shall have the responsibility of presenting its evidence first.
- E. Filing Fee - Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Borough if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

### §1416 PENALTIES AND REMEDIES



#### 1416.1 Causes of Action

In case any building, structure, landscaping, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any provisions of this Ordinance the following actions may be taken:

##### A. Borough Action

1. The Borough Council or, with the approval of the Borough Council, an officer of the Borough, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping, or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.
2. The Borough Council or, with the approval of the Borough Council, an officer of the Borough, may bring an action for money damages and/or injunctive relief.

##### B. Aggrieved Owner or Tenant

1. Any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping, or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.
2. Such action under this Ordinance shall be limited to injunctive relief with any enforcement action reserved to the Borough pursuant to §1417.
3. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.

#### 1416.2 Enforcement Remedies

##### A. Penalties

1. Any person, partnership or corporation who or which has violated or permitted the violation of any of the provisions of this Zoning Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred (\$500) dollars (state law) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof.
2. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge.
3. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure.
4. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth (5<sup>th</sup>) day following the date of the determination of a

violation by the Magisterial District Judge and thereafter each day that a violation continues shall constitute a separate violation.

- B. Order of Stay - The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Borough Exclusive Right of Enforcement - Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough, the right to commence any action for enforcement pursuant to this section.

#### **§1417 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, or any other review or permit of this Ordinance, by an officer, employee, consultant or agency of the Borough, shall constitute a representation, guarantee or warranty of any kind by the Borough, or its employees, officials, consultants or agencies, of the practicality or safety of any structure, use or subdivision, and shall create no liability upon, nor a cause of action against such public body, official, consultant nor employee for any damage that may result pursuant thereto. If the Zoning Officer mistakenly issues a permit under this Ordinance, the Borough shall not be liable for any later lawful withdrawal of such permit for valid cause shown.

§1418 ENACTMENT

This Zoning Ordinance shall become effective upon enactment.

Adopted this 3<sup>rd</sup> Day of September 2014.

ATTEST:

Amy Evans  
Borough Secretary



SIGNED: Borough Council  
Briar Creek Borough.

[Signature]  
Council Member (Chair Person)

Emery James Sealey  
Council Member (Vice Chair Person)

[Signature]  
Council Member

Emery E. Sealey  
Council Member

Vernon J. Crumling  
Mayor

**BRIAR CREEK BOROUGH  
ZONING MAP**

WATERWAYS AND STREAMS

Council Person *[Signature]*

Council Person *[Signature]*

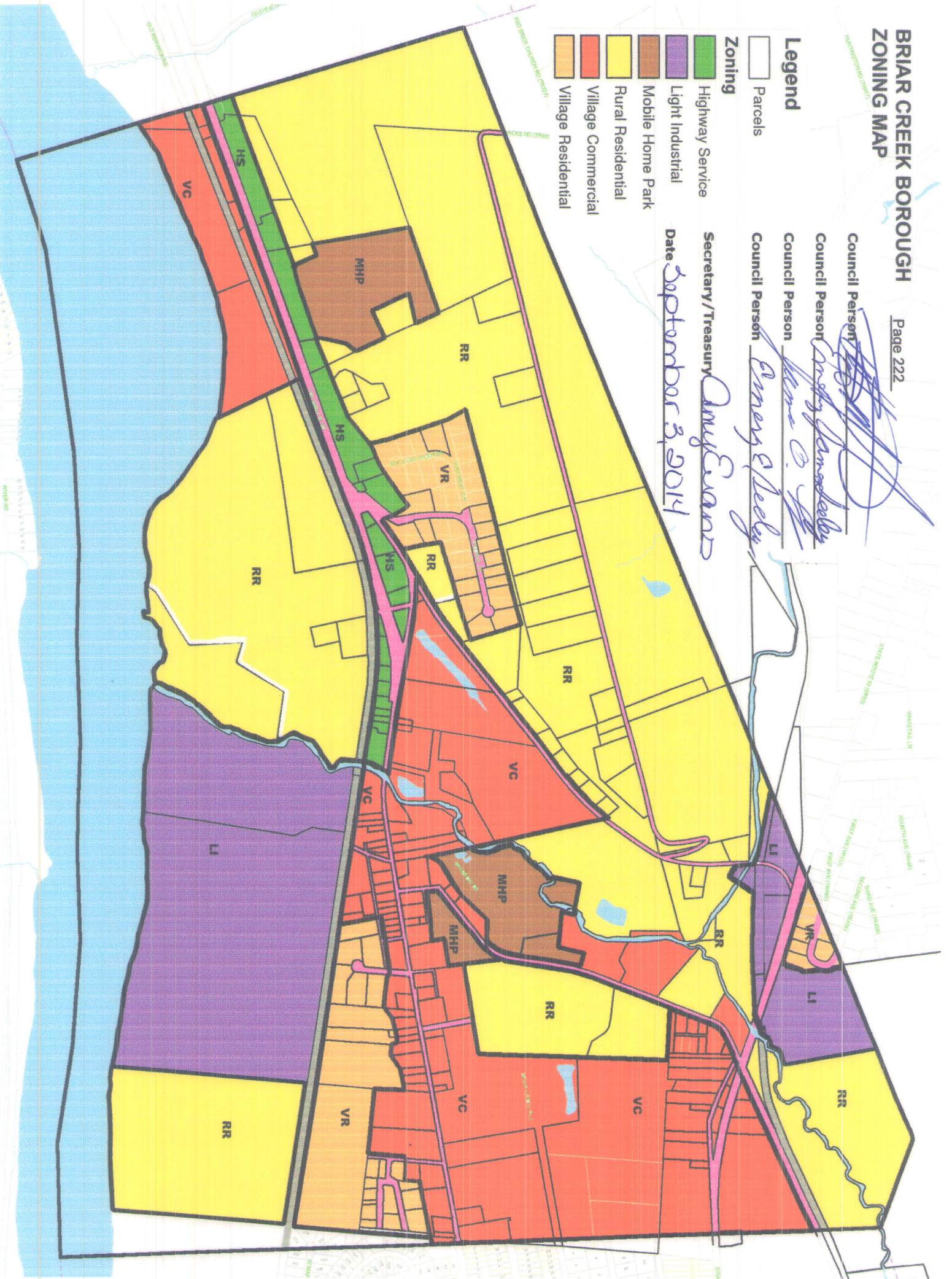
Council Person *[Signature]*

Council Person *[Signature]*

Secretary/Treasury *[Signature]*

Date *September 3, 2014*

- Legend**
- Parcels
  - Zoning**
    - Highway Service
    - Light Industrial
    - Mobile Home Park
    - Rural Residential
    - Village Commercial
    - Village Residential



STATE ROUTE 28 (RD)  
WINDFALL LN  
ROBERT AVE (RD)  
SUNNY AVE (RD)  
FIRST AVE (RD)  
FRONT AVE (RD)  
SECOND AVE (RD)

REVISIONS  
DATE  
BY