

ARTICLE III - DEFINITIONS

301 Rules of Construction and Definitions

The following rules of construction shall apply to this Ordinance:

- A. For the purpose of this Ordinance, certain terms and words are herein defined. Whenever used in this Ordinance, they shall have the meaning indicated in this Article, except where 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 sense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The phrase *used for* includes *arranged for*, *designed for*, *intended for*, and/or *occupied for*.
- F. The word *person* includes *individual*, *profit or non-profit organization*, *partnership*, *company*, *unincorporated association*, *corporation*, or other similar entities.

302 Terms, Phrases and Words Not Defined

When terms, phrases, or words are not defined, they shall have the meaning as defined in The Latest Illustrated Book of Development Definitions (H. S. Moskowitz and C. G. Lindbloom, Rutgers, The State University of New Jersey, 2004) or if not defined therein, they shall have their ordinarily accepted meanings or such as the context may imply.

303 Definitions

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

Abandoned or Junked Vehicle: Any vehicle not stored in a fully enclosed building which is not in good operating and road-worthy condition.

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

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

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

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

Adult Bookstore or Adult Video Store: A commercial establishment which, as one of its principal business purposes

or as a substantial part of its business, offers for sale or rental for any form of consideration, any one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which depict or describe *specified sexual activities* or *specified anatomical areas*; or
- B. Instruments, devices or paraphernalia which are designed for use in connection with *specified sexual activities*.

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

The term Adult Bookstore shall include but not be limited to an Adult Video Store, and all such uses shall be considered an Adult Business for the purpose of this Ordinance.

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. A use of a building or land for a business which involves the sale, lease, trade, gift or display of drug paraphernalia as a substantial or significant portion of its stock-in-trade.
- C. 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.
- D. 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

Adult Care Facility: See *nursing home*.

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

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

An *adult live entertainment use or facility* shall be considered an *adult business* for the purpose of this Ordinance.

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

- 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*; or,
- B. Offers sleeping rooms for rent three (3) or more times in one calendar day.

An *adult motel* shall be considered an *adult business* for the purpose of this Ordinance.

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

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

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

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

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

Alterations: As applied to a building or structure, means any 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.

Amusement Arcade: A building or part of a building in which five (5) or more pinball machines, video games, or

other similar player-operated amusement devices are maintained. The use of less than five (5) such devices shall be permitted as an accessory use to any lawful principal commercial use.

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

Animal Hospital: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Apartment: See *dwelling*.

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

Archery Range, Indoor: Any fully enclosed building used for 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. Considered a *recreational facility, commercial* for the purposes of this Ordinance.

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

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 Care Dwelling Unit for Relative: A separate mobile home especially erected for and limited to the temporary occupancy by a person who is *related* (see definition) to the permanent residents of the principal dwelling unit on the parcel. Such use shall be restricted to a relative who needs such accommodations because of old age, developmental disability, illness, mental illness that does not threaten physical harm to others, or physical handicap. (See §606.)

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

Basement: An enclosed floor area partly or wholly underground, other than a building which is completely underground.

Bed and Breakfast: Any single-family dwelling in which more than three (3) persons either individually or as families are housed or lodged for hire with meals normally included as a part of the services rendered, and shall be restricted to transient visitors to the area and shall not be used for long term occupancy or residency of guests.

Betting or Gambling Use: A use where lawful gambling activities are conducted, including but not limited to off-track para-mutual betting. This term shall not include betting under the State Lottery programs or betting under the *Small Games of Chance* provisions of State law, which shall instead be regulated under the regulations applicable to the principal use of the property.

Boarding or Lodging House: Any dwelling in which more than three (3) persons either individually or as families are

housed or lodged for hire with meals normally, but not necessarily included as a part of the services rendered.

Borough: The Borough of Nicholson, Wyoming County, Pennsylvania.

Borough Buildings and Uses: Any building, structure, service or use under the jurisdiction of the Borough of Nicholson, Wyoming County, Pennsylvania.

Borough Council or Council: The Borough Council of the Borough of Nicholson, Wyoming County, Pennsylvania.

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

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature.

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

Building Height: The vertical distance of a building measured from the average ground level to the highest part of the structure, excluding chimneys.

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

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

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

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

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

Cemetery: Land or buildings used for the burial of deceased humans, but not animals. The internment or scattering or remains of properly cremated humans is not regulated by this ordinance.

Clear Sight Triangle: An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

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

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

Commercial Communication Device: Any structure or equipment which is intended for commercial or governmental use in transmitting or receiving television, radio, telephone or other electronic communications, including internal or agency communications, but excluding the following which are not appropriate subject of the zoning 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, filed 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.

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

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

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 Township or 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.

Commission: The Northeast Wyoming County Planning Commission, Wyoming County, Pennsylvania.

Comprehensive Plan: The North Central Wyoming County Comprehensive Plan including all maps, charts and textual

matter.

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

Conditional Use: A use which may be suitable in the district only when specific conditions and factors prescribed for such cases within this Ordinance are satisfied. Conditional uses are allowed or denied by the Board of Supervisors after recommendations by the Planning Commission.

Conservation Area, Primary: Those areas of a development tract which are comprised of environmentally sensitive lands on which development is not permitted. (See §601.4 and §601.5.)

Conservation Area, Secondary: Those areas of a development tract which are somewhat less sensitive than primary conservation areas and which may be critical to the effect the development will have on both the natural environment and the rural character of the community. (See §601.4 and §601.5.)

Conservation Design Subdivision: A subdivision designed at the dwelling unit density specified in the Ordinance where individual lots are reduced in size, important natural resources are conserved, and the resultant open space is preserved in perpetuity. (See §601.)

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

Conservation Open Space: That part of a particular conservation subdivision design development tract set aside for the protection of sensitive natural features, farmland, scenic views and other primary and secondary conservation areas identified by this Zoning Ordinance. Conservation open space may be accessible to the residents of the development and/or the Municipalities, or it may contain areas of farmland or forest land which are not accessible to project residents or the public.

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 one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a *supermarket*). It may also include the sale of gasoline but shall not include the repair or service of vehicles.

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.

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

County: The County of Wyoming, Commonwealth of Pennsylvania.

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

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

commercial nurseries as defined by this Zoning Ordinance.

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

Day Care, Child: A use involving the supervised care of children under age 16 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to State-required education, including a nursery school. The following three types of day care are permitted without regulation by Ordinance: 1) care of children by their own relatives, 2) care of children within a place of worship during regularly scheduled weekly religious services and 3) care of 1 to 3 children within any dwelling unit, in addition to children who are relatives of care giver. (See also the definition of *day care, adult*.)

- A. (Child) Day Care, as an Accessory Use - A type of *day care* use that provides care for six (6) or fewer children at one time who are not relatives of the care giver.
- B. (Child) Day Care Center, as a Principal Use - A type of *day care* use that provides care for seven (7) or more children at any one time who are not relatives of the primary operator.

Deck: An attached accessory structure elevated more than twelve (12) inches and constructed of wood with no walls or roof. As an attached accessory structure, it must meet the required setbacks for the principal building.

Density: The total number of dwelling units proposed on a lot divided by the lot area, unless otherwise stated.

Detached Building: A building that is surrounded on all sides by open yards and that is not attached to any other building.

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

Developer: Any landowner, agent of such owner, or tenant with the permission of such landowner, who proposes to make or causes to be made a subdivision of land or a land development.

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

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

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

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

Drive-in Theater: An area of land which may include accessory uses such as the sale of snacks and which is devoted to the showing of motion pictures which are viewed by persons in vehicles. Considered a *recreational facility, commercial* for the purposes of this Zoning Ordinance.

Driveway: A privately owned, constructed, and maintained vehicular access from a street or access drive to a dwelling unit, commercial unit, institutional or industrial principal use.

Drug Paraphernalia: Any objects, devices, instruments, apparatus or contrivances, whose primary and traditionally exclusive use is involved with the illegal use of any and all controlled substances under Pennsylvania Law.

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

Dwelling, Multi-Family: (See also *multi-family project*.) A building or buildings designed for occupancy by three (3) or more families living independently of each other in separate dwelling units. The term *multi-family dwelling* shall include condominium as well as non-condominium housing units including the following construction types:

- A. Residential Conversion to Apartments - Conversion of an existing single family detached dwelling into three (3) to five (5) dwelling units and not exceeding two and one-half (2 ½) stories in height.
- B. Garden Apartment - Multi-family dwelling originally designed as such; containing three (3) or more dwelling units and not exceeding two and one-half (2 ½) stories in height, not including townhouses.
- C. Townhouse - Multi-family dwelling of three (3) or more dwelling units of no more than two and one-half (2 ½) stories in height in which each unit has its own front and rear accesses to the outside, no unit is located over another unit and each unit separated from any other unit by one or more common fire resistant walls.
- D. Medium High-Rise Apartment - Multi-family dwellings of more than two and one-half (2 ½) stories but not exceeding the height limitations (in feet) of this Ordinance.

Dwelling, Single-Family: A dwelling unit accommodating one family and having two (2) side yards.

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

Dwelling Unit: One (1) or more rooms in a dwelling structure, including a kitchen, sleeping facilities, bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one (1) family at a time.

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: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner's property.

Engineer, Municipal: A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer of the Township and/or Borough.

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

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

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, and any commercial communications devices and/or facilities not specifically regulated by the PA Public Utility Commission shall not be considered essential services. (For essential services requiring enclosure in a building see *semi-public building or use*.)

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

Family: One or more persons living in a single dwelling unit functioning as a common household unit sharing meals and household expenses and sharing joint use of the entire dwelling unit. If a dwelling unit is rented, in order to qualify as a family, there shall not be more than one (1) lease among all of the occupants. A family shall not include more than five (5) persons who are not *related* to each other (see definition). (See provisions in §605 regarding maximum number of unrelated persons within a *group home*. A *treatment center/clinic* shall not be considered a *family* or a *group home*. See also the definition of a *dwelling unit*.)

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: A man-made barrier placed or arranged as a line of demarcation, an enclosure or a visual barrier and which is constructed of wood, chain-link, metal, fiberglass, vinyl or aluminum and/or plastic inserts. Man-made barriers constructed principally of masonry, concrete, cinder block or similar mostly solid materials shall be considered a *wall*. The term *wall* does not include engineering retaining walls, which are permitted uses as needed in all districts. The terms *fence* and *wall* do not include hedges, trees or shrubs.

Fireworks Manufacturing or Storage: Any land, building or structure, or part thereof, used for the production, keeping or transfer of any fireworks. This shall not apply to the retail sales of fireworks which are lawful for use in Pennsylvania.

Flea Market: Any sales activity conducted under any pavilion or other building 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.

Floodplain: See §401.3 and §704.3.

Forestry Enterprises: 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 (except for temporary, portable sawmills to service the property being timbered) or the operation of any other wood manufacturing business.

Funeral Home: A building or part thereof used for human funeral services. Such building may contain space and facilities for: 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; and d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral parlor is permitted, a funeral chapel shall also be permitted.

Garage, Private: A building or portion thereof used only for the storage of automobiles by the families resident upon the premises or by individuals residing in the immediate vicinity of such storage facilities.

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

Golf Course: A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shag ranges; but does not include miniature golf courses or golf driving ranges. Considered a *recreational facility, commercial* for the purposes of this Zoning Ordinance.

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

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

Good Operating and Road-Worthy Condition: A vehicle having both a current and valid registration and current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania, or if lacking a registration and/or inspection sticker, is in full and complete working order and condition, but for not having said current registration and inspection sticker could be safely and legally operated on a public roadway. Registrations and inspections which have been expired for less than sixty (60) days shall be considered current for the purposes of this definition.

Governing Body: The Clinton Township Board of Supervisors in cases where the land use is located in Clinton Township, and the Nicholson Borough Council in cases where the land use is located in Nicholson Borough.

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

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

Gross Floor Area: 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, any space where the floor-to-ceiling height is less than six (6) feet, elevator shafts, common stairwells in an apartment building, and unenclosed porches, decks and breeze ways.

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

- A. Involves the care of the maximum number of persons permitted by the *group home* standards of §605, 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 retardation or other handicap*

as defined by applicable Federal law.

- D. Does not meet the definition of a *treatment center* or *detention facility*.
- E. 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. A use that would otherwise meet the definition of group home but which includes more than the permitted number of residents shall be considered an *Institutional Group Home*, which is a distinct use.

Health Facilities: Establishments primarily engaged in providing services for human health maintenance including abused person shelters, hospital facilities, nursing homes and adult care facilities, and personal care homes or centers, whether publicly or privately operated, but excluding treatment centers/clinics.

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

- A. Public Heliport - A heliport that does not meet the definition of a *private heliport*. Public heliports shall be considered *airports* for regulation by this Zoning Ordinance.
- B. Private Heliport - A heliport limited to a maximum total of 15 flights or take-offs in any 7-day period (in addition to flights necessary for emergency medical purposes) and that is not available for use by the general public. This is also known as a helistop.

Home Occupation: Any use customarily conducted entirely within a dwelling or in a building accessory thereto and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling, and no goods are publicly displayed on the premises other than a sign as provided herein; including but not limited to the following occupations: the professional practice of medicine, dentistry, architecture, law and engineering, artists, beauticians, barbers, veterinarians, and other uses meeting the requirements of §503.3.1 and the other applicable standards in this Ordinance; excluding commercial stables, kennels, motor vehicle or small engine repair shops, and any retail and wholesale sales.

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

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities, but excluding treatment centers/clinics. Considered a *health facility* for the purposes of this Zoning 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: Area covered by roofs, concrete, asphalt or other man-made cover which has a coefficient of

runoff of 0.7 or higher. The Municipal Engineer shall decide any dispute over whether an area is *impervious*.

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 contractors equipment for use as parts for equipment and machinery used as part of an active, on-going contracting business legally operating in accord with the Zoning 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 the Zoning 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.
- B. The outside storage or deposit on a lot of one (1) or more mobile/manufactured homes that are not in habitable condition.

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

Land Development: Any of the following activities or as otherwise defined in the Subdivision and Land Development Ordinance:

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

1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
2. The division or allocation of land or space, whether initially or cumulatively, between or among two (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.

The definition of land development shall not include:

- A. The addition of an accessory building on a lot or lots subordinate to an existing principal building;
- B. The conversion of an existing single-family detached dwelling or a two-family dwelling into not more than three (3) residential dwelling units, unless such units are intended to be a condominium.

Landowner: The legal or beneficial 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 a landowner, or other persons having a proprietary interest in land, shall be deemed to be landowners for the purpose of this Ordinance.

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

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

Lot: A designated parcel, tract or area of land, regardless of size, established by a plat or other legal means, and intended for transfer of ownership, use, lease or improvements or for development, regardless of how or if it is conveyed.

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

Lot Area and Lot Area, Net: The horizontal land area contained within the lot lines of a lot (measured in acres or square feet). The net lot area shall not be less than the minimum required lot size as determined by deducting the following areas of constrained land from the total lot size:

- A. Rights-of-way: multiply the acreage of land within the rights-of-way of existing public streets or highways, or within the rights-of-way for existing or proposed overhead rights-of-way of utility lines or any other rights-of-way by 1.0.
- B. Private Streets: multiply the acreage of land under existing private streets by 1.0.
- C. Wetlands: multiply the acreage of wetlands shown on the National Wetlands Inventory Maps by 0.95.
- D. Floodway: multiply the acreage within the floodway by 1.0.
- E. Floodplain: multiply the non-wetland portion of the 100-year floodplain by 0.5.
- F. Steep Slopes: multiply the acreage of land with natural ground slopes exceeding 25 percent by 0.80.
- G. Moderately Steep Slopes: multiply the acreage of land with natural ground slopes of between 15 and 25 percent by 0.60.
- H. Extensive Rock Outcroppings: multiply the total area of rock outcrops and boulder-fields more than 1,000 square feet by 0.90.
- I. Ponds, lakes and streams: multiply the acreage of ponds, lakes and streams by 1.0.

If a portion of the tract is underlain by more than one natural feature subject to a deduction from the total tract acreage,

that acreage shall be subject to the most restrictive deduction only. Since acreage that is contained within the public or private rights-of-way, access easements or access strips is excluded from useable lot area, any portion of these items that also contains a natural feature subject to a deduction from the total tract acreage shall not be included when calculating the adjusted tract acreage.

Lot, Corner: A lot situated at and abutting the intersection of two (2) streets having an interior angle of intersection not greater than one hundred thirty-five (135) degrees.

Lot Coverage: That portion or percentage of the lot area which is covered by buildings; paved and unpaved walkways, roads, driveways and parking areas; pavement; or other impervious surfaces.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line.

Lot Line, Front: The line separating the lot from a street.

Lot Line, Rear: The lot line most distant from and most parallel to the front lot line.

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

Lot Width: The horizontal distance between the side lot lines measured at the minimum prescribed front yard setback line, unless otherwise stated or as may be specified in the Subdivision and Land Development Ordinance. In the event of a curved lot line, such lot width at the minimum prescribed front yard setback line shall be measured along the curve. Where buildings are permitted to be attached, the lot width shall be measured from the center of the party wall. Where a pie-shaped lot fronts upon a cul-de-sac, the minimum lot width may be reduced to 75 percent of the width that would otherwise be required.

Manufactured Home: A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, which arrives at a site complete and ready for installation except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation; including, but not limited to mobile homes and modular homes and any such home subject to U.S. Department of Housing and Urban Development regulations.

Manufacturing and Industry: Establishments engaged in the basic mechanical, chemical or other transformation of extracted or raw materials or substances into new materials, including, but not limited to; the manufacturing or transformation of materials for use by other manufactures, the blending of materials such as lubricating oils, plastics, resins or liquors, other basic industrial processes, and any facility involving processes resulting in the production or storage of hazardous materials or the generation of hazardous waste products or other environmentally regulated processes.

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

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

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

- A. Massages are conducted (see definition); and,
- B. The person conducting the massage is licensed by the state as a health care professional or a therapeutic massage therapist, or is certified by a recognized therapeutic massage organization that requires substantial professional training.

Massage Parlor: An establishment that meets all of the following criteria:

- A. Massages are conducted (see definition);
- B. The person conducting the massage is not licensed by the state as a health care professional or a therapeutic massage therapist, or is not certified by a recognized therapeutic massage organization that requires substantial professional training;
- C. The massages are not conducted within a licensed hospital, nursing home, personal care center or office of a medical doctor, physical therapist, chiropractor, or other licensed practitioner;
- D. The use is not clearly a customary and incidental accessory use to a permitted exercise club or to a high school or college athletic program.

A *massage parlor* shall be considered an *adult business* for the purposes of this Zoning Ordinance.

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

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

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

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

- 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 to specifications for sale including, but not limited to, the crushing, screening, washing or grading of minerals; 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.

Mobile Home: A transportable, single family dwelling intended for permanent occupancy, office or place of

assembly 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, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, the said mobile home as defined by this Zoning Ordinance.

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, the said mobile homes as defined by this Zoning Ordinance.

Model Home: A residential structure 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.

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.

Multi-Family Project: Any development of a single parcel of property that includes one (1) or more buildings containing three (3) or more dwelling units. Any residential development which proposes the construction of two (2) or more two-family dwellings on one (1) parcel of property shall also be considered a multi-family project. Two-family dwellings in a multi-family project shall be considered townhouses.

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

Municipalities: Clinton Township and Nicholson Borough, Wyoming County, Pennsylvania.

Municipality: The Clinton Township in cases where the land use is located in Clinton Township, and the Nicholson Borough in cases where the land use is located in Nicholson Borough.

NOTE: See §9.200 for additional definitions applicable to nonconformities.

Nonconforming Lot: Any lot which does not conform with the minimum width, depth and area dimensions specified for the district where such a lot is situated, such lot having been created and recorded in the office of the Wyoming County Recorder of Deeds prior to the effective date this Zoning Ordinance, as amended.

Nonconforming Structure: A structure or part of a structure which does not comply with the applicable district limitations on structure size and location on a lot, where such structure Ordinance fully existed prior to the enactment of this Zoning Ordinance, as amended; and including, but not limited to, non-conforming signs.

Nonconforming Use: A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or amendments hereto, where such use was legally in existence prior to the enactment of this Zoning Ordinance, as amended.

Nude Model Studio: Any place where a person who appears in a state of nudity or displays *specified anatomical areas* is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A *nude model studio* shall be considered an *adult business* for the purposes of this Zoning Ordinance.

Nudity or a State of Nudity: The showing of the human male or female genitals, pubic area, or buttocks 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 areolae.

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

Nursing Home: A facility licensed by the State 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, but not including a *treatment center/clinic*.

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*.

Offices: A building or part of a building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity.

Open Land or Open Space: That part of a particular development tract set aside for the protection of sensitive natural features, farmland, scenic views and other primary and secondary conservation areas identified by this Zoning Ordinance. Open land may be accessible to the residents of the development and/or the Municipalities, or it may contain areas of farmland, forest land or estate lots which are not accessible to project residents or the public.

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.

Parcel: See *lot*.

Parking Area, Private: An open area for the same uses as a private garage.

Parking Area, Public: An open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.

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 cement, concrete, treated wood or cinder block walled foundation erected on a poured concrete, frost-free footer or a precast foundation set below the frost line.

Permit: A document issued by the proper authority authorizing the applicant to undertake certain activities.

- A. Zoning Permit - A permit that may be issued indicating that a proposed use, building or structure is, to the best knowledge of the Municipalities, in accordance with this Ordinance and which authorizes an applicant to proceed with said use, building or structure, within all other applicable laws and regulations. For the purposes of this Ordinance, a zoning permit or a *permit under this Ordinance* shall mean the applicable portions of a construction permit, unless a specific system of zoning permits has been established.
- B. Construction Permit - A permit indicating that a proposed construction, alteration, or reconstruction of a structure, is to the best knowledge of the Municipalities, in accordance with the provisions of the Building Code(s) adopted by the Township or Borough.

- C. Use Permit - A permit that may be required by the Municipalities that is issued upon completion of the construction of a structure, or change in use of a structure or parcel of land, or re-occupancy of a structure or land indicating that the premises, to the best knowledge of the Building and Zoning Officers, comply with the provisions of Municipal Ordinances. This shall have the same meaning as a *Certificate of Use and Occupancy*.

Personal Care Home or Center: A residential use providing residential and support services primarily to persons who are over age sixty (60), and/or physically handicapped and/or the developmentally disabled and that is licensed as a Personal Care Center by the Commonwealth of Pennsylvania and that does not meet the definition of a *treatment center/clinic*. Considered a *nursing home* for the purposes of this Zoning Ordinance.

Place of Worship: Buildings, synagogues, churches, religious retreats, monasteries, seminaries and shrines used primarily for religious and/or spiritual worship and that are operated by a tax-exempt organization for nonprofit and noncommercial purposes. A place of worship may include two (2) dwelling units as an accessory use to house full-time religious leaders and their families. If a religious use is primarily residential in nature, it shall be regulated as the appropriate dwelling type; for example, a use involving multi-family dwellings shall be regulated as such in terms of district location, density and other design standards.

Planning Commission: The Northeast Wyoming County Planning Commission, Wyoming County, Pennsylvania.

Porch: An attached accessory roofed patio or deck. With the exception of the wall adjoining the principal structure, all walls must be open or screened with a wall no higher than four (4) feet above the floor level. A porch is considered an attached accessory structure and must meet those setback requirements for principal structures.

Principal Building: The building in which the principal use of a lot is conducted. Any building that is physically attached to a principal building shall be considered part of that principal building.

Principal Use: A dominant use(s) or main use on a lot, as opposed to an accessory use.

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

Public Hearing: A formal meeting held pursuant to public notice by the Planning Commission or the Board of Supervisors, 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), known as the Sunshine Act.

Public Notice: Notice published once each week for two (2) consecutive weeks in a newspaper of general circulation in the Municipalities. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

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

Recreation Facilities, 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 theaters, public parks and playgrounds and any other use specifically listed on the

Schedule of Uses.

Recreation Facilities, Public: Parks, swimming pools, playgrounds, tennis courts, and other recreational facilities owned and operated by the Municipalities, County, school district, state, or federal government.

Recreation Vehicle: A vehicle with or without motor power which may be towed on the public highways by a passenger automobile or truck without a special hauling permit, or which may be driven under its own power. This definition includes, but is not limited to campers, travel trailers, buses, camping trailers, pick-up trucks with slide-in campers, recreational vehicle homes and motor homes.

Recreational Vehicle Park: See *campground and RV parks*.

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

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

Related or Relative: Persons who are related by blood, marriage, adoption of formal foster relationship to result in one of the following relationships: brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, nephew, sister-in-law, brother-in-law, father-in-law, mother-in-law or first cousin. It shall not include relationships such as second, third or fourth cousins.

Residency, Long-Term: Occupancy of a dwelling, generally for periods of more than 180 days, as opposed to temporary visits to bed and breakfast establishments, motels, hotels, campgrounds and recreational vehicles, and which serves as the legal address for the occupant.

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

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

Retail Business: An establishment 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, and which is not otherwise listed as a use in the Schedule of Uses.

Right-of-Way: Land reserved for use as a street, drainage facility or other public or community use. A right-of-way shall not be considered as land area when computing lot size.

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

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

Screened: Not visible from any adjoining or neighboring property, any public or private road right-of-way, or any other premises which is accomplished by fencing, topography, berms, natural and planted vegetation or other means approved in accord with this Ordinance.

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

Service Establishment: Establishments engaged in providing services involving the care or needs of a person or his or her apparel such as cleaning and garment services, beauty and barber shops, shoe repair, dry cleaning and laundries, photographic studios, etc., and which is not otherwise listed as a use in the Schedule of Uses.

Setback: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any portion of any building. Front setbacks shall be measured from the edge of the highway right-of-way and other setbacks from property lines.

Sewage Disposal, Central: A sanitary sewage collection system in which sewage is carried from individuals lot or dwelling units by a system of pipes to a central treatment and disposal 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 and in such a case all development standards will apply the same for each dwelling or unit as any single family unit.

Sewage Disposal, 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.

Sexual Encounter Center: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex;
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

A *sexual encounter center* shall be considered an *adult business* for the purpose of this Ordinance.

Shed: An accessory structure, either attached or detached, used for the storage of tools, minor equipment, and materials.

Shopping Center or Mall: A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

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

Shooting Range, Indoor: Any fully enclosed building used for the discharge of any firearm for recreational or training

purposes. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members shall be considered an indoor shooting range for the purposes of this Zoning Ordinance. Considered a *recreational facility, commercial* for the purposes of this Zoning Ordinance.

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

Sign: See Article XI.

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

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

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

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

Special Exception: A use allowed, with permission granted by the Zoning Hearing Board, to occupy and use land and/or a building for specific purposes in accord with this Ordinance.

Specified Anatomical Areas: Any of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae.
- 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 of this definition.

Stable, Commercial: A structure or land where horses are kept for remuneration, hire, sale, boarding, 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.

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

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

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

Structure: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

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

Structure, Portable: Anything constructed that is not permanently affixed to the ground but is designed to be moved from place to place.

Structural Alteration: Any change in the structural members of a building, such as walls, columns, beams or girders, or any addition to any structure.

Student Housing: Any dwelling in which students reside where the number of students does not meet the definition of *family*; or any multi-family dwelling structure which is not a dormitory and which contains two (2) or more dwelling units occupied by students, whether or not the residents of those units meet the definition of *family*.

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.

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

Township: Clinton Township, Wyoming County, Pennsylvania.

Township Buildings and Uses: Any building, structure, service or use under the jurisdiction of Clinton Township,

Wyoming County, Pennsylvania.

Top of Bank: The top of the slope of the stream/river bed which is the normal high water mark.

Tract: See definition of *lot*.

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

Treatment Center/Clinic: A use (other than a detention facility or a permitted accessory use in a hospital) providing housing facilities for persons who need specialized housing, treatment and/or counseling for stays in most cases of less than one (1) year and who need such facilities because of:

- A. Chronic abuse of or addiction to alcohol and/or a controlled substance, or
- B. A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.

Trip Ends: The total of trips entering and leaving a specific land use or site over a designated period time.

Truck Terminal: A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by other forms of transportation.

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

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

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

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

Vehicle or Equipment Repair Operation: An establishment engaged in the service and/or repair of any motor vehicle as its principal use, including but not limited to auto body shops, repair garages, truck repair garages and agriculture equipment repair.

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

Veterinary Clinic: 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 or pens are on the premises.

Warehouse: Terminal facilities operated for a specific commercial establishment or group of establishments in a particular industrial or economic field and used for the storage of goods and materials.

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

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

Water Supply, Central: 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 supply which may be publicly or privately owned and operated.

Water Supply, On-Site: A single system of piping, tanks or other facilities serving only a single lot and providing drinking water.

Wetland: Any area defined as such by the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*.

Wholesale Business: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

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

Wind Energy Facility: A facility where one (1) 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*.

Yard: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any building. Front yards shall be measured from the edge of the road right-of-way and other yards from property lines, perpendicular to the road/property line to the nearest point of the structure.

Yard Sale: Any offering for sale to the public of used and accumulated normal household and other personal items conducted on a temporary, intermittent basis (not to exceed five [5] sales per year for not more than three [3] consecutive days each) as an accessory use to a residential dwelling. 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 Zoning Ordinance.

Zoning Map: The Official Zoning Map of Clinton Township and Nicholson Borough.

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

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