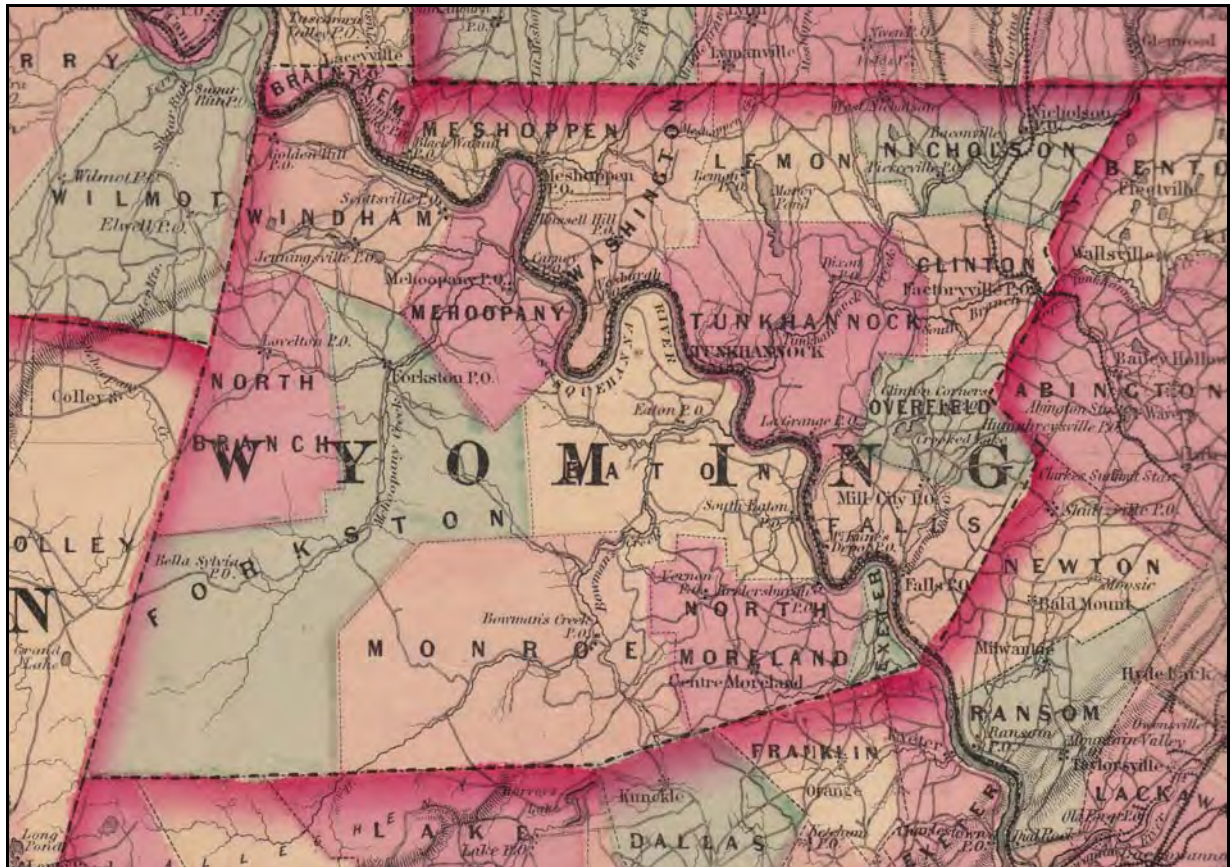


# CLINTON TOWNSHIP & NICHOLSON BOROUGH

## WYOMING COUNTY, PENNSYLVANIA

# ZONING ORDINANCE COMPILATION

## 2017



*The New Topographical Atlas of Pennsylvania, Stedman, Brown & Lyon, 1872, Philadelphia.*

This compilation has not been adopted as a whole by the Township Board of Supervisors, but simply includes all the provisions of the ordinances cited below. The intent is to facilitate the public use of the Zoning ordinance and amendments. Nevertheless, the provisions of the underlying ordinances remain in full force and effect and shall apply to the extent that the provisions of same have not been changed by any subsequent amendment.

1. The original Clinton Township-Nicholson Borough Zoning Ordinance, December 28, 2006.
2. Clinton Township Ordinance 317-11, April 1, 2011 and Nicholson Borough Ordinance 11-306, April 1, 2011.
3. Clinton Township Ordinance 319-12, July 11, 2012, effective August 2, 2012, and Nicholson Borough Ordinance 12-306, July 2, 2012, effective August 2, 2012.
4. Clinton Township Ordinance 12-15 and Nicholson Borough Ordinance 12-15.

## 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** and the **Index** at the back of the Ordinance should help you find the sections applicable to your situation.
- ☛ The **Zoning Map** shows all of the **Zoning Districts** in the Township. Each District is listed in the **Schedule of Uses** in Article IV.
- ☛ The **Schedule of Uses** in Article IV lists all of the uses allowed in each district and the **Table of Uses Permitted by Districts** lists uses by category and specifies in which Districts the uses are allowed.
- ☛ The **Schedule of Uses** in Article IV also classifies all of the uses allowed in each Zoning District.
  - ☛ **Principal Permitted Uses** and **Accessory Uses** - action by the Zoning Officer.
  - ☛ **Conditional Uses** - review by Planning Commission, action by Governing Body. (See §1208)
  - ☛ **Special Exceptions** - review by Planning Commission, action by Zoning Hearing Board. (See §1208)
- ☛ The requirements for **Permit Applications** are found in §1202.
- ☛ The **Schedule of Development Standards** in Article IV sets the minimum lot size and property line and road setback requirements.
- ☛ The **Definitions** in Article III provide the meaning for specific terms.
- ☛ Many uses are subject to specific requirements of this Ordinance.
  - ☛ Article V includes requirements for decks, garages, sheds and other **Accessory Uses, Home Occupations** and **Off-Street Parking**.
  - ☛ Article VI governs **Residential Uses** -- conservation design, two-family dwellings, group homes, etc.
  - ☛ Article VII includes performance standards for **Commercial and Manufacturing Uses**.
  - ☛ Article VIII includes standards for **Specific Uses** ranging from the keeping of animals to cell towers.
- ☛ **Signs** are governed by Article XI and a business sign will probably 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 §1207.1.
- ☛ 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 IX. Nonconforming lots, lots which do not meet the minimum size and dimension requirements, can also be used if they meet the setback, water supply and sewage disposal requirements in §911.
- ☛ If a project involves the creation of a new lot or lots, the change of lot lines, or the erection of one or more new principal nonresidential buildings, the **Subdivision and Land Development Ordinance** will also apply. This ordinance is separate from the Zoning Ordinance.
- ☛ **Fees** are set by Resolution of the Governing Body per §1203 and are shown on the **Fee Schedule** available from the Zoning Officer.

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

## ARTICLE I - GENERAL PROVISIONS

### **100 Borough Zoning Ordinance Repeal and Replacement; Conflict**

The Nicholson Borough Zoning Ordinance of October 6, 1980, as amended, is hereby repealed and replaced 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 Clinton Township or Nicholson Borough. If any other ordinance, code or regulation of the Township or Borough 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 *CLINTON TOWNSHIP-NICHOLSON BOROUGH ZONING ORDINANCE*.

### **102 Purpose**

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

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



- D. To provide for the use of land within the Municipalities 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.

### **103 Applicability**

#### **103.1 Conformance**

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

#### **103.2 Authorization**

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

#### **103.3 Regulated Activities**

Any of the following activities or any other activity or matter regulated by this Ordinance shall only be undertaken after the required permit or approval has been obtained in full compliance with this Ordinance:

- 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.

#### **103.4 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 1) a change in use; 2) an expansion, construction or placement of a structure; 3) an increase in the number of dwelling units or boarding house units; and/or 4) any other activity regulated by this Ordinance.

### **104 Interpretation**

In interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and the general welfare of the Municipalities and citizens. It is not intended to interfere with or abrogate or annul other rules, regulations, or ordinances of the Municipalities except that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of a building, or requires larger open spaces than are imposed by such other rules, regulations, or ordinances, the provisions of this Ordinance shall control.

### **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 Municipalities 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 COMMUNITY DEVELOPMENT OBJECTIVES AND GOALS

### **201 General Community Development Objectives**

This statement of the Community Development Objectives is included under the authority of §606 of the Pennsylvania Municipalities Planning Code. The Community Development Objectives include, but are not limited to the following:

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

### **202 Comprehensive Plan Goals and Objectives**

In addition to the General Community Development Objectives set forth in §201, this Zoning Ordinance is intended to implement the goals and objectives contained in the Northeast Wyoming County Comprehensive Plan and any other plan which may be adopted by the Municipalities.

## 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 and 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 and/or other materials; or any area where equipment, vehicles, supplies and/or

other material are assembled or stored for the support of another operation or use located at a different site.

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*. (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.

Gas Compressor Station: A facility at which natural gas passing through a pipeline is pressurized by a turbine, motor, or engine. In addition to compressing natural gas, compressor stations usually contain some type of liquid separator consisting of scrubbers and filters that capture any liquids or other undesirable particles from the natural gas in the pipeline.

Gas Metering Stations - A permanent structure that may or may not be integrated with a compressor station and is used for the purpose of metering or measuring the flow and/or volume of gas entering the station.

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 *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.

\*NOTE: 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.

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. 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.

Hydraulic Fracturing 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 a natural gas well for the purpose of hydraulic fracturing.

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*.

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.

**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.

**Kennel 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.
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**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.

**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.

**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 of land used for the purpose of the construction, drilling and operation of an exploratory or production gas or oil well including all areas used for parking, storage, structures or any other associated use or area of land disturbance.

**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. 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.

Solar Collector: 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.

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

Solar 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 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.

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).

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*.

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

Yard: 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.

## ARTICLE IV DISTRICT REGULATIONS

### 401 Designation of Districts

#### 401.1 Designation

For the purposes of this Ordinance, the following Zoning Districts are hereby created:

##### Clinton Township Districts

R Residential District  
RA Rural-Agricultural District  
CI Commercial-Industrial District

##### Nicholson Borough Districts

R-1 Residential Low Density District  
R-2 Residential Medium Density District  
R-3 Residential High Density District  
B-1 Business District  
I-1 Industrial District  
I-2 Light Industrial District  
C-1 Conservation District

#### 401.2 Intent

The intent of each District and the uses permitted in each District are set forth on the District Use Schedules contained in §404 of this Ordinance or in the specific sections establishing any overlay district. Bulk and density standards for each District are set forth on the Schedule of Development Standards contained in §404 of this Ordinance.

#### 401.3 Floodplain Overlay District

The Floodplain Overlay District is hereby created to be coterminous with the areas which are subject to the one hundred (100) year flood, as identified in the most current *Flood Insurance Study* and the accompanying *FIRM - Flood Insurance Rate Map* issued by the Federal Emergency Management Agency. In addition to all other applicable standards of this Zoning Ordinance, the Borough and Township, as applicable, floodplain regulations shall apply in the Floodplain Overlay District.

#### 401.4 Optional Conservation Subdivision Design Overlay District -- Developer's Option

The Optional Conservation Subdivision Design Overlay District is hereby created to promote the conservation of open lands in the Township. Based on the request of the Developer, the District shall apply to all R, RA and CI Districts, and in addition to all the applicable standards of this Zoning Ordinance, the requirements of §601 of this Zoning Ordinance shall apply.

#### 401.5 Optional Residential Overlay District -- Developer's Option

The Residential Overlay District is hereby created to afford protection to residential subdivisions developed in the RA, CI, R-1, and C-1 Districts. Based on the request of the Developer at the time of final subdivision approval of any residential development of ten (10) or more lots (not including the parent parcel), the approved subdivision, including all lots and other lands (such as conservation open land) which are part of the subdivision, shall be incorporated into the Residential Overlay District where all standards applicable in the standard Residential District shall apply in lieu of the underlying district standards.

#### 401.6 Airport Overlay District

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

**402 Official Zoning Map**

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

**403 District Boundaries****403.1 Establishment**

District boundary lines are intended to follow or be parallel to the center line of streets, streams and railroads, and lot or property lines as they exist on a recorded deed or plan of record in the Wyoming County Recorder of Deed's Office and on the Wyoming County Tax Maps at the time of the enactment of this Ordinance, unless such district boundary lines are fixed by dimensions or otherwise as shown on the Official Zoning Map.

**403.2 Interpretation**

Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.

**403.3 Uncertainty**

In the event of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Officer is authorized to determine the correct district boundary in accord with the guidelines of this Zoning Ordinance. Any decision of the Zoning Officer may be appealed to the Zoning Hearing Board.

**404 District Regulations**

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

**404.1 Use Regulations**

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

- A. Permits for principal permitted uses and accessory uses shall be issued by the Zoning Officer provided such uses comply with the standards in this Ordinance.
- B. Conditional uses and special exception uses shall be subject to the additional review procedures and criteria as specified in this Ordinance.
- C. No land and no structure in a particular zoning district shall be used for any use which is not specifically listed on the Schedule of Uses for that particular district, and only in accord with all other requirements of this Ordinance. Larger lot sizes, greater setbacks, buffers and other more restrictive standards may be required by other provision of this Ordinance. In cases where this Ordinance provides different requirements for the same use, the most restrictive requirement shall apply.



#### 404.2 Uses Not Specified in Schedule of Uses

- A. Jurisdiction - Whenever a use is neither specifically permitted nor specifically denied in any zoning district established under this Ordinance and an application is made to the Zoning Officer for such use, the application shall be submitted to the Zoning Hearing Board which shall have the authority to permit the use or deny the use as a special exception.
- B. Findings - The use may be permitted only if the Zoning Hearing Board makes all of the following findings; and, the burden of proof shall be upon the applicant:
1. The use is similar to and compatible with the uses listed for the subject zoning district by the Schedule of 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.
- C. Planning Commission Review - At the time the application is submitted to the Zoning Hearing Board, the Zoning Officer shall also provide a copy to the Planning Commission for its recommendation. The Zoning Hearing Board shall not conduct a public hearing on the application until the comments from the Planning Commission are received or thirty (30) days have passed from the time the application was referred to the Planning Commission.
- D. Conditions - The Zoning Hearing Board may attach reasonable conditions and safeguards to any special exception approval granted for a use not specified in the Schedule of Uses, incorporating standards in this Zoning Ordinance for similar uses in the district and such other conditions as the Zoning Hearing Board may deem necessary to protect and promote the public health, safety, morals and welfare and to implement the purposes of this Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

#### 404.3 Development Standards

The Schedule of Development Standards which follows establishes minimum standards for lot area; lot depth, average lot width and front, side and rear yards; and establishes maximum standards for building height and lot coverage. The standards also establish specific standards and criteria that apply to the use as may be appropriate to protect the public health, safety and welfare. Larger lot sizes, increased setbacks and other more restrictive standards may be required in accord with other Ordinance sections.

#### 404.4 Table of Uses Permitted by District

The Table of Uses by District which follows summarizes the various uses according to the classification of the use in the zoning districts. The Table is for reference only and the Schedule of Uses and all underlying Zoning Ordinance sections shall be the final determinant for regulation.

**CLINTON TOWNSHIP DISTRICTS****ACCESSORY USES PERMITTED IN R, RA and CI DISTRICTS** (Zoning Officer)

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>- Accessory uses customary to approved uses</li> <li>- Barns, silos, sheds, and similar agricultural buildings</li> <li>- Day care, adult and child as a home occupation</li> <li>- Essential services (permit not required)</li> <li>- Home greenhouses</li> <li>- Private garages, carports, sheds</li> <li>- Private swimming pools</li> </ul> | <ul style="list-style-type: none"> <li>- Required parking areas (permit not required)</li> <li>- Signs accessory to approved uses</li> <li>- Solar collectors, accessory</li> <li>- Stables, private in association with a single-family detached dwelling</li> <li>- Wind turbine generators, accessory</li> <li>- Yard sales (permit not required)</li> </ul> |
|--|---|

**R - RESIDENTIAL DISTRICT -- SCHEDULE OF USES**

INTENT: To provide areas adequate to accommodate single-family and two-family housing needs and recognize existing residential communities. To limit unnecessary intrusions of incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing, and to allow certain public and semi-public uses compatible with residential neighborhoods. Concurrently, forestry enterprises and agriculture are permitted, with a minimum parcel size required for livestock operations.

**PRINCIPAL PERMITTED USES**(Zoning Officer)

- Crop production (permit not required)
- Forestry enterprises (permit not required)
- Group homes
- Livestock operations - minimum of fifteen (15) acres
- Oil and gas wells (minimum 10- acre parcel required)
- Retail sales of agricultural products produced and/or processed on the premises (permit not required)
- Single-family detached dwellings
- Two-family dwellings

NOTE: Uses not specifically listed by this schedule shall not be permitted in the R District except as approved in accord with §404.2.

**CONDITIONAL USES**(Planning Commission /Board of Supervisors)

- Home occupations (See §503 which classifies certain home occupations as accessory uses.)
- Schools, public or private, primary or secondary

**SPECIAL EXCEPTIONS**(Planning Commission / Zoning Hearing Board)

- Public parks and playgrounds
- Public and semi-public buildings and uses
- Municipal buildings and uses

## CLINTON TOWNSHIP DISTRICTS

## RA - RURAL AGRICULTURAL DISTRICT -- SCHEDULE OF USES

INTENT: To maintain the existing character of the traditional rural working landscape. The continued use of land for agriculture and forestry enterprises is permitted, protected and encouraged. Recognizing the need for landowners to have economic opportunity not related to natural resources, residential development, limited recreational uses, certain institutional uses, and a number of other commercial uses are permitted subject to performance standards.

**PRINCIPAL PERMITTED USES**(Zoning Officer)

- Art studios\*
- Bed and breakfast establishments\*
- Boarding and lodging houses\*
- Clubs/lodges, private\*
- Commercial greenhouses and nurseries
- Contractor's yards\*
- Crop production (permit not required)
- Day care, adult and child
- Forestry enterprises (permit not required)
- Group homes
- Livestock operations - minimum of five (5) acres (permit not required)
- Manufacturing, light\*
- Medical clinics\*
- Office buildings\*
- Oil and gas wells
- Professional offices\*
- Recreational facilities, commercial\*
- Restaurants, traditional\*
- Retail businesses\*
- Retail sales of agricultural products produced and/or processed on the premises (permit not required)
- Self-storage facilities\*
- Service establishments\*
- Single-family detached dwellings
- Stables, commercial, and horses for hire
- Storage yards for forest products and minerals\*
- Township buildings and uses
- Two-family dwellings
- Veterinary clinics\*

\*CONDITIONAL USE - Considered a conditional use if the proposed use is located within 300 feet of any neighboring parcel with an existing residential dwelling. Measured from the physical location of the proposed use to the property line of the neighboring parcel.

**CONDITIONAL USES**(Planning Commission /Board of Supervisors)

- Agricultural products processing
- Archery ranges, outdoor commercial
- Campgrounds and recreational vehicle parks
- Cemeteries
- Colleges and universities
- Commercial communication device sites
- Concentrated animal feeding operations (CAFO's)
- Gas compressor stations
- Gas metering stations
- Home occupations (See §503 which classifies certain home occupations as accessory uses.)
- Hydraulic fracturing water withdrawal facilities
- Industrial wastewater treatment facilities
- Kennels and pounds
- Mineral extraction
- Mineral processing in association with mineral extraction per §825.3
- Mobile home parks
- Multi-family dwellings at the same density as two-family dwellings
- Places of worship
- Sawmills
- Shooting ranges, outdoor commercial
- Solar power generation, commercial
- Student housing
- Vehicle or equipment sales, rental or repair operations
- Wind energy facilities

**SPECIAL EXCEPTIONS**(Planning Commission / Zoning Hearing Board)

- Public and semi-public buildings and uses
- Public parks and playgrounds
- Recreational facilities, public
- Schools, public or private primary or secondary

NOTE: Uses not specifically listed by this schedule shall not be permitted in the RA District except as approved in accord with §404.2.

## CLINTON TOWNSHIP DISTRICTS

## CI - COMMERCIAL-INDUSTRIAL DISTRICT -- SCHEDULE OF USES

INTENT: To reserve those areas in the Municipalities best suited for manufacturing and industry, uses with potential for greater community impact, and other offensive uses based on location, existing uses and facilities, and the relationship to other land uses.

<b>PRINCIPAL PERMITTED USES</b> <u>(Zoning Officer)</u>	<b>CONDITIONAL USES</b> <u>(Planning Commission /Board of Supervisors)</u>
<ul style="list-style-type: none"> <li>- Art studios</li> <li>- Banks</li> <li>- Bed and breakfast establishments</li> <li>- Boarding and lodging houses</li> <li>- Clubs/lodges, private</li> <li>- Contractor's yards</li> <li>- Crop production (permit not required)</li> <li>- Day care, adult and child</li> <li>- Exercise clubs</li> <li>- Forestry enterprises (permit not required)</li> <li>- Group homes</li> <li>- Hotels</li> <li>- Livestock operations - minimum of fifteen (15) acres (permit not required)</li> <li>- Manufacturing, light</li> <li>- Medical clinics</li> <li>- Motels</li> <li>- Nursing homes</li> <li>- Office buildings</li> <li>- Oil and gas wells</li> <li>- Places of worship</li> <li>- Professional offices</li> <li>- Recreational facilities, commercial</li> <li>- Restaurants, traditional</li> <li>- Retail businesses</li> <li>- Retail sales of agricultural / forestry products produced and/or processed on the premises (permit not required)</li> <li>- Self-storage facilities</li> <li>- Service establishments</li> <li>- Single-family detached dwellings</li> <li>- Stables, commercial, and horses for hire</li> <li>- Theaters, indoor</li> <li>- Township buildings and uses</li> <li>- Trade schools</li> <li>- Two-family dwellings</li> <li>- Vehicle or equipment sales or rental operations</li> <li>- Veterinary clinics</li> <li>- Wholesale businesses</li> </ul>	<ul style="list-style-type: none"> <li>- Agricultural products processing</li> <li>- Aircraft sales, repair or modification</li> <li>- Airports, private and public</li> <li>- Amusement arcades</li> <li>- Animal hospitals</li> <li>- Bulk fuel storage</li> <li>- Bus terminals</li> <li>- Car and truck washes</li> <li>- Commercial communication device sites</li> <li>- Convenience stores</li> <li>- Crematoria</li> <li>- Detention facilities</li> <li>- Fireworks manufacturing and storage</li> <li>- Funeral homes</li> <li>- Group quarters</li> <li>- Health facilities</li> <li>- Heliports, accessory and commercial</li> <li>- Home occupations (See §503 which classifies certain home occupations as accessory uses.)</li> <li>- Indoor shooting ranges</li> <li>- Industrial wastewater treatment facilities</li> <li>- Junkyards</li> <li>- Manufacturing and industry</li> <li>- Mineral processing</li> <li>- Mobile and manufactured home sales</li> <li>- Multi-family dwellings</li> <li>- Outdoor entertainment</li> <li>- Recycling collection facilities, large and small</li> <li>- Restaurants, drive-in</li> <li>- Retail home heating fuel distributors</li> <li>- Sawmills</li> <li>- Shopping centers</li> <li>- Solid waste facilities and staging areas</li> <li>- Theaters</li> <li>- Truck terminals / distribution facilities</li> <li>- Vehicle or equipment repair operation</li> <li>- Warehouses</li> </ul>
<b>SPECIAL EXCEPTIONS</b> <u>(Planning Commission / Zoning Hearing Board)</u> <ul style="list-style-type: none"> <li>- Public and semi-public buildings and uses</li> <li>- Public parks and playgrounds</li> <li>- Recreational facilities, public</li> <li>- Schools, public or private primary or secondary</li> </ul>	<p>NOTE: Uses not specifically listed by this schedule shall not be permitted in the CI District except as approved in accord with §404.2.</p>

**CLINTON TOWNSHIP DISTRICTS – R, RA & CI  
SCHEDULE OF DEVELOPMENT STANDARDS**

NOTE: Larger lot sizes, setbacks or other standards may be required by other sections of this Ordinance. In any case the

**Minimum lot size and density**

Type of Sewage Disposal and Water Supply	Minimum Lot Size		Minimum Land Area for Multi-Family Dwellings (central sewage and central water required)  See §603
	single-family	two-family	
on-site sewage disposal <b>and</b> on-site water	1.00	1.50	
on-site sewage disposal <b>and</b> central water	1.00	1.50	
central sewage <b>and</b> on-site water	0.50	0.75	
central sewage <b>and</b> central water	0.50	0.75	

**Lot dimensions for lots proposed in a standard subdivision** (See §601 for Conservation Design)

	Lot size equal to or greater than (acres)			
	1.00	0.75	0.50	
Minimum width (feet)	125	100	75	
Maximum depth to width ratio	4:1	4:1	4:1	
Minimum street frontage (feet)	not less than 50% of required lot width except			

**Minimum building setback requirements for all uses** (See §601 for Conservation Design)

	Lot size equal to or greater than (acres)			nonconforming lots less than 0.50 acres
	1.00	0.75	0.50	
Front - from edge of each right-of-way (feet)	30	25	25	20
Each side - from property line (feet)	20	20	15	15
Rear - from property line (feet)	20	20	15	15
<b>Residential maximum lot coverage</b> (percent)	25	25	30	30
<b>Non-residential maximum lot coverage</b> (percent)	commercial and institutional - 60			

**Maximum building height** (feet) -- see §501.4 for exceptions

residential	35
commercial and institutional	40
light manufacturing; manufacturing and industry	40

**NICHOLSON BOROUGH DISTRICTS****ACCESSORY USES PERMITTED IN ALL NICHOLSON BOROUGH DISTRICTS** (Zoning Officer)

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>- Accessory uses customary to approved uses</li> <li>- Barns, silos, sheds, and similar agricultural buildings</li> <li>- Day care, adult and child as a home occupation</li> <li>- Essential services</li> <li>- Home greenhouses</li> <li>- Private garages, carports, sheds</li> <li>- Private swimming pools</li> </ul> | <ul style="list-style-type: none"> <li>- Required parking areas</li> <li>- Signs accessory to approved uses</li> <li>- Solar collectors, accessory</li> <li>- Stables, private in association with a single-family detached dwelling</li> <li>- Wind turbine generators, accessory</li> <li>- Yard sales</li> </ul> |
|--|---|

**R-1 - RESIDENTIAL LOW DENSITY DISTRICT****SCHEDULE OF USES**

INTENT: To provide areas adequate to accommodate single-family housing needs and recognize and protect existing residential neighborhoods. To limit unnecessary intrusions of incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing, and to allow certain public and semi-public uses compatible with such residential neighborhoods.

**PRINCIPAL PERMITTED USES**

(Zoning Officer)

- Borough buildings and uses
- Crop production
- Forestry enterprises
- Group homes
- Single-family detached dwellings
- Two-family dwellings

**CONDITIONAL USES**

(Planning Commission /Borough Council)

- None

**SPECIAL EXCEPTIONS**

(Planning Commission / Zoning Hearing Board)

- Home occupations\*
- Places of worship
- Public parks and playgrounds
- Public and semi-public buildings and uses
- Recreational facilities, public
- Schools, public or private, primary or secondary

\*See §503 which classifies certain home occupations as accessory uses.

NOTE: Uses not specifically listed by this schedule shall not be permitted in the R-1 District except as approved in accord with §404.2.

<b>SCHEDULE OF DEVELOPMENT STANDARDS</b>	Central Water and Central Sewer	Central Water	On-Site Water and On-Site Sewer
Minimum lot area	7,500 square feet	15,000 square feet	1 acre
Minimum lot width	50 feet	100 feet	100 feet
Minimum setback for principal structures			
Front yard	20 feet	25 feet	25 feet
Rear yard	20 feet	25 feet	25 feet
Each side yard	12 feet	20 feet	25 feet
Minimum setback for accessory structures			
Front yard	not permitted	not permitted	not permitted
Rear yard	5 feet	5 feet	10 feet
Each side yard	5 feet	5 feet	10 feet
Maximum height	2.5 stories or 40 feet		
Maximum lot coverage	75 percent	60 percent	50 percent

## NICHOLSON BOROUGH DISTRICTS

## R-2 - RESIDENTIAL MEDIUM DENSITY DISTRICT

SCHEDULE OF USES	
<p>INTENT: To provide areas adequate to accommodate single-family, two-family and multi-family housing needs and recognize and protect existing residential neighborhoods. To limit unnecessary intrusions of incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing, and to allow certain public, semi-public, and commercial uses compatible with such residential neighborhoods.</p>	
<p><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p> <ul style="list-style-type: none"> <li>- Borough buildings and uses</li> <li>- Crop production</li> <li>- Forestry enterprises</li> <li>- Group homes</li> <li>- Multi-family dwellings</li> <li>- Single-family detached dwellings</li> <li>- Two-family dwellings</li> </ul>	<p><b>SPECIAL EXCEPTIONS</b> (Planning Commission / Zoning Hearing Board)</p> <ul style="list-style-type: none"> <li>- Bed and breakfast establishments</li> <li>- Boarding and lodging houses</li> <li>- Day care, adult</li> <li>- Day care, child</li> <li>- Funeral homes</li> <li>- Home occupations*</li> <li>- Nursing homes</li> <li>- Places of worship</li> <li>- Professional offices</li> <li>- Public parks and playgrounds</li> <li>- Public and semi-public buildings and uses</li> <li>- Recreational facilities, public</li> <li>- Schools, public or private, primary or secondary</li> <li>- Student housing</li> </ul>
<p><b>CONDITIONAL USES</b> (Planning Commission / Borough Council)</p> <ul style="list-style-type: none"> <li>- None</li> </ul>	<p>*See §503 which classifies certain home occupations as accessory uses.</p>
<p>NOTE: Uses not specifically listed by this schedule shall not be permitted in the R-2 District except as approved in accord with §404.2.</p>	

SCHEDULE OF DEVELOPMENT STANDARDS	Single-Family and Two-Family Dwellings	Multi-Family Dwellings	Other Uses
Minimum lot area	7,500 square feet	7,500 square feet	15,000 square feet
Minimum lot width	50 feet	50 feet	100 feet
Minimum setback for principal structures			
Front yard	20 feet	20 feet	25 feet
Rear yard	20 feet	20 feet	25 feet
Each side yard	12 feet	12 feet	25 feet
Maximum height	2.5 stories or 40 feet		
Maximum lot coverage	75 percent	75 percent	60 percent

## NICHOLSON BOROUGH DISTRICTS

## R-3 - RESIDENTIAL HIGH DENSITY DISTRICT

SCHEDULE OF USES	
<p>INTENT: To provide areas adequate to accommodate single-family, two-family, multi-family, and mobilehome park housing needs and recognize and protect existing residential neighborhoods. To limit unnecessary intrusions of incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing, and to allow certain public, semi-public, and commercial uses compatible with such residential neighborhoods.</p>	
<p><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p> <ul style="list-style-type: none"> <li>- Borough buildings and uses</li> <li>- Crop production</li> <li>- Forestry enterprises</li> <li>- Group homes</li> <li>- Multi-family dwellings</li> <li>- Single-family detached dwellings</li> <li>- Two-family dwellings</li> </ul>	<p><b>SPECIAL EXCEPTIONS</b> (Planning Commission / Zoning Hearing Board)</p> <ul style="list-style-type: none"> <li>- Bed and breakfast establishments</li> <li>- Boarding and lodging houses</li> <li>- Colleges and universities</li> <li>- Day care, adult</li> <li>- Day care, child</li> <li>- Funeral homes</li> <li>- Group quarters</li> <li>- Home occupations*</li> <li>- Mobilehome parks</li> <li>- Nursing homes</li> <li>- Places of worship</li> <li>- Public parks and playgrounds</li> <li>- Public and semi-public buildings and uses</li> <li>- Recreational facilities, public</li> <li>- Schools, public or private, primary or secondary</li> </ul>
<p><b>CONDITIONAL USES</b> (Planning Commission /Borough Council)</p> <ul style="list-style-type: none"> <li>- None</li> </ul>	
<p>NOTE: Uses not specifically listed by this schedule shall not be permitted in the R-3 District except as approved in accord with §404.2.</p>	
<p>*See §503 which classifies certain home occupations as accessory uses.</p>	

SCHEDULE OF DEVELOPMENT STANDARDS	Central Water and Central Sewer	Central Water	On-Site Water and On-Site Sewer
Minimum lot area	7,500 square feet	15,000 square feet	1 acre
Minimum lot width	50 feet	100 feet	100 feet
Minimum setback for principal structures			
Front yard	20 feet	25 feet	25 feet
Rear yard	20 feet	25 feet	25 feet
Each side yard	12 feet	20 feet	25 feet
Minimum setback for accessory structures			
Front yard	not permitted	not permitted	not permitted
Rear yard	5 feet	5 feet	5 feet
Each side yard	5 feet	5 feet	5 feet
Maximum height	2.5 stories or 40 feet		
Maximum lot coverage	75 percent	60 percent	50 percent



## NICHOLSON BOROUGH DISTRICTS

## B-1 - BUSINESS DISTRICT

SCHEDULE OF USES	
<p>INTENT: To meet the daily business and community needs of nearby residents and to encourage a mix of uses typically found in traditional villages. Residential and public and semi-public uses are permitted along with limited scale and less intensive types of commercial trades and service activities in areas close to major highways.</p>	
<p><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p> <ul style="list-style-type: none"> <li>- Art studios</li> <li>- Banks</li> <li>- Bed and breakfast establishments</li> <li>- Boarding and lodging houses</li> <li>- Borough buildings and uses</li> <li>- Clubs/lodges, private</li> <li>- Day care, adult and child</li> <li>- Forestry enterprises</li> <li>- Group homes</li> <li>- Hotels</li> <li>- Medical clinics</li> <li>- Motels</li> <li>- Nursing homes</li> <li>- Office buildings</li> <li>- Places of worship</li> <li>- Professional offices</li> <li>- Public and semi-public buildings and uses</li> <li>- Public parks and playgrounds</li> <li>- Recreational facilities, commercial</li> <li>- Recreational facilities, public</li> <li>- Restaurants, traditional</li> <li>- Retail businesses</li> <li>- Schools, public or private, primary or secondary</li> <li>- Service establishments</li> <li>- Single-family detached dwellings</li> <li>- Taverns</li> <li>- Theaters, indoor</li> <li>- Trade schools</li> <li>- Two-family dwellings</li> <li>- Veterinary clinics</li> <li>- Wholesale businesses</li> </ul>	<p><b>SPECIAL EXCEPTIONS</b> (Planning Commission / Zoning Hearing Board)</p> <ul style="list-style-type: none"> <li>- Abused person shelter</li> <li>- Amusement arcades</li> <li>- Animal hospitals</li> <li>- Car and truck washes</li> <li>- Convenience stores</li> <li>- Funeral homes</li> <li>- Group quarters</li> <li>- Health facilities</li> <li>- Home based businesses if not a principal permitted use</li> <li>- Home occupations*</li> <li>- Indoor shooting ranges</li> <li>- Multi-family dwellings</li> <li>- Outdoor entertainment</li> <li>- Restaurants, drive-in</li> <li>- Shopping centers</li> <li>- Vehicle or equipment repair operation</li> <li>- Warehouses</li> </ul> <p>*See §503 which classifies certain home occupations as accessory uses.</p> <hr/> <p><b>CONDITIONAL USES</b> (Planning Commission /Borough Council)</p> <ul style="list-style-type: none"> <li>- None</li> </ul> <hr/> <p>NOTE: Uses not specifically listed by this schedule shall not be permitted in the B-1 District except as approved in accord with §404.2.</p>

SCHEDULE OF DEVELOPMENT STANDARDS	All Uses
Minimum lot area	15,000 square feet
Minimum lot width	100 feet
Minimum setback for principal and accessory structures	
Front yard	10 feet
Rear yard (if accessed by public road or private vehicular easement)	20 feet
Each side yard	5 feet
Maximum height	2.5 stories or 40 feet
Maximum lot coverage	90 percent

## NICHOLSON BOROUGH DISTRICTS

## I-1 - INDUSTRIAL DISTRICT

SCHEDULE OF USES	
<p>INTENT: To reserve those areas in the Borough best suited for manufacturing and industry uses with potential for community impact based on location, existing uses and facilities, and the relationship to other land uses.</p>	
<p><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p> <ul style="list-style-type: none"> <li>- Contractor's yards</li> <li>- Manufacturing, light</li> <li>- Office buildings</li> <li>- Recycling collection facilities, large and small</li> <li>- Retail home heating fuel distributors</li> <li>- Self-storage facilities</li> <li>- Vehicle or equipment repair operation</li> <li>- Vehicle or equipment sales or rental operations</li> <li>- Warehouses</li> </ul>	<p><b>SPECIAL EXCEPTIONS</b> (Planning Commission / Zoning Hearing Board)</p> <ul style="list-style-type: none"> <li>- Agricultural products processing</li> <li>- Betting and gambling uses</li> <li>-- Bus terminals</li> <li>- Commercial communication device sites</li> <li>- Crematoria</li> <li>- Gas compressor stations</li> <li>- Gas metering stations</li> <li>- Home occupations*</li> <li>- Manufacturing and industry</li> <li>- Mobile and manufactured home sales</li> <li>- Recreational facilities, commercial</li> <li>- Storage yards for forest products and minerals</li> <li>- Truck terminals / distribution facilities</li> </ul> <p>*See §503 which classifies certain home occupations as accessory uses.</p>
<p><b>CONDITIONAL USES</b> (Planning Commission /Borough Council)</p> <ul style="list-style-type: none"> <li>- None</li> </ul>	
<p>NOTE: Uses not specifically listed by this schedule shall not be permitted in the I-1 District except as approved in accord with §404.2.</p>	

SCHEDULE OF DEVELOPMENT STANDARDS	
	All Uses
Minimum lot area	40,000 square feet
Minimum lot width	150 feet
Minimum setback for principal and accessory structures	
Front yard	25 feet
Rear yard	10 feet
Each side yard	30 feet
Maximum height	40 feet
Maximum lot coverage	80 percent

## NICHOLSON BOROUGH DISTRICTS

## I-2 - INDUSTRIAL DISTRICT

SCHEDULE OF USES	
<p>INTENT: To reserve those areas in the Borough best suited for manufacturing and industry uses with potential for community impact based on location, existing uses and facilities, and the relationship to other land uses.</p>	
<p><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p> <ul style="list-style-type: none"> <li>- Contractor's yards</li> <li>- Manufacturing, light</li> <li>- Office buildings</li> <li>- Recycling collection facilities, large and small</li> <li>- Retail home heating fuel distributors</li> <li>- Self-storage facilities</li> <li>- Vehicle or equipment repair operation</li> <li>- Vehicle or equipment sales or rental operations</li> <li>- Warehouses</li> </ul>	<p><b>SPECIAL EXCEPTIONS</b> (Planning Commission / Zoning Hearing Board)</p> <ul style="list-style-type: none"> <li>- Adult businesses</li> <li>- Agricultural products processing</li> <li>- Aircraft sales, repair or modification</li> <li>- Airports, private and public</li> <li>- Betting and gambling uses</li> <li>- Bulk fuel storage</li> <li>- Bus terminals</li> <li>- Commercial communication device sites</li> <li>- Crematoria</li> <li>- Detention facilities</li> <li>- Home occupations*</li> <li>- Manufacturing and industry</li> <li>- Mobile and manufactured home sales</li> <li>- Race tracks</li> <li>- Recreational facilities, commercial</li> <li>- Slaughter houses</li> <li>- Storage yards for forest products and minerals</li> <li>- Truck terminals / distribution facilities</li> <li>- Zoos and menageries</li> </ul>
<p><b>CONDITIONAL USES</b> (Planning Commission / Borough Council)</p> <ul style="list-style-type: none"> <li>- None</li> </ul>	<p>*See §503 which classifies certain home occupations as accessory uses.</p>

NOTE: Uses not specifically listed by this schedule shall not be permitted in the I-1 District except as approved in accord with §404.2.

SCHEDULE OF DEVELOPMENT STANDARDS	All Uses
Minimum lot area	40,000 square feet
Minimum lot width	150 feet
Minimum setback for principal and accessory structures	
Front yard	25 feet
Rear yard	10 feet
Each side yard	30 feet
Maximum height	40 feet
Maximum lot coverage	80 percent

## NICHOLSON BOROUGH DISTRICTS

## C-1 - CONSERVATION DISTRICT

SCHEDULE OF USES	
<p>INTENT: To provide areas where housing is limited to single-family detached dwellings at a density on one unit per acre, forestry and agriculture are encourage, and certain uses requiring larger land areas are permitted.</p>	
<p><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p> <ul style="list-style-type: none"> <li>- Borough buildings and uses</li> <li>- Cluster development</li> <li>- Crop production</li> <li>- Forestry enterprises</li> <li>- Group homes</li> <li>- Hunting and fishing clubs</li> <li>- Livestock operations</li> <li>- Single-family detached dwellings</li> </ul>	<p><b>SPECIAL EXCEPTIONS</b> (Planning Commission / Zoning Hearing Board)</p> <ul style="list-style-type: none"> <li>- Archery ranges, outdoor commercial</li> <li>- Campgrounds and recreational vehicle parks</li> <li>- Home occupations*</li> <li>- Oil and gas wells (minimum 15- acre parcel required)</li> <li>- Public parks and playgrounds</li> <li>- Public and semi-public buildings and uses</li> <li>- Recreational facilities, public</li> <li>- Stables, commercial, and horses for hire</li> </ul> <p>*See §503 which classifies certain home occupations as accessory uses.</p>
<p><b>CONDITIONAL USES</b> (Planning Commission /Borough Council)</p> <ul style="list-style-type: none"> <li>- None</li> </ul>	<p>NOTE: Uses not specifically listed by this schedule shall not be permitted in the C-1 District except as approved in accord with §404.2.</p>

SCHEDULE OF DEVELOPMENT STANDARDS	
	All Uses
Minimum lot area	1 acre
Minimum lot width	200 feet
Minimum setback for principal and accessory structures	
Front yard	50 feet
Rear yard	50 feet
Side yard	30 feet
Maximum height	2.5 stories or 40 feet
Maximum lot coverage	60 percent

## TABLE OF USES PERMITTED BY DISTRICT

(See §404.4)

The Table of Uses by District which follows summarizes the various uses according to the classification of the use in the zoning districts. The Table is for reference only and the Schedule of Uses and all underlying Zoning Ordinance sections shall be the final determinant for regulation.

TABLE OF USES PERMITTED BY DISTRICT- <i>CLINTON TOWNSHIP</i>				
CODES: P = principal permitted use      C = conditional use S = special exception              N = not permitted P* = considered a conditional use if the proposed use is located within 300 feet of any neighboring parcel with an existing residential dwelling. Measured from the physical location of the proposed use to the property line of the neighboring parcel.		ZONING DISTRICTS		
TYPE OF USE				
ACCESSORY USES	section	R	RA	CI
Accessory uses customary to approved uses	--	P	P	P
Barns, silos, sheds and similar agricultural buildings	--	P	P	P
Day care, adult and child as a home occupation	--	P	P	P
Essential services	--	P	P	P
Home greenhouses	503.5	P	P	P
Private garages, carports, sheds	--	P	P	P
Private swimming pools	503.6	P	P	P
Required parking areas	--	P	P	P
Signs accessory to approved uses	--	P	P	P
Solar collectors, accessory	503.12	P	P	P
Stables, private in association with a single family detached dwelling	806.2	P	P	P
Wind turbine generators, accessory	503.12	P	P	P
Yard sales	503.7	P	P	P
RESIDENTIAL USES	section	R	RA	CI
Boarding and lodging houses	611	N	P*	P
Campgrounds and recreational vehicle parks	--	N	C	N
Group homes	605	P	P	P
Group quarters	--	N	N	C
Mobile home parks	607	N	C	N
Multi-family dwellings	603	N	N	C
Multi-family dwellings at same density as two-family dwellings	--	N	C	N

Nursing homes	--	N	N	P
Single family detached dwellings	--	P	P	P
Student housing	--	N	C	N
Two-family dwellings	602	P	P	P
<b>COMMERCIAL and MANUFACTURING USES</b>				
<b>Retail, Service and Health Related Commercial Uses</b>	<b>section</b>	<b>R</b>	<b>RA</b>	<b>CI</b>
Abused person shelter		N	N	N
Animal hospitals	--	N	N	C
Banks	--	N	N	P
Car and truck washes	856.1	N	N	C
Convenience stores	--	N	N	C
Day care, adult	--	N	P	P
Day care, child	--	N	P	P
Exercise clubs	--	N	N	P
Funeral homes	--	N	N	C
Gas compressor stations	827	N	C	N
Gas metering stations	827	N	C	N
Health facilities	853	N	N	C
Industrial wastewater treatment facilities	817	N	C	C
Hydraulic fracturing water withdrawal facilities	817	N	C	N
Kennels and pounds	806.1	N	C	N
Medical clinics	853	N	P*	P
Mobile and manufactured home sales	--	N	N	C
Office buildings	--	N	P*	P
Professional offices	--	N	P*	P
Restaurants, drive-in	--	N	N	C
Restaurants, traditional	--	N	P*	P
Retail businesses	--	N	P*	P
Retail businesses with 10,000 square feet or less of gross floor area	--	N	N	N
Retail businesses with 20,000 square feet or less of gross floor area	--	N	N	N
Retail sales limited to 1,000 sq. ft. of agricultural/forestry related products	--	N	N	N
Retail sales of agricultural products produced and/or processed on the	--	P	P	N
Retail sales of agricultural/forestry products produced and/or processed on	--	N	N	P

Self-storage facilities	841	N	P*	P
Service establishments	--	N	P*	P
Shopping centers	845	N	N	C
Treatment centers/clinics	853	N	N	N
Vehicle or equipment repair operation	856	N	C	C
Vehicle or equipment sales or rental operations	856	N	C	P
Veterinary clinics	--	N	P*	P
<b>Recreation Related Commercial Uses</b>	<b>section</b>	<b>R</b>	<b>RA</b>	<b>CI</b>
Amusement arcades	--	N	N	C
Archery ranges, outdoor commercial	844	N	C	N
Bed and breakfast establishments	610	N	P*	P
Hotels	611	N	N	P
Motels	611	N	N	P
Outdoor entertainment	--	N	N	C
Race tracks	856.4	N	N	N
Recreational facilities, commercial	--	N	P*	P
Shooting ranges, indoor	--	N	N	C
Shooting ranges, outdoor commercial	844	N	C	N
Stables, commercial (minimum of fifteen (15) acres)	--	N	N	N
Stables, commercial and horses for hire	806.3	N	P	P
Theaters	--	N	N	C
Theaters, indoor	--	N	N	P
Zoos and menageries	806.4	N	N	N
<b>Manufacturing, Warehousing and Similar Uses</b>	<b>section</b>	<b>R</b>	<b>RA</b>	<b>CI</b>
Agricultural products processing	--	N	C	C
Agricultural products processing with 10,000 square feet or less of gross	--	N	N	N
Agricultural products processing only for products raised on the premises	--	N	N	N
Bulk fuel storage	808	N	N	C
Bus terminals	--	N	N	C
Contractor's yards	--	N	P*	P
Fireworks manufacturing and storage	--	N	N	C
Manufacturing, light	--	N	P*	P
Manufacturing and industry	--	N	N	C

Recycling collection facilities, large and small	--	N	N	C
Retail home heating fuel distributors	--	N	N	C
Truck terminals/distribution facilities	--	N	N	C
Warehouses	--	N	N	C
Wholesale businesses	--	N	N	P
<b>Miscellaneous Uses</b>	<b>section</b>	<b>R</b>	<b>RA</b>	<b>CI</b>
Adult businesses	801	N	N	N
Aircraft sales, repair or modification	--	N	N	C
Airports, private and public	--	N	N	C
Art studios	--	N	P*	P
Betting and gambling uses	817	N	N	N
Commercial communication device sites	809	N	C	C
Crematoria	--	N	N	C
Detention facilities	813	N	N	C
Heliports, accessory	503.9	N	N	C
Heliports, commercial	--	N	N	C
Home based businesses	--	N	N	N
Home based business if not a principal permitted use	--	N	N	N
Home occupations	503	C	C	C
Junk yards	820	N	N	C
Solid waste facilities and staging areas	848	N	N	C
<b>PUBLIC, SEMI-PUBLIC, COMMUNITY RELATED USES</b>	<b>section</b>	<b>R</b>	<b>RA</b>	<b>CI</b>
Cemeteries	--	N	C	N
Clubs/lodges, private	--	N	P*	P
Colleges and universities	--	N	C	N
Places of worship	--	N	C	P
Public and semi-public buildings and uses	--	S	S	S
Public parks and playgrounds	--	S	S	S
Recreational facilities, public	--	N	S	S
Schools, public or private primary or secondary	--	C	S	S
Township buildings and uses	--	S	P	P
Trade schools	--	N	N	P



AGRICULTURAL AND NATURAL RESOURCE USES	section	R	RA	CI
Agriculture related entertainment	--	N	N	N
Commercial greenhouses and nurseries	--	N	P	N
Concentrated animal feeding operations (CAFO's)	--	N	C	N
Crop production	803.1	P	P	P
Forestry enterprises	--	P	P	P
Livestock operations	803.2	N	N	N
Livestock operations on a minimum of five (5) acres	--	N	P	N
Livestock operations on a minimum of fifteen (15) acres	--	P	N	P
Mineral extraction	825	N	C	N
Mineral processing	--	N	N	C
Mineral processing in association with mineral extraction	825.3	N	C	N
Oil and gas wells	825	N	P	P
Oil and gas wells (minimum 10-acre parcel required)	825	P	P	P
Sawmills	--	N	C	C
Slaughter houses	--	N	N	N
Solar power generation, commercial	847	N	C	N
Storage yards for forest products and minerals	850	N	P*	N
Storage yards for forest product and stone	--	N	N	N
Wind energy facilities	858	N	C	N

TABLE OF USES PERMITTED BY DISTRICT- <u>NICHOLSON BOROUGH</u>								
CODES: P = principal permitted use C = conditional use		ZONING DISTRICTS						
TYPE OF USE								
ACCESSORY USES	section	R-1	R-2	R-3	B-1	I-1	I-2	C-1
Accessory uses customary to approved uses	--	P	P	P	P	P	P	P
Barns, silos, sheds and similar agricultural buildings	--	P	P	P	P	P	P	P
Day care, adult and child as a home occupation	--	P	P	P	P	P	P	P
Essential services	--	P	P	P	P	P	P	P
Home greenhouses	503.5	P	P	P	P	P	P	P
Private garages, carports, sheds	--	P	P	P	P	P	P	P
Private swimming pools	503.6	P	P	P	P	P	P	P

Required parking areas	--	P	P	P	P	P	P	P
Signs accessory to approved uses	--	P	P	P	P	P	P	P
Solar collectors, accessory	503.12	P	P	P	P	P	P	P
Stables, private in association with a single family detached	806.2	P	P	P	P	P	P	P
Wind turbine generators, accessory	503.11	P	P	P	P	P	P	P
Yard sales	503.7	P	P	P	P	P	P	P
<b>RESIDENTIAL USES</b>	<b>section</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>I-1</b>	<b>I-2</b>	<b>C-1</b>
Boarding and lodging houses	611	N	S	S	P	N	N	N
Campgrounds and recreational vehicle parks	--	N	N	N	N	N	N	S
Cluster development	--	N	N	N	N	N	N	P
Group homes	605	P	P	P	P	N	N	P
Group quarters	--	N	N	S	S	N	N	N
Mobile home parks	607	N	N	S	N	N	N	N
Multi-family dwellings	603	N	P	P	S	N	N	N
Multi-family dwellings at same density as 2-family dwellings	--	N	N	N	N	N	N	N
Nursing homes	--	N	S	S	P	N	N	N
Single family detached dwellings		P	P	P	P	N	N	P
Student housing	--	N	S	N	N	N	N	N
Two-family dwellings	602	P	P	P	P	N	N	N
<b>COMMERCIAL and MANUFACTURING USES</b>								
<b>Retail, Service and Health Related Commercial Uses</b>	<b>section</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>I-1</b>	<b>I-2</b>	<b>C-1</b>
Abused person shelter	--	N	N	N	S	N	N	N
Animal hospitals	--	N	N	N	S	N	N	N
Banks	--	N	N	N	P	N	N	N
Car and truck washes	856.1	N	N	N	S	N	N	N
Convenience stores	--	N	N	N	S	N	N	N
Day care, adult	--	N	S	S	P	N	N	N
Day care, child	--	N	S	S	P	N	N	N
Exercise clubs	--	N	N	N	N	N	N	N
Funeral homes	--	N	S	S	S	N	N	N
Health facilities	853	N	N	N	S	N	N	N
Kennels and pounds	806.1	N	N	N	N	N	N	N
Medical clinics	853	N	N	N	P	N	N	N

Mobile and manufactured home sales	--	N	N	N	N	S	S	N
Office buildings	--	N	N	N	P	P	N	N
Professional offices	--	N	S	N	P	N	N	N
Restaurants, drive-in	--	N	N	N	S	N	N	N
Restaurants, traditional	--	N	N	N	P	N	N	N
Retail businesses	--	N	N	N	P	N	N	N
Retail businesses with 10,000 square feet or less of gross	--	N	N	N	N	N	N	N
Retail businesses with 20,000 square feet or less of gross	--	N	N	N	N	N	N	N
Retail sales limited to 1,000 sq. ft. of agricultural/forestry	--	N	N	N	N	N	N	N
Retail sales of agricultural/forestry products produced	--	N	N	N	N	N	N	N
Self-storage facilities	841	N	N	N	N	P	P	N
Service establishments	--	N	N	N	P	N	N	N
Shopping centers	845	N	N	N	S	N	N	N
Taverns	--	N	N	N	P	N	N	N
Vehicle or equipment repair operation	856	N	N	N	S	P	P	N
Vehicle or equipment sales or rental operations	856	N	N	N	N	P	P	N
Veterinary clinics	--	N	N	N	P	N	N	N
<b>Recreation Related Commercial Uses</b>	<b>section</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>I-1</b>	<b>I-2</b>	<b>C-1</b>
Amusement arcades	--	N	N	N	S	N	N	N
Archery ranges, outdoor commercial	844	N	N	N	N	N	N	S
Bed and breakfast establishments	610	N	S	S	P	N	N	N
Hotels	611	N	N	N	P	N	N	N
Hunting and fishing clubs	--	N	N	N	N	N	N	P
Motels	611	N	N	N	P	N	N	N
Outdoor entertainment	--	N	N	N	S	N	N	N
Race tracks	856.4	N	N	N	N	N	S	N
Recreational facilities, commercial	--	N	N	N	P	S	S	N
Shooting ranges, indoor	--	N	N	N	S	N	N	N
Shooting ranges, outdoor commercial	844	N	N	N	N	N	N	N
Stables, commercial (minimum of fifteen (15) acres)	--	N	N	N	N	N	N	N
Stables, commercial and horses for hire	806.3	N	N	N	N	N	N	S
Theaters, indoor	--	N	N	N	P	N	N	N
Zoos and menageries	806.4	N	N	N	N	N	S	N

<b>Manufacturing, Warehousing and Similar Uses</b>	<b>section</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>I-1</b>	<b>I-2</b>	<b>C-1</b>
Agricultural products processing	--	N	N	N	N	S	S	N
Agricultural products processing with 10,000 square feet or	--	N	N	N	N	N	N	N
Bulk fuel storage	808	N	N	N	N	N	S	N
Bus terminals	--	N	N	N	N	S	S	N
Contractor's yards	--	N	N	N	N	P	P	N
Fireworks manufacturing and storage	--	N	N	N	N	N	N	N
Gas compressor stations	827	N	N	N	N	S	N	N
Gas metering stations	827	N	N	N	N	S	N	N
Manufacturing, light	--	N	N	N	N	P	P	N
Manufacturing and industry	--	N	N	N	N	S	S	N
Recycling collection facilities, large and small	--	N	N	N	N	P	P	N
Retail home heating fuel distributors	--	N	N	N	N	P	P	N
Truck terminals/distribution facilities	--	N	N	N	N	S	S	N
Warehouses	--	N	N	N	S	P	P	N
Wholesale businesses	--	N	N	N	P	N	N	N
<b>Miscellaneous Uses</b>	<b>section</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>I-1</b>	<b>I-2</b>	<b>C-1</b>
Adult businesses	801	N	N	N	N	N	S	N
Aircraft sales, repair or modification	--	N	N	N	N	N	S	N
Airports, private and public	--	N	N	N	N	N	S	N
Art studios	--	N	N	N	P	N	N	N
Betting and gambling uses	817	N	N	N	N	S	S	N
Commercial communication device sites	809	N	N	N	N	S	S	N
Crematoria	--	N	N	N	N	S	S	N
Detention facilities	813	N	N	N	N	N	S	N
Heliports, accessory	503.9	N	N	N	N	N	N	N
Heliports, commercial	--	N	N	N	N	N	N	N
Home based businesses	--	N	N	N	N	N	N	N
Home based business if not a principal permitted use	--	N	N	N	S	N	N	N
Home occupations	503	S	S	S	S	S	S	S
Junk yards	820	N	N	N	N	N	N	N
Solid waste facilities and staging areas	848	N	N	N	N	N	N	N

<b>PUBLIC, SEMI-PUBLIC, COMMUNITY RELATED USES</b>	<b>section</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>I-1</b>	<b>I-2</b>	<b>C-1</b>
Borough buildings and uses	--	P	P	P	P	N	N	P
Cemeteries	--	N	N	N	N	N	N	N
Clubs/lodges, private	--	N	N	N	P	N	N	N
Colleges and universities	--	N	N	S	N	N	N	N
Places of worship	--	S	S	S	P	N	N	N
Public and semi-public buildings and uses	--	S	S	S	P	N	N	S
Public parks and playgrounds	--	S	S	S	P	N	N	S
Recreational facilities, public	--	S	S	S	P	N	N	S
Schools, public or private primary or secondary	--	S	S	S	P	N	N	N
Trade schools	--	N	N	N	P	N	N	N
<b>AGRICULTURAL AND NATURAL RESOURCE USES</b>	<b>section</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>I-1</b>	<b>I-2</b>	<b>C-1</b>
Agriculture related entertainment	--	N	N	N	N	N	N	N
Commercial greenhouses and nurseries	--	N	N	N	N	N	N	N
Concentrated animal feeding operations (CAFO's)	--	N	N	N	N	N	N	N
Crop production	803.1	P	P	P	N	N	N	P
Forestry enterprises	--	P	P	P	P	N	N	P
Livestock operations	803.2	N	N	N	N	N	N	P
Mineral extraction	825	N	N	N	N	N	N	N
Mineral processing	--	N	N	N	N	N	N	N
Mineral processing in association with mineral extraction	--	N	N	N	N	N	N	N
Oil and gas wells (minimum 15-acre parcel required)	825	N	N	N	N	N	N	P
Sawmills	--	N	N	N	N	N	N	N
Slaughter houses	--	N	N	N	N	N	S	N
Storage yards for forest products and minerals	850	N	N	N	N	S	S	N
Storage yards for forest product and stone	--	N	N	N	N	N	N	N
Wind energy facilities	858	N	N	N	N	N	N	N

## ARTICLE V SUPPLEMENTARY REGULATIONS

### 500 Introduction

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

### 501 Deviations From Required Sizes

No part of any structure, whether attached to the principal structure or not; including but not limited to, porches, carports, decks, balconies, chimneys, bay windows or overhangs shall project into any required 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:

#### 501.1 Nonconforming Lots of Record

See §911 of this Zoning Ordinance.

#### 501.2 Access Drives; Driveways

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.

#### 501.3 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, except in the B-1 District where it may be reduced to the lesser of the two (2) adjoining front yard setbacks.

#### 501.4 Height Limitations

Unless otherwise regulated by this Ordinance, height regulations shall not apply to spires, belfries, cupolas, domes, not used for human occupancy, nor to chimneys, ventilators, monuments, water towers, masts and aeries, 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 structure which exceeds a height of fifty (50) feet shall be considered a special exception unless otherwise classified by this Ordinance.

#### 501.5 Extension of Non-Conforming Setbacks

A structure which is non-conforming as to a setback requirement may be extended along the non-conforming 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.

#### 501.6 Projections Into Yards (See §503.1 for accessory structures.)

Projections into required yards shall not be permitted. All parts of structures shall meet the required setbacks. Patios 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 unless the normal setbacks are less restrictive.

#### 501.7 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.

**502 Unique Lots, Yards and Building Locations****502.1 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). (See Subsection E below for an exception.)
- C. Non-Residential Uses - In the case of non-residential 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 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 Non-Residential on the Same Lot
  - 1. R, RA and C-1 Districts - Residential dwellings provided for in the District by the Schedule of Uses shall be permitted on the same lot as a permitted non-residential 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 non-residential use.
  - 2. CI, I-1 and I-2 Districts - One (1) residential unit per property shall be permitted in association with a non-residential use(s) without an increase in the minimum lot size requirement provided said unit is attached to and is an integral part of the principal non-residential structure. The residential unit shall be occupied only by the owner or employee of the non-residential use(s). Any additional residential dwelling units, if provided for in the District by the Schedule of Uses, 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. Residential and Non-Residential in B-1 District Commercial Buildings - In the B-1 District dwelling units shall be permitted on the upper floors of commercial buildings. The number of dwelling units need not comply with the density requirements on the Schedule of Development Standards, provided the required number of off-street parking spaces are provided, required setbacks are maintained, and all other ordinance provisions are satisfied.
- F. Structure Separation - Principal structures located on the same lot shall be separated by a distance at least equal to the height of the highest adjoining structure, but in no case less than twenty (20) feet. (See §503.1 for accessory structures.)

**502.2 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.

**502.3 Clear View At Street Intersections**

- A. Clinton Township Zoning Districts - In Clinton Township Zoning Districts visual obstructions at street intersection including, but not limited to, structures, opaque fences, vegetation and signs, (excluding an existing building, post, public utility structures, column or deciduous tree) thirty (30) inches in height shall be prohibited on any lot within the triangle formed by the street right-of-way lines and a line drawn between points along the street right-of-way lines thirty (30) feet distant from their points of intersection. More restrictive standards shall be required in cases where intersection alignment, topography or other circumstances dictate same to maintain adequate clear view.
- B. Nicholson Borough Zoning Districts - In Nicholson Borough Zoning Districts the following shall apply:
1. Intersection of Private Accessway and Public Street - There shall be a clear-sight triangle at the intersection of a private, vehicular accessway and a public street. The three (3) sides of the triangle shall be the intersecting edges of the travelways of the street and the accessway, and a diagonal connecting two (2) points, each at a distance of ten (10) feet from the point of intersection along the edge of each travelway. No visual obstruction higher than two (2) feet shall be permitted in the clear-sight triangle.
  2. Intersection of Public Streets - There shall be a clear-sight triangle at the intersection of any public street with any other public street. The three (3) sides of the triangle shall be the intersecting street center lines and a diagonal connecting two (2) points, each at the end of a distance from the point of intersection along each centerline determined in accord with the Subdivision and Land Development ordinance.:
  3. Area to Remain Clear - The area of the clear-sight triangle shall be graded, and sight obstructions shall be removed so that vision between a height of from two (2) to ten (10) feet above the centerline grades of the intersecting streets is not obscured. Also, by deed or lease restriction, or by plan amendment, whichever method is applicable, vegetation shall not be planted or allowed to grow in such a manner as to obscure vision in the graded and cleared area.

**503 Accessory Structures and Uses****503.1 Accessory Structures**

- A. Minimum Regulations - All accessory structures shall conform to the minimum regulations established in Article IV except as permitted by Subsection B below.
- B. Unattached Accessory Structures in Clinton Township Zoning Districts - In Clinton Township Zoning Districts, all unattached accessory structures shall comply with yard requirements for principal structures. However, accessory structures which are not attached to a principal structure and do not exceed ten (10) feet in height and one-hundred twenty (120) square feet in total floor area may be erected within the required side and rear yards of a principal structure, provided that no side or rear yard is reduced to less than ten (10) feet. In the case of corner lots, the full yard as specified in §502.2 shall be maintained. In addition, no accessory structure shall be erected within fifty (50) feet of any body of water.
- C. Attached Accessory Structures - An accessory structure attached to a principal building shall be considered to be a part of the principal building and shall conform to the setbacks for principal structures.

**503.2 Fences**

The erection of any fence shall not require a zoning permit, but shall comply with §502.3 of this Ordinance for clear sight triangles, and in Nicholson Borough Zoning Districts fences shall not exceed a height of eight (8) feet.



**503.3 Home Occupations**

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

- A. The home occupation must be conducted entirely inside a building and shall be clearly incidental and secondary to the use of the dwelling as a residence.
- B. In R, R-1, R-2, R-3 and C-1 Districts the total area used by all home occupations on the premises shall not exceed one-third (1/3) of the floor area of the dwelling unit, including basement and accessory structures, or one thousand (1,000) square feet, whichever is less. In all other districts the total area shall not exceed fifty (50) percent of the dwelling unit, including basement and accessory structures.
- C. 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. 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.
- F. In R, R-1, R-2, R-3 and C-1 Districts the home occupation shall be conducted only by members of the family residing in the dwelling and not more than one (1) person other than residents of the dwelling shall be employed on the premises. In all other districts, the number of nonresident employees shall not exceed two (2).
- G. 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.
- H. 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.
- I. 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.
- J. The use shall not require servicing by, deliveries by or parking of tractor-trailer trucks. In the R 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.
- K. In R, R-1, R-2, R-3 and C-1 Districts one (1) sign not more than four (4) square feet for each face shall be permitted in accord with Article XI. In all other districts the said sign shall not exceed ten (10) square feet for each face.
- L. §701, Performance Standards, shall also apply to home occupations.
- M. The following uses shall not be permitted as home occupations: commercial stables, veterinarians, commercial kennels or motor vehicle or small engine repair shops, retail or wholesale sales, restaurant, crematoria, funeral

parlors or other uses not meeting the requirements of this §503.3.1.

N. The following types of uses shall be permitted as accessory uses in all districts:

1. Professional offices for single 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.

O. All applications for home occupations not specifically enumerated as permitted in §503.3.1,N shall not be permitted in the R District. In all other districts, all applications for home occupations not specifically enumerated as permitted in §503.3.1,N or excluded by §503.3.1,M, shall be considered conditional uses in Clinton Township Zoning Districts and special exceptions in Nicholson Borough Zoning Districts.

#### 503.4 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 §504. Accessory garages shall conform with §503.1.

#### 503.5 Home Gardening, Nurseries and Greenhouses

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

#### 503.6 Private Outdoor Swimming Pools

- A. A private in-ground or above-ground outdoor swimming pool is permitted as an accessory use to a residential structure, provided that such swimming pool is for the private use of the residents of the dwelling unit or for their guests. Pools, pool decks, and any accessory paved areas shall not be located in any required front yard and shall comply with setbacks for unattached accessory structures.
- B. Fences for pools shall be provided in accord with the PA Uniform Construction Code and access to all pools shall be restricted when the pool is not in use whether by fence, wall or integration in the pool design. A pool cover shall not be deemed adequate to meet this requirement.
- B. A zoning permit or fence shall not be required for wading pools where the water does not exceed ten (10) inches in depth and which are not normally filled on a constant basis.

#### 503.7 Yard Sales

Individual private family yard sales are a permitted accessory use in all Districts. Permits shall not be required but the following standards shall apply:

- A. Each individual property location may have a maximum of five (5) yard sales during any one (1) calendar year and each sale shall last a maximum of three (3) consecutive days.
- B. Yard sales are meant to allow individuals to offer for sale accumulated normal household items or arts and

crafts, and the buying and selling of commercial or surplus material shall be considered a commercial operation and shall be prohibited except in District where permitted in accord with the requirements of this Ordinance.

503.8 Stables, Private

Private stables are permitted in accord with the Schedule of Uses subject to the requirements of §806.2 of this Ordinance.

503.9 Heliports as an Accessory Use

Heliports as accessory uses, in addition to all other applicable Ordinance requirements, shall comply with the following standards.

- A. Allowed only in the RA and CI Districts as a conditional use.
- B. The applicant shall document compliance with all applicable state and federal regulations.
- C. The landing pad shall be a minimum of two hundred and fifty (250) feet from any property line and not less than five hundred (500) feet from any R District or any existing dwelling not located on the parcel for which the heliport is proposed.

503.10 Satellite Dish Antennae

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

503.11 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. Height - The applicant shall demonstrate that the accessory wind turbine generator and support structure is no higher than recommended by the manufacturer's standards.
- B. Setback
  - 1. No part of the wind turbine generator structure shall be located less than 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 rotor plane or support structure, whichever is higher.
  - 2. Guy wire anchors shall not extend closer than ten (10) feet to any property line or road-right-of-way.
- C. 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 by the Zoning Officer the applicant shall provide certification from a Pennsylvania Registered Professional Engineer 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.

D. Climb Prevention/Locks/Fence

1. Wind turbines shall not include attached ladders or other such attachments that would allow access to the first fifteen (15) feet of the turbine above ground level.
2. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent access by non-authorized persons.

E. Noise and Shadow Flicker

1. Audible sound from an accessory wind turbine generator shall comply with §701.6 of this Ordinance.
2. Best efforts shall be used to minimize shadow flicker to any occupied building on any other parcel.
3. For the purposes of this Subsection E, *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.

- F. Color and Lighting; FAA - 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.

- G. 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.

- H. Removal - The wind turbine generator and all associated equipment and facilities shall be immediately removed when it is no longer in service and failure to do so shall constitute a zoning violation.

503.12 Solar Collectors, Accessory

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

- A. Districts; Standards - Accessory solar collectors and associated energy storage facilities are permitted in all districts only in compliance with this §503.12 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
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.

#### **504 Off-Street Parking and Loading**

##### **504.1 Availability of Facilities**

Off-street parking, loading, and unloading facilities and pedestrian access shall be provided to lessen congestion in the streets. 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.

##### **504.2 Size and Design of Parking Spaces**

Off-street parking areas shall be designed with sufficient space width and length, aisle widths, turning radii and maneuvering room, based upon a standard professional design guide acceptable to the Municipality, such as the most recent edition of the American Institute of Architects Architectural Graphic Standards, or The Subdivision and Site Plan Handbook. Garages and carports not in the public right-of-way may be considered parking spaces. Notwithstanding the above, all parking spaces shall be ample in size for the vehicles for which use is intended.

##### **504.3 Lighting**

Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways and otherwise meet the requirements of §701.8.

**504.4 Public Rights-of-Way**

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

**504.5 Off-Street Parking in B-1 District**

Off-street parking in the B-1 District in Nicholson Borough shall not be required except for residential uses.

**504.6 Number of Spaces To Be Provided**

- A. 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.
- B. 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.
- C. Additional parking for the handicapped shall be provided in accord with §504.16.
- D. Should the applicant provide evidence that the number of parking spaces required by this §504 is not necessarily required to meet the immediate needs of the proposed use, the number of spaces provided may be reduced as a conditional use by a maximum of fifty percent (50%) provided sufficient and suitable area is dedicated to future parking to meet the normal standards in this §504 and the applicant shall agree in writing to install the parking at the direction of the Governing Body. Reserve parking areas shall be included in the calculation of lot coverage area. Parking facilities used jointly by two (2) or more principal uses may be considered for a parking reduction (See §504.12).
- E. For uses not specifically provided above, the Governing Body, 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.

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.

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	3 per every 5 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 3 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 2 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	1 per bed or 1 per 200 SFGFA, whichever is greater
J. Restaurants, bars, taverns and other eating establishments	1 per 50 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
K. Vehicle related uses (See definition of “vehicle” in Article III.)	
1. Sales, service, repair	1 per 250 SFGFA
2. Gas sales	1 per 250 SFGFA plus sufficient parking area at pumps which does not interfere with other required spaces

3. Car wash	1 per 100 SFGFA plus 2 reservoir spaces in front of each stall for self-serve and 5 reservoir spaces for conveyor type
L. Warehousing and storage	1 per 4,000 SFGFA
M. Miscellaneous uses	
1. Veterinary	1 per 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
Note: SFGFA means <i>square feet of gross floor area</i> . 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.	

504.7 Loading and Unloading Areas (Not applicable in the B-1 District in Nicholson Borough.)

In addition to the required off-street parking spaces the developer of any building erected, converted or enlarged in any district for commercial, office building, hotel, motel, restaurant, manufacturing, wholesale, hospital or other non-residential uses, to provide adequate off-street areas for loading and unloading of vehicles. The applicant shall provide details on the type and frequency of vehicles operating in connection with the proposed use to justify the loading and unloading areas proposed. Each required space shall meet the following dimensions:

<b>Largest Type of Truck</b>	<b>Minimum Width</b>	<b>Minimum Length</b>
Tractor trailer	12	40 with 12 ft clear height
Trucks other than tractor		
Pick-up truck or van	9	18

504.8 Access To Off-Street Parking and Loading Areas

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

- A. Width - Unless otherwise required by Penn DOT for access to a state road, the width of the driveway/access way onto a public street at the edge of the cartway shall be as follows:

<b>WIDTH</b>	<b>1-Way Use</b>	<b>2-Way Use</b>
Minimum	14 feet	28 feet
Maximum	35 feet	50 feet

- B. 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.



- C. Highway Occupancy Permit - All new uses shall be required to obtain a highway occupancy permit from the Municipality or PA DOT, as the case may be. In the case of a change in use or the expansion of an existing use, the Municipality may 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. In making the determination of requiring a highway occupancy permit or a revised highway occupancy permit, the Municipality shall consider the following criteria:
1. The anticipated increase in traffic volume. In the case of PA DOT permits, should the traffic increase from one level of permit to a higher level, a revised permit shall be required.
  2. The adequacy of the sight distance at the access to the property.
  3. Effectiveness or lack of existing traffic access controls such as curbing, fencing or landscaping.
  4. The number of parking and loading spaces available and the number required by this Zoning Ordinance.
  5. The occurrence of parking on the public road right-of-way and adjoining properties.
  6. Anticipated future development in the vicinity.

#### 504.9 Parking and Loading Area Setbacks

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 in accord with this §504.9 unless adjoining uses share parking in accord with §504.12.

- A. Width - The width of the buffer shall not be less than:
1. Fifteen (15) feet in Clinton Township Zoning Districts.
  2. Five (5) feet in Nicholson Borough Zoning Districts.
- B. 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 are provided.
- C. Uses Prohibited - The buffer area shall be maintained in natural vegetative ground cover and shall not include:
1. Paving except for approved driveway/access way crossings
  2. Fences unless integral to landscaping
  3. Parking, storage or display of vehicles
  4. Items for sale or rent
- D. Uses Permitted - The buffer area may include the following:
1. Permitted freestanding signs
  2. Pervious storm water facilities
  3. Approved driveway/access way crossings
- E. Sidewalks - If sidewalks exist or will be provided, the buffer area may be provided between the sidewalk and the street or between the sidewalk and the paving.

#### 504.10 Surfacing

Off-street parking areas and driveways/access ways shall be graded for proper drainage and shall be surfaced so as to provide a durable and dustless surface, such as a gravel, concrete or bituminous concrete surface.

**504.11 Off-Lot Parking**

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

**504.12 Joint Use Parking**

In cases where two principal uses share a common property line, shared parking facilities may be utilized. The arrangement for joint-use parking shall be provided by deed restriction for the portion of each parcel included in the shared arrangement. The joint-use parking area may span the common property line thereby eliminating the setback required in §504.9. The standards in §504.6 for number of spaces to be provided shall apply to joint-use parking. To the extent that principal uses operate at different times, the same spaces may be credited to both uses. (Example: If a church parking lot is generally occupied only to ten (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.)

**504.13 Landscaping**

All non-residential improved off-street parking areas not entirely contained in a garage or building shall comply with the following landscaping standards and §701.2: (See also §706.1 which requires preservation of existing vegetation.)

- A. **Buffer Areas** - The buffer area between the parking area and the public street required by §504.9 shall be landscaped to a minimum of thirty (30) inches in height including vegetation; of which a minimum of fifty (50) percent shall be evergreen shrubbery; and shall average at least one shrub for every ten (10) feet of frontage. A similar planting shall be provided where a parking area abuts an existing residential structure or R, R-1, R-2 or R-3 District. No buffer shall violate clear site triangle requirements.
- B. **Parking Lot Interiors**
  - 1. A minimum of ten (10) percent of the interior of any parking lot having twenty-five (25) or more parking spaces shall be maintained as landscaped open space. Trees and landscaping plots shall be so located to provide visual relief and sun and wind interruption within the parking area and to insure safe patterns of internal circulation. Such landscaped open space may be provided in the form of islands, aesthetic landscape treatments, pedestrian refuge/oasis areas, and may include the perimeter buffer between the parking lot and adjacent streets.
  - 2. Proposed parking areas of twenty-five (25) or more spaces shall also provide landscaped islands of a minimum width of nine (9) feet and eighteen (18) feet in length throughout the parking area planted with a mix of shrubs and trees. Such islands shall be located:
    - a. At each parking lot entrance.
    - b. At the ends of each parking aisle.
    - c. As intermediate islands in long rows of spaces, located every fifteen (15) spaces.
    - d. As separation between long rows of parking spaces where they abut other rows.
    - e. As separation between pedestrian walkways and parking spaces and/or driving aisles.

3. Not more than sixty (60) spaces shall be permitted in one (1) lot, said lots being separated by landscaping plots a minimum of four (4) feet in width.
  4. All landscaped islands shall be situated below the grade of the parking spaces and driving aisles such that stormwater runoff flow is directed to and trapped by such islands.
  5. A minimum of one (1) deciduous or evergreen tree and two (2) shrubs shall be planted on the parking lot islands for every ten (10) parking spaces. All deciduous trees to be planted shall have caliper of not less than two (2) inches with a mature height of not less than thirty-five (35) feet. Evergreen trees shall be planted at six (6) feet in height. Shrubs shall be either deciduous species planted at two and one-half (2.5) feet in height or evergreen species planted at two and one-half (2.5) in spread.
- C. Plants - Plant species shall be of a type proven suitable to local soil and climate conditions and which are resistant to disease, road salt and air pollution as determined by the Municipality. All landscaping including plants shall be protected from damage by vehicles and shall be maintained in a good condition with plants that have died being replaced by similar plants.
- D. Plan - A landscaping plan showing the arrangement of the landscaping and parking areas and including plant sizes and species shall be submitted by the applicant for approval by the Municipality.

#### 504.14 Existing Parking Areas

No existing parking area or any off-street parking shall be eliminated, reduced in size or otherwise altered so that any use is served by less parking than is required by this Ordinance.

#### 504.15 Parking for Residential Use

Off-street parking shall be provided in accord with this §504 for all residential uses in all Districts.

#### 504.16 Handicapped Parking

Handicapped parking shall be provided in accord with all applicable federal requirements.

#### 504.17 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.

### 505 Temporary Uses

#### 505.1 Definition

A use that operates at a fixed location for a temporary period of time.

#### 505.2 Zoning Permit; Land Development

- A. Zoning Permit - No temporary use shall be established unless a zoning permit evidencing the compliance of such use with the provisions of this §505 and other applicable provisions of this Ordinance shall have first been issued.
- B. Land Development - Land development approval under the Subdivision and Land development Ordinance shall not be required for temporary uses.

**505.3 Particular Temporary Uses Permitted**

The following are temporary uses which are subject to the following specific regulations and standards, in addition to the other requirements specified in this Ordinance.

**A. Contractor's Office and Construction Equipment Sheds**

1. Permitted in any district as an accessory use where the office or shed is incidental to a construction project. Office or shed shall not contain sleeping or cooking accommodations.
2. Maximum length of permit shall be two (2) years.
3. The office or shed shall be removed upon completion of the construction project.
4. Required water supply and sanitary facilities shall be provided.

**B. Real Estate Sales Office - Permitted in any district as an accessory use for any new subdivision approved in accord with the Subdivision and Land Development Ordinance.**

1. The office shall not contain sleeping or cooking accommodations. A model home may be used as a temporary sales office
2. Maximum length of permit shall be two (2) years
3. The office shall be removed upon completion of the development of the subdivision.
4. Required water supply and sanitary facilities shall be provided.

**C. Temporary Shelter - When fire or natural disaster has rendered a single-family or two-family residence unfit for human habitation, the temporary use of a mobile home or recreational vehicle located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted as an accessory use subject to the following:**

1. Required water supply and sanitary facilities must be provided.
2. Maximum length of the 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
3. The mobile home or recreational vehicle shall be removed from the property within thirty (30) days from the date of the issuance of the occupancy permit for the new or rehabilitated residence.

**D. Temporary Accessory Uses/Structures for Public Road Construction Projects - This §505.3D shall apply only to uses and structures accessory to public road construction projects where such uses and structures are established at a fixed location and are removed when the construction project has been completed. Such uses include, but are not limited to, construction offices and sheds, equipment and material storage areas, and worker parking areas. The following shall apply:**

1. Zoning Permit Required - An accessory use permit evidencing compliance with the provisions of this Ordinance shall be required.

2. Application - The application for the permit shall include all information required by §1202.3 and the planned construction schedule.
  3. Location - Any such temporary use or structure may be located in any zoning district, but only within the public road right-of-way at the construction site or on land abutting the right-of-way at the construction site.
  4. Applicability of Certain Requirements
    - a. Within Right-of-Way - The required district setbacks, the maximum lot coverage and parking requirements shall not apply to any such temporary use or structure which is located within the public road right-of-way at the construction site.
    - b. Land Abutting the Right-of-Way - The required district front setback and parking requirements shall not apply to any such temporary use or structure which is located on land abutting the right-of-way at the construction site; however, side and rear setbacks and the maximum lot coverage shall apply.
  5. Removal - All of the temporary accessory uses/structures shall be removed within thirty (30) days of the completion of the construction project.
  6. Liability - The road construction contractor shall enter into a *hold harmless* agreement with the Municipality, as approved by the Municipal Solicitor, indemnifying the Municipality from any liability associated with the issuance of the temporary permit.
- E. Temporary Contractor Yards - A temporary contractor yard for the storage of equipment, materials and supplies for construction projects shall be permitted as a conditional use in any RA Rural-Agricultural District, CI Commercial-Industrial District, B-1 Business District, I-1 Industrial District or I-2 Light Industrial District in accord with the following:
1. Standards - The standards in §811 shall apply.
  2. Removal - The temporary contractors yard shall be removed in its entirety within thirty (30) days of the completion of the construction project.

#### 505.4 Temporary Uses by Conditional Use

For temporary structures or uses that are not specifically permitted by §505.3, a temporary permit may be issued by the Board of Supervisors as a conditional use subject to the following additional provisions:

- A. Duration - The Board of Supervisors 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 sixty (60) day period. The Board of Supervisors may grant a single approval once for numerous occurrences of an event.
- B. Statement from Owner - The applicant shall present a statement from the owner of record of the land accepting responsibility to ensure that the use or structure is removed once the permit expires.
- C. Removal - Such structure or use shall be removed completely upon expiration of the permit without cost to the Municipality. If the structure or use is not removed in a timely fashion after proper notification, the Municipality may remove the use or structure at the cost of the person who owns the land upon which the structure or use is located.

- D. Conditions - The temporary use or structure shall be compatible with adjacent uses and be clearly of a temporary nature.
- E. Fee - The Board of Supervisors may waive and/or return the required application fee if the applicant is a 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.
- F. 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.
- G. Special Events - For a special event that will attract significant numbers of the public, the Board of Supervisors 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.

505.5 Additional Regulations

- A. Documentation must be provided to the Municipality that adequate arrangement for temporary sanitary facilities has been made.
- B. All uses shall be confined to the dates specified in the permit.
- C. Hours of operation shall be confined to those specified in the permit.
- D. Access and parking for the exclusive use of the facility shall be provided and a stabilized drive to the parking area shall be maintained.

## ARTICLE VI - RESIDENTIAL STANDARDS

### 601 Conservation Design Overlay District

This section may be applied at the Developer's option in Clinton Township Zoning Districts - R, RA and CI.

#### 601.1 Purposes and Development Options

- A. Purposes - In conformance with the Pennsylvania Municipalities Planning Code the purposes of this section, among others, are as follows:
1. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, flood plains and wetlands, by setting them aside from development.
  2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development.
  3. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
  4. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained.
  5. To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the *Northeast Wyoming County Comprehensive Plan* including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents.
  6. To implement adopted land use, transportation, and community policies, as identified in the Township's Comprehensive Plan.
  7. To protect areas of the Township with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations.
  8. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
  9. To provide for the conservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreational use by residents.
  10. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, flood plain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls).
  11. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties.

12. To conserve scenic views and elements of the Township's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.
- B. By-Right Development Options - In order to achieve these purposes, this §601 provides for flexibility in designing new residential subdivisions by allowing two forms of *by-right* development referred to as *options*, as summarized below:
1. Option One - Higher Density and Basic Conservation, providing for residential uses with a density factor reduction of fifteen (15) percent and with not less than forty (40) percent of the tract comprised of conservation open space.
  2. Option Two - Greater Density with Greater Conservation, providing residential uses at a density factor reduction of twenty (20) percent and with not less than fifty (50) percent of the tract comprised of conservation open space.
- C. Densities and Required Open Space Percentages - See §601.4.

#### 601.2 General Regulations

The design of all new subdivisions in the Conservation Design Overlay District shall be governed by the following minimum standards:

- A. Ownership - The tract of land shall be controlled by the applicant and shall be developed as a single entity.
- B. Site Suitability - As evidenced by the *Existing Resources/Site Analysis Plan*, the Preliminary Subdivision Plan, and the Final Subdivision Plan, the tract incorporating this design option shall be suitable for supporting development in terms of environmental conditions, its size, and configuration.
- C. Combining the Design Options - The various layout and density options described in this section may be combined at the discretion of the Board, based upon demonstration by the applicant that such a combination would better fulfill the intent of this Ordinance, in particular the stated purposes of this section, as compared with applying a single option to the property.
- D. Intersections and Access - The number of driveways entering onto existing public streets shall be minimized. Instead, the development shall make maximum use of driveways entering onto an internal local street. Intersections and access shall be governed by the Subdivision and Land Development Ordinance.
- E. Sensitive Area Disturbance - The proposed design shall strictly minimize disturbance of environmentally sensitive areas, as shown on the *Existing Resources and Site Analysis Plan*. Lands within the 100-year floodplain, or having slopes in excess of 25%, and rock outcroppings constitute such environmentally sensitive areas, where disturbance shall be strictly minimized. Demonstration by the applicant that these features will be protected by the proposed application shall be prerequisite to approval of both the Preliminary Subdivision Plan and the Final Subdivision Plan.

#### 601.3 Minimum Parcel Size and Use Regulations

Tracts of six (6) acres or more in the Conservation Design Overlay District may be used for the following purposes:

- A. Single-Family Detached Dwellings - Single-family detached dwellings in subdivisions using Option 1 - Basic Conservation or Option 2 - Greater Conservation.



- B. Two-family Dwelling Units or Townhouses - Two-family dwelling units or townhouses in subdivisions or land developments using Option1 - Basic Conservation or Option 2 - Greater Conservation.
- C. Conservation Open Space - Conservation open space comprising a portion of residential development, as specified above and according to requirements of §601.5.
- D. Nonresidential Uses - The following non-residential uses:
1. Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, and buildings related to the same.
  2. Wood lots, arboreta, and other similar silvicultural uses.
  3. Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use.
  4. Municipal or public uses; public park or recreation area owned and operated by a public or private nonprofit entity or agency; governmental or public utility building or use; not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, private or municipal solid waste disposal facilities.
- E. Accessory Uses - Accessory uses shall be permitted on the same lot with and customarily incidental to any permitted use and not conducted as an independent principal use.

#### 601.4 Density Determination and Dimensional Standards

##### A. Standards for Option 1 - Higher Density and Basic Conservation

1. Density Factor - One dwelling unit per the required area for the district (density factor) as shown in the following Table 601.4,A,1, as determined through the Adjusted Tract Acreage approach or yield plan described in §601.4,D,1. (The density factor has been reduced by fifteen percent from that of a standard subdivision.)

TABLE 601.4,A,1 OPTION 1 HIGHER DENSITY AND BASIC CONSERVATION	
Density Requirements for All Permitted Dwelling Types	
DISTRICT	<u>Density Factor</u> required area per dwelling unit
On-site sewage & on-site water	0.85 acre
On-site sewage & central water	0.85 acre
Central sewage & on-site water	0.85 acre
Central sewage & central water	0.43 acre

2. Minimum Required Conservation Open Space - The subdivision must include at least forty (40) percent of the Adjusted Tract Acreage plus all of the constrained land calculated in §601.4,D,1, as conservation open

space.

3. Dimensional Standards - The dimensional standards in Table 601.4,A,3, shall apply.

TABLE 601.4,A,3	
Dimensional Standards for Single-Family Detached and Two-family Dwellings	
Minimum Individual Lot Area	7,500 sq ft
Minimum Lot Width at Building Line	70 feet
Minimum Street Frontage	20 feet
Flag Lots	permitted in accord with provisions of the
Yard Regulations - the principal building position and orientation should be varied.	
– minimum front	20 feet
– minimum rear	30 feet; 20 feet where the rear yard adjoins
– minimum side	- 30 feet separation of principal buildings
Maximum Lot Coverage	35 percent per individual lot
Dimensional Standards for Townhouses - see §601.4,C	

B. Standards for Option 2 - Greater Density with Greater Conservation

1. Density Factor - One dwelling unit per the required area for the district (density factor) as shown in the following Table 601.4,B,1, as determined through the Adjusted Tract Acreage approach or yield plan described in §601.4,D,1. (The density factor has been reduced by twenty percent from that of a standard subdivision.)

TABLE 601.4,B,1	
Density Requirements for All Permitted Dwelling Types	
	<u>Density Factor</u>
On-site sewage & on-site water	0.80 acre
On-site sewage & central water	0.80 acre
Central sewage & on-site water	0.80 acre
Central sewage & central water	0.40 acre

2. Minimum Required Conservation open space - The subdivision must include at least fifty (50) percent of the Adjusted Tract Acreage plus all of the constrained land calculated in §601.4,D,1, as conservation open space. Conservation open space shall not be used for residential lots, except as provided below.
3. Dimensional Standards - The dimensional standards in Table 601.4,B,3, shall apply.

TABLE 601.4,B,3	
Dimensional Standards for Single-Family Detached and Two-family Dwellings	
Minimum Individual Lot Area	7,500 sq ft
Minimum Lot Width at Building Line	70 feet
Minimum Street Frontage	20 feet
Flag Lots	permitted in accord with provisions of the
Yard Regulations - the principal building position and orientation should be varied.	
– minimum front	20 feet
– minimum rear	30 feet; 20 feet where the rear yard adjoins
– minimum side	- 30 feet separation of principal buildings
Maximum Impervious Coverage	35 percent per individual lot
Dimensional Standards for Townhouses - see §601.4,C	

- C. Dimensional Standards for Townhouses in Option 1 - Higher Density and Basic Conservation and Option 2 - Greater Density with Greater Conservation Subdivisions - The standards in Table 601.4,C, shall apply.

TABLE 601.4,C	
Minimum Individual Lot Area	none
Maximum lot depth to width ratio	5 : 1
Minimum Lot Width at Building Line	18 feet (24 feet if a 2-car garage or parking of
Yard Regulations - the principal building position and orientation should be varied.	
– minimum front	20 feet
– minimum rear	20 feet
– minimum side	- 35 feet separation of principal buildings
Maximum Impervious Coverage	70 percent per individual lot
Maximum Height Regulations	35 feet

- D. Density Determination for Option 1 - Higher Density and Basic Conservation and Option 2 - Greater Density with Greater Conservation Subdivisions - Applicants shall have the choice of two methods of determining the maximum permitted residential building density on their properties. They are as follows:

1. Adjusted Tract Acreage Approach - Determination of the maximum number of permitted dwelling units on any given property shall be based upon the Adjusted Tract Acreage of the site. The Adjusted Tract Acreage shall be determined by multiplying the acreage classified as being in the categories of constrained land (described below) by the numerical “density factor” for that category of constrained land, summing all factored constrained land areas, and then deducting the total from the gross tract area.

- a. The following areas of constrained land shall be deducted from the gross (total) tract area:

- 1) 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.
  - 2) Private Streets: multiply the acreage of land under existing private streets by 1.0.
  - 3) Wetlands: multiply the acreage of designated wetlands by 0.95.
  - 4) Floodway: multiply the acreage within the floodway by 1.0.
  - 5) Floodplain: multiply the non-wetland portion of the 100-year floodplain by 0.5.
  - 6) Steep Slopes: multiply the acreage of land with natural ground slopes exceeding 25 percent by 0.80.
  - 7) Moderately Steep Slopes: multiply the acreage of land with natural ground slopes of between 15 and 25 percent by 0.60.
  - 8) Extensive Rock Outcroppings: multiply the total area of rock outcrops and boulder-fields more than 1,000 square feet by 0.90.
  - 9) Ponds, lakes and streams: multiply the acreage of ponds, lakes and streams by 1.0.
- b. 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.
  - c. 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.

**601.5 Design Standards for Option 1 - Basic Conservation, and Option 2 - Greater Conservation**

- A. Dwelling Lots - Dwelling lots shall not encroach upon Primary Conservation Areas and the layout shall respect Secondary Conservation Areas as identified in the Subdivision and Land Development Ordinance.
- B. Setbacks - All new dwellings shall meet the following setback requirements in Table 601.5,B:

TABLE 601.5,B		
SETBACK FROM:	DWELLING TYPE	
	Single-Family	Townhouses
external road rights-of-way	100 feet	300 feet
other tract boundaries	50 feet	200 feet
crop land or pasture land	100 feet	
buildings or barnyards housing livestock	300 feet	

- C. 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 Subdivision and Land Development Ordinance.
- D. Dwelling Access - Dwellings shall generally be accessed from interior streets, rather than from roads bordering the tract.

601.6 Conservation Open Space Use and Design Standards

Protected conservation open space in all subdivisions shall meet the following standards:

- A. Uses Permitted on Conservation Open Space - The following uses are permitted in conservation open space areas:
  - 1. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).
  - 2. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.
  - 3. Pasture land for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than half of the minimum required conservation open space.
  - 4. Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
  - 5. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Township.
  - 6. Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required conservation open space or five acres, whichever is less.
  - 7. Golf courses may comprise up to half of the minimum required conservation open space, but shall not include driving ranges or miniature golf. Their parking areas and any associated structures shall not be included within the minimum conservation open space requirement; their parking and access ways may be paved and lighted.
  - 8. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the conservation open space. However, water treatment plants and storage tanks, central sewage treatment plants and lagoons, and a 50-foot buffer around such facilities shall not be included within the minimum conservation open space requirement.
  - 9. Easements for drainage, access, sewer or water lines, or other public purposes.
  - 10. 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.
- B. Conservation Open Space Design Standards

1. Conservation Areas - Conservation open space shall be laid out in general accordance with the Township's *Map of Potential Conservation Lands* to ensure that an interconnected network of open space will be provided. The required conservation open space consists of a mixture of Primary Conservation Areas, all of which must be included, and Secondary Conservation Areas. Primary Conservation Areas comprise those areas listed in §601.4.D, as being subtracted from the total parcel acreage to produce the Adjusted Tract Acreage. Secondary Conservation Areas include special features of the property that would ordinarily be overlooked or ignored during the design process and such features are listed in the Subdivision and Land Development Ordinance.
2. In Option 1 - Basic Conservation and Option 2 - Greater Conservation subdivisions, the conservation open space shall generally remain undivided and may be owned and maintained by a homeowners' association, land trust, another conservation organization recognized by the municipality, or by a private individual or entity. The amount of land available for the common use and passive enjoyment of the subdivision residents shall be provided in accord with the Subdivision and Land Development Ordinance. These ownership options may be combined so that different parts of the conservation open space may be owned by different entities.
3. Dedication Requirement - See the open space and recreation fee provisions in the Subdivision and Land Development Ordinance which may require public land dedication (typically to provide potential connections with the Township long-range trail network).
4. 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 deep shall be provided within the development along its common boundary with such public land, within which no new structures shall be constructed. Where this buffer is unwooded, the Township may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through *no-mow* policies and the periodic removal of invasive alien plant and tree species.

#### C. Other Requirements

1. No portion of any building lot may be used for meeting the minimum required conservation open space. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required conservation open space.
2. Pedestrian and maintenance access, excluding to those lands used for permitted agricultural or horticultural purposes, shall be provided to conservation open space in accordance with the following requirements:
  - a. Each neighborhood shall provide one centrally located access point per fifteen (15) lots, a minimum of thirty-five (35) feet in width.
  - b. Access to conservation open space used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
3. All conservation open space areas that are not wooded or farmed shall be landscaped in accordance with the landscaping requirements of the Subdivision and Land Development Ordinance.

#### 601.7 Permanent Conservation Open Space Protection Through Conservation Easements

In Option 1, and 2 subdivisions, the conservation open space that is required to be reserved and created through the subdivision process shall be subject to permanent conservation easements prohibiting future development and

defining the range of permitted activities. (For example, the clearing of woodland habitat shall generally be prohibited, except as necessary to create trails, active recreation facilities, and to install subsurface septic disposal systems or spray irrigation facilities. The determination of necessity shall lie with the Township. Uses permitted in conservation open space are listed in §601.5.

**601.8 Ownership and Maintenance of Conservation Open Space and Common Facilities**

See Article X.

**602 Two Family Dwellings**

Where permitted by the Schedule of Uses, two-family dwellings shall comply with the requirements of this §602 and other applicable standards in this Ordinance.

**602.1 Common Wall**

In cases where a two-family dwelling is a duplex involving a common (i.e. party) wall and common property line, said wall shall be located on the common property line separating the adjoining lots. The area of each lot shall not be less than fifty (50) percent of the minimum lot size required in the Schedule of Development Standards in Article IV.

**602.3 Over/Under Units**

In cases where the two-family dwelling consists of two (2) dwelling units constructed 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 in Article IV of this Zoning Ordinance.

**602.5 Conversions -- See §604 of this Ordinance.**

**603 Multi-Family Dwellings**

**603-A Multi-Family Dwellings in Clinton Township Zoning Districts RA and CI**

Multi-family projects in Clinton Township are considered conditional uses in RA and CI Districts in accord with this §603-A in order to provide the opportunity for the development of a variety of housing types.

**603-A.1 Project Design Process and Procedure**

- A. Subdivision and Land Development - Multi-family projects shall be considered major subdivisions and land developments also subject to the Subdivision and Land Development Ordinance. This "major subdivision" classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision.
- B. Design Process and Procedure - All multi-family projects shall be designed and processed in accord with the Adjusted Tract Acreage Approach requirements for Conservation Design Developments contained in §601.4,D,1 of this Ordinance and the Subdivision and Land Development Ordinance.
- C. Site Plan - A proposed site plan showing all necessary information to include at a minimum, location of all buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Township. Setbacks from property lines, improvements, and other buildings shall also be

specifically shown.

D. Open Space

1. Minimum Requirement - The development shall include as conservation open space at least thirty (30) percent of the adjusted tract acreage plus all of the constrained land calculated after applying the adjustment factors in §6.302,C.
2. Standards - Open space area shall meet the standards of §6.106 and shall be preserved to the maximum extent possible in accord with a schedule or plan, and proposed agreement(s) either with the Township or a property owners' association, for the purpose of preserving the open space in accord with Article X of this Ordinance.

603-A.2 Bulk and Density Standards; Parcel Configuration

The bulk and density factors listed on Table 603-A.2 shall apply to multi-family dwellings and projects without the application of any density bonuses. All land proposed for a particular multi-family dwelling project shall be part of the same parcel and contiguous.

TABLE 603-A.2			
		Garden	Apartment
Minimum size for project parcel (acres)	3	2	2
RA District Density -- number of dwelling units per acre of useable	1.5	1.5	1.5
CI District Density -- number of dwelling units per acre of useable	2	3	4
Maximum number of dwelling units per building	6	8	12
Maximum building height (feet)	35	35	35
Maximum lot coverage (percent)	see §6.301,D,1		

603-A.3 Design Criteria

The following design criteria shall apply to multi-family projects:

- A. Setbacks - No structure in a multi-family dwelling project shall be constructed within twenty (20) feet of the edge of the shoulder of any access drive (without a designated right-of-way) to or through the development or within ten (10) feet of any parking area. Setbacks of multi-family project buildings from access roads through the project shall meet these minimums, however, setbacks of adjacent buildings shall be varied so that adjacent buildings have a setback variation of not less than five (5) feet. A setback of fifty (50) feet for any structure shall be maintained from all existing or proposed public or private road rights-of-way and the boundary line of the entire project parcel.
- B. Road Standards - Access roads through the development shall comply with the street requirements of the Subdivision Ordinance for minor roads. Access drives serving twelve (12) units or less shall be considered driveways and need not meet minor road standards. Direct access of individual parking spaces to a minor road shall not be permitted, and any such access drive shall remain private.
- C. Building Separation - All principal multi-family structures shall be separated by a distance as may be required by any applicable building code, but in no case less than twenty (20) feet.



- D. Landscaped Buffers - Buffers, not less than fifteen (15) feet in width shall be provided in accord with §701.1 of this Ordinance where multi-family structures adjoin existing one-family dwellings, two-family dwellings or any R District. In all cases, a landscaping plan shall be prepared and submitted by the developer for approval by the Township.
- E. Pedestrian Access - Walkways of such design and construction as approved by the Township shall be provided from all buildings and/or units to their respective parking area and shall meet the requirements for sidewalks as set forth in the Subdivision Ordinance.
- F. Trash Storage - Exterior storage areas for trash and rubbish shall be screened from public view on three sides and shall be contained in covered, vermin-proof containers. Interior storage areas for trash shall at all times be kept in an orderly and sanitary fashion.
- G. Architectural Renderings - Preliminary architectural renderings, models or photos for multi-family dwelling projects of more than ten (10) dwelling units shall be provided at the time of submission of the conditional use application. The exterior appearance of the building(s) shall be unified in type, design, and exterior wall treatment, and so constructed and maintained, in order to retain the residential character of the neighborhood. Fire escapes, when required, shall be in the rear of the building and shall not be located on any wall facing a street unless any building, fire or other code so requires.
- H. Townhouses: Facade Changes - A minimum of two (2) changes in the front wall plane with a minimum offset of four (4) feet shall be provided for every attached grouping of townhouses in one (1) building. This can be met by varying setbacks among different dwellings or varying setbacks along the front of a dwelling, or dwellings set back farther than attached private garages.
- I. Parking - Parking for multi-family dwelling projects shall comply with §504 of this Ordinance.

#### 603-A.4 Non-Residential Use

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

#### 603-A.5 Conversions of Existing Structures

Conversions of any existing structures to multi-family dwelling use, regardless of whether such conversions involve structural alteration, shall be subject to the provisions of this §603-A, including but not limited to §603-A.2. (See also §604).

#### 603-A.6 Common Property Ownership and Maintenance

In cases where the ownership of common property is involved, evidence of arrangements for the continuous ownership and maintenance of same shall be provided by the developer for approval by the Township in accord with Article X of this Ordinance. The developer shall also submit evidence of compliance with the PA Condominium Law or an attorney's opinion that said Law does not apply to the subject project.

#### 603-A.7 Water Supply and Sewage Disposal

All multi-family dwelling projects shall be served by a community water supply and a community sewage disposal system.

#### **603-B Multi-Family Dwellings in Nicholson Borough Zoning Districts R-2, R-3 and B-1**

Multi-family projects in Nicholson Borough are permitted in R-2, R-3 and B-1 Districts as classified by the Schedule of Uses in accord with this §603-B in order to provide the opportunity for the development of a variety of housing

types.

#### 603-B.1 Project Design Process and Procedure

- A. Subdivision and Land Development - Multi-family projects shall be considered major subdivisions and land developments also subject to the Subdivision and Land Development Ordinance. This "major subdivision" classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision.
- B. Site Plan - A proposed site plan showing all necessary information to include at a minimum, location of all buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Borough. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
- C. Open Space - Open space area shall be preserved to the maximum extent possible in accord with a schedule or plan, and proposed agreement(s) either with the Borough or a property owners' association, for the purpose of preserving the open space in the same manner as required for Conservation Design Developments in §601 of this Ordinance.

#### 603-B.2 Bulk and Density Standards; Parcel Configuration

The bulk and density factors listed on Table 603-B.2 shall apply to multi-family dwellings and projects without the application of any density bonuses. All land proposed for a particular multi-family dwelling project shall be part of the same parcel and contiguous.

TABLE 603-B.2			
		Garden	Apartment
Minimum size for project parcel	7,500 sq. ft.		
Density -- number of dwelling units per acre	based on performance standards		
Maximum number of dwelling units per building	6	8	12
Maximum building height	2.5 stories or 40 feet		
Maximum lot coverage	60%		
ADDITIONAL TOWNHOUSE STANDARDS			
Minimum lot size for townhouse units for individual sale ..... 1,000 square feet			

#### 603-B.3 Design Criteria

The following design criteria shall apply to multi-family projects:

- A. Setbacks - No structure in a multi-family dwelling project shall be constructed within twenty (20) feet of the edge of the shoulder of any access drive (without a designated right-of-way) to or through the development

or within ten (10) feet of any parking area. Setbacks of multi-family project buildings from access roads through the project shall meet these minimums, however, setbacks of adjacent buildings shall be varied so that adjacent buildings have a setback variation of not less than five (5) feet. Building setbacks shall be provided in accord with the Schedule of Development Standards.

- B. Reserved
- C. Building Separation - All principal multi-family structures shall be separated by a distance as may be required by any applicable building code, but in no case less than twenty (20) feet.
- D. Landscaped Buffers - Buffers, not less than ten (10) feet in width shall be provided in accord with §701.1 of this Ordinance where multi-family structures adjoin an existing single-family dwelling or any R-1 or C-1 District. In all cases, a landscaping plan shall be prepared and submitted by the developer for approval by the Borough.
- E. Pedestrian Access - Walkways of such design and construction as approved by the Borough shall be provided from all buildings and/or units to their respective parking area and shall meet the requirements for sidewalks as set forth in the Subdivision Ordinance.
- F. Trash Storage - Exterior storage areas for trash and rubbish shall be screened from public view on three sides and shall be contained in covered, vermin-proof containers. Interior storage areas for trash shall at all times be kept in an orderly and sanitary fashion.
- G. Architectural Renderings - Preliminary architectural renderings, models or photos for multi-family dwelling projects of more than ten (10) dwelling units shall be provided at the time of submission of the conditional use application. The exterior appearance of the building(s) shall be unified in type, design, and exterior wall treatment, and so constructed and maintained, in order to retain the residential character of the neighborhood. Fire escapes, when required, shall be in the rear of the building and shall not be located on any wall facing a street unless any building, fire or other code so requires.
- H. Townhouses: Facade Changes - A minimum of two (2) changes in the front wall plane with a minimum offset of four (4) feet shall be provided for every attached grouping of townhouses in one (1) building. This can be met by varying setbacks among different dwellings or varying setbacks along the front of a dwelling, or dwellings set back farther than attached private garages.
- I. Parking - Parking for multi-family dwelling projects shall comply with §6.500 of this Ordinance.

#### 603-B.4 Non-Residential Use

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

#### 603-B.5 Conversions of Existing Structures

Conversions of any existing structures to multi-family dwelling use, regardless of whether such conversions involve structural alteration, shall be subject to the provisions of this §603-B, including but not limited to §603-B.2. (See also §604).

#### 603-B.6 Common Property Ownership and Maintenance

In cases where the ownership of common property is involved, evidence of arrangements for the continuous ownership and maintenance of same shall be provided by the developer for approval by the Borough in accord with Article X of this Ordinance. The developer shall also submit evidence of compliance with the PA Condominium Law

or an attorney's opinion that said Law does not apply to the subject project.

**603-B.7 Water Supply and Sewage Disposal**

All multi-family dwelling projects shall be served by a central water supply and a central sewage disposal system.

**604 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 §604 and the other requirements applicable to the dwelling type to which conversion is proposed. 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, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to dwelling unit, living space, lot coverage, dimensions of yards and other open spaces, off-street parking, and other applicable standards.

**605 Group Homes**

Group homes shall be permitted in any lawful single-family dwelling unit in accord with the Schedule of Uses, this §605 and other applicable standards of this Zoning Ordinance.

**605.1 Definition**

See definition in Article III.

**605.2 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.

**605.3 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 Municipality, and shall be required to be shown to the Zoning Officer in the future upon request. The group home shall notify the Municipality within fourteen (14) days if there is a change in the type of clients, the sponsoring agency, the maximum number of residents or if an applicable certification/license expires, is suspended or is withdrawn.

**605.4 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 §701.1 of this Zoning Ordinance.

**605.5 Appearance**

If the group home is within a residential 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.

**605.6 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.

**605.7 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.

#### **606 Reserved**

#### **607 Mobile Home Parks**

##### **607-A Mobile Home Parks in Clinton Township Zoning District CI**

Mobile home parks in Clinton Township are permitted as a conditional use in CI Districts in accord with this §607-A in order to provide the opportunity for the development of a variety of housing types..

##### **607-A.1 Project Design Process and Procedure**

- A. Subdivision and Land Development -Mobile home parks shall be considered major subdivisions and land developments also subject to the Township Subdivision and Land Development Ordinance. This "major subdivision" classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development or home placement, and the approvals required shall be requested and acted upon concurrently as one subdivision.
- B. Design Process and Procedure - All mobile home parks shall be designed and processed in accord with the requirements for Conservation Subdivision Design contained in §601.4,D,1 of this Ordinance.
- C. Site Plan - A proposed site plan showing all necessary information to include at a minimum, location of all mobile home sites, buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other standards which may be applicable in the Township. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
- D. Open Space - Open space area shall be preserved to the maximum extent possible in accord with a schedule or plan, and proposed agreement(s) either with the Township or a property owners' association, for the purpose of preserving the open space in the same manner as required for Open Land Development in §601.5 of this Ordinance.

##### **607-A.2 Design; Procedures; Parcel Size; Density; Mobile Home Sites**

- A. Conservation Design - All mobile home parks shall be designed and processed in accord with the procedure for conservation design developments in accord with §601.4,B of this Ordinance using the density factors in this §607-A.2 without the application of any density bonuses.
- B. Parcel - The minimum parcel size for a mobile home park shall be four (4) acres and all land proposed for a particular mobile home park shall be part of the same parcel and contiguous.
- C. Density - The overall density of a mobile home park shall not exceed seven (7) lots per acre of useable land area per §607-A.1,B.
- D. Mobile Home Sites - Each mobile home site shall have a minimum area of five thousand (5,000) square feet for exclusive use of the occupants of the mobile home placed upon the lot. Minimum lot widths and depths shall

be fifty (50) feet. Each mobile home lot shall be defined by metes and bounds on a survey and shall be shown as such on the development plan, and markers shall be installed at each corner of every lot.

#### **607-B Mobile Home Parks in Nicholson Borough Zoning Districts R-3**

Mobile home parks in Nicholson Borough are considered special exceptions in the R-3 District in accord with this §607-B in order to provide the opportunity for the development of a variety of housing types.

##### **607-B.1 Project Design Process and Procedure**

- A. Subdivision and Land Development - Mobile home parks shall be considered major subdivisions and land developments also subject to the Borough Subdivision and Land Development Ordinance. This "major subdivision" classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development or home placement, and the approvals required shall be requested and acted upon concurrently as one subdivision.
- B. Site Plan - A proposed site plan showing all necessary information shall include, at a minimum, location of all mobile home sites, buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems, and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other standards which may be applicable in the Borough. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
- C. Open Space - Open space area shall be preserved to the maximum extent possible in accord with a schedule or plan, and proposed agreement(s) either with the Borough or a property owners' association, for the purpose of preserving the open space in accord with Article X.

##### **607-B.2 Standards**

Uses in mobile home parks shall be limited to mobile homes and those accessory uses usually associated with such a facility. The following standards shall apply:

- A. Parcel Size - All land proposed for a particular mobile home park shall be part of the same parcel and contiguous and the minimum parcel size for a mobile home park shall be two (2) acres.
- B. Density - The overall density of a mobile home park shall not exceed six (6) units per acre.
- C. Site Location - A mobile home park shall be located on land having a reasonably flat terrain (having an average slope of 8% or less).
- D. Buffer - A buffer area not less than fifty (50) feet in width where no mobile homes, structures or site improvements, except for the necessary crossing of the access road(s), shall be maintained around the perimeter of the mobile home park.
- E. Mobile Home Lots - Only one mobile home, including its extensions and additions, may be placed on each mobile home lot, which shall have access to a street in the mobile home park. Each lot shall have a minimum area of four thousand (4,000) square feet and a minimum width of forty (40) feet. The minimum front yard shall be ten (10) feet; the rear yard, five (5) feet, and each side yard, five (5) feet. The minimum distance between buildings shall be twenty (20) feet. No more than thirty (30) percent of each lot shall be covered by buildings.

- F. Placement of Mobile Homes - Each mobile home site shall be provided, at a minimum, with a stand or pad consisting of two (2) concrete strips to accommodate the wheel base of the mobile home- The poured concrete base shall measure one (1) foot deep, two (2) feet wide, and forty (40) feet long for each of the two strips. Each mobile home site shall also be provided with a poured concrete outdoor patio six (6) inches deep and at least one hundred eighty (180) square feet in area at the main entrance to the mobile home. The mobile home shall be required to be provided with anchors and tie-downs which are able to sustain a total tensile load equal to four (4) times the weight of the particular mobile home.

#### **608 Mobile Homes on Individual Lots**

Mobile homes placed on lots not in a mobile home park shall comply with all regulations applicable to single-family residential dwellings and:

- A. Shall be constructed in accordance with the PA Uniform Construction Code.
- B. Shall have a site graded to provide a stable and well-drained area.
- C. Shall have the hitch mechanisms removed. The wheels and axles shall be removed or screened from view.
- D. Shall be securely attached to the ground in such as way as to prevent overturning, shifting or uneven settling of the home.
- E. Shall be enclosed from the bottom of the home to the ground or stand using industry-approved skirting material compatible with the home, or if a slab foundation is used, masonry walls underneath the home with soil backfill to result in the surrounding ground level being flush or one (1) normal step height below the first floor elevation. If masonry walls are used, then an appropriate service access area shall be provided.
- F. Shall be attached to a permanent foundation.

#### **609 Reserved**

#### **610 Bed and Breakfast Establishments**

Bed and breakfast establishments are considered conditional uses in certain districts as set forth in the Schedule of Uses and shall comply with the following standards in addition to all other applicable standards in this Zoning Ordinance.

- A. 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. Not more than five (5) rentable rooms are provided in the establishment.
- C. The owner or manager of the bed and breakfast must reside on the premises.
- D. Sewage disposal meeting the requirements of the Municipality and PA DEP is provided.
- E. Bed and breakfast establishments shall not be permitted on lots which are nonconforming in minimum area.

#### **611 Hotels, Motels, and Lodging Facilities**

This section is intended to provide specific standards for the development of hotels, motels and other lodging facilities at unit densities that allow full use of the project parcel while at the same time recognizing the limitation

of the proposed site. Specific performance standards are provided to allow for flexibility of design and to insure the protection of adjoining properties and the public health, safety and general welfare.

611.1 Density

Density of units and facilities shall be determined by the character of the project parcel and compliance with the standards in this §611 and this Ordinance, and other applicable regulations.

611.2 Design Criteria

- A. Yard, building height, lot width and depth, and lot coverage ratios applicable to the District shall be maintained.
- B. All facilities in a hotel, motel or lodging facility project shall be on the same parcel of property and shall not contain any commercial facility unless such commercial facility is otherwise permitted in the District where the subject property is located.



**ARTICLE VII**  
**PERFORMANCE STANDARDS AND ENVIRONMENTAL PROTECTION**

**700 Design of Commercial Establishments and Nonresidential Uses**

It is the intent of this §700 to provide standards for the design of commercial establishments and nonresidential uses (referred to as *commercial establishments*) to assure the compatibility of the nonresidential development with the surrounding character of the Municipality. This shall be accomplished by:

- A. Siting buildings, parking areas and other facilities and improvements based upon the particular topography of development site;
- B. Providing safe and convenient access from the public right-of-way based on the existing area-wide traffic circulation pattern and the expected traffic generated by the proposed use;
- C. Designing parking areas to complement patterns of traffic and pedestrian flow and to provide adequate off-street parking for patrons;
- D. Maintaining to the greatest extent possible natural vegetation and provide landscaping as an integral part of the overall design of the proposed use and parking areas;
- E. Considering the impact of storm water, noise, traffic and lighting on surrounding land uses and providing buffers to minimize adverse impacts; and,
- F. Being consistent with any design guidelines adopted by the Municipality.

**700.1 Land Development**

Any proposed commercial establishment shall be considered a *land development* as defined by the Pennsylvania Municipalities Planning Code and the Subdivision and Land Development Ordinance and shall comply in all respects with all the requirements for plan submission and content for land developments contained therein, as well as the information which follows. The Municipality may also require any additional information, studies or reports as it deems necessary to meet the intent of this and other Ordinances.

- A. Location, widths, and names of all existing or prior platted streets and utility rights-of-way, parks, and other public open spaces, permanent buildings and structures, houses or permanent easements, and zoning and municipal boundary lines, within five hundred (500) feet of the tract;
- B. A traffic and pedestrian flow chart showing circulation patterns from the public right-of-way and within the confines of the shipping center.
- C. Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes;
- D. Location, arrangement, and dimensions of automobile parking space, width of aisles, width of bays, angle of parking;
- E. Location, arrangement, and dimensions of truck loading and unloading spaces and docks;
- F. Location and dimensions of pedestrian entrances, exits, walks;
- G. Location, height, and materials of walls, fences, screen plantings, and other landscaped areas.

- H. Preliminary drawings for all buildings;
- I. Location, size, height, and orientation of all signs other than signs flat on building facades;

#### 700.2 Site Design Process

The applicant shall demonstrate to the Municipality by the submission of the necessary land development site plans, that the commercial establishment has been designed as follows:

- A. Mapping of Primary and Secondary Conservation Areas (see §601.4,D,1) to identify all areas of the site which will remain undisturbed, along with noting site development practices which will be used to assure non-disturbance.
- B. Locating the building site.
- C. Locating required buffers.
- D. Laying out street access, parking/loading areas, and other required or proposed improvements.

#### 700.3 Ownership

The site proposed for any multiple occupant commercial establishment shall be held in single ownership or in unified control; and the applicant shall provide evidence of said ownership and/or control.

### **701 Performance Standards Applicable to All Uses in All Districts**

The intent of this §701 is to regulate the development and operation of all development and to protect the environment and the public health, safety and general welfare. No land or building shall be used or occupied in such manner which creates any dangerous, injurious, noxious, or otherwise objectionable condition in such amount to adversely affect the surrounding area, and any such activity is hereby declared to be a public nuisance. However, any use permitted by this Ordinance may be undertaken and maintained if it conforms to all applicable requirements of this Ordinance, including the standards in this §701 which are intended to limit nuisance elements. The following performance standards shall apply to all proposed new or expanded nonresidential uses, and residential uses explicitly referenced by a specific section. The standards in this §701 shall not apply to normal agricultural uses unless explicitly referenced by a specific section.

#### 701.1 Yards and Buffers

- A. Increased Setback and Buffer - Unless otherwise regulated by this Ordinance, where a commercial or manufacturing use is proposed contiguous to any existing residential use or any R , R-1, R-2, R-3 or C-I District the minimum size of the abutting yard shall be increased by fifty (50) percent and a landscaped buffer shall be provided in accord with this §701.1. If larger setbacks and/or buffers are required by another provision of this Ordinance, the larger shall apply.
- B. Buffer Width - The required buffer width shall not be less than fifteen (15) feet in the Township and shall not be less than five (5) feet in the Borough.
- C. Storage in Yard Setbacks - Storage of equipment, supplies, products or any other materials shall not be permitted in any front, side or rear yard setback.
- D. Conditional Uses and Special Exceptions - In the case of conditional uses and special exceptions, landscaped buffers may be required by the Municipality 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.

E. Standards

1. In determining the type and extent of the buffer required, the Municipality 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. The width of the required buffer, as determined by the Municipality, shall not be less than fifteen (15) feet.
3. A mix of ground cover and shrubby vegetation and canopy trees, of such variety compatible with the local climate, may be required so that a dense screen not less than six (6) feet in height will be formed within three (3) years of planting.
4. Berms and landscaped walls or fences, compatible with the principal building design, may be incorporated in the required buffer. Front yard buffers shall be provided in the same manner to a height of not less than four (4) feet; however, all clear sight triangles shall be maintained.
5. 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 Municipality shall determine that the proposed use and adjoining use(s) are not incompatible.
6. Design details of buffers shall be included on the site plan, and buffers shall be considered "improvements" for the purposes of guaranteeing installation in accord with the requirements for "land developments" in the Subdivision and Land Development Ordinance. It shall be the responsibility of the property owner to maintain all buffers in good condition and replace any dying or dead plants or deteriorating landscape material.

701.2 Landscaping in CI, B-1, I-1 and I-2 Districts

A landscaping plan for proposed projects in CI, B-1, I-1 and I-2 Districts shall be submitted by the developer for review and approval by the Municipality. Landscaping shall be considered an improvement for the purposes of regulation by the Municipality Subdivision and Land Development Ordinance. The landscaping plan shall include the overall design of the landscaping proposed, the type and size of vegetation to be utilized, and details of installation. Landscaping shall be installed to the following minimum standards.

- A. All disturbed areas of the site shall be included in the landscaping plan, and those areas immediately adjacent to buildings and walkways shall be given extra consideration.
- B. Adequate pedestrian walkways shall be provided for access from parking areas and to common use areas and shall be an integral part of the landscaping; and shall be consistent with the architectural type of the project and shall be a minimum of four (4) feet in width.
- C. Plants shall be species native to Pennsylvania and of a type which are proven successful in the local climate.
- D. Where landscaping is required to serve as a buffer (e.g., between the project and adjoining properties or between buildings and parking areas) the plants used shall be of the evergreen type and of adequate size to provide an effective buffer within five (5) years of project approval or in accord with the time frame as may be

established as a condition of approval for conditional uses, special exceptions or variances.

- E. The variety of landscape materials shall be consistent with building architecture and the surrounding area and plant type shall be appropriate for the size and location of the space it is to occupy.
- F. All areas in and around parking areas shall be landscaped.
- G. Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.
- H. Artificial landscape materials shall not be used in place of live trees, shrubs and vegetative ground cover.
- I. All trees to be planted shall have a trunk diameter of at least one (1) inch as measured one (1) foot above the ground.
- J. Ground cover shall be spaced to allow for complete fill-in within one (1) year of the date of planting.
- K. Adequate soil preparation in accord with accepted landscape industry practices shall be required.
- L. All landscaping shall be maintained in good growing condition by the property owner and free of weeds, debris and brush.

#### 701.3 Operations and Storage

- A. All facilities and operations of any principal use (with the exception of nurseries, agriculture and the display for sales purposes of new or used cars, motorcycles, trucks, trailers, vehicles, or farm equipment, in operative condition or other similar uses) including the storage of raw material, finished products, fuel, machinery and equipment and any other materials or supplies shall be enclosed and carried out within a building; or shall, as required by the Municipality for conditional uses and special exceptions, be provided with larger setbacks and/or buffers to afford protection to adjoining uses and any public road rights-of-way.
- B. Outdoor sales, operations and storage areas in addition to those specified in Subsection A above may be approved as a conditional use in the Township and as a special exception in the Borough. Larger setbacks and/or buffers may be required to afford protection to adjoining uses and any public road rights-of-way. Unenclosed uses and activities shall, in any case, be a minimum of fifty (50) feet from any existing residential structure or any R, R-1, R-2, R-3 or C-1 District, unless a greater setback is required by the Municipality.
- C. Storage of equipment, supplies, products or any other materials shall not be permitted in any required setback areas.

#### 701.4 Fire and Explosion Hazards

All activities involving any manufacturing, production, storage transfer or disposal of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices standard in the industry shall be required. Burning of waste materials in open fires is prohibited. The relevant provisions of Federal, State and local laws and regulations shall also apply. Details of the potential hazards and details of planned safety and accident response actions shall be provided by the developer for review by the local fire company(s). In the case of conditional uses and special exceptions, larger setbacks, additional buffer areas or fencing may be required by the Municipality if the nature of the proposed use as determined by the Municipality so requires.

**701.5    Radioactivity or Electric Disturbance**

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

**701.6    Noise**

A. Legislative Intent - Most rural communities are noted for their low levels of environmental noise. Environmental noise is part of the character of a community, and as such is a legitimate object for municipalities to regulate under a zoning ordinance. Previous standards were based on EPA guidelines designed to protect against adverse impact on human health and activities. However, those environmental noise level limits greatly exceed the typical rural noise levels, and those limits would allow land use activities that would destroy the quiet, rural character of the community. This standard is designed to prevent the noise produced from any single property from dominating the environmental noise at any point in the Municipality, thereby preserving the character of the community.

B. Definitions - The following definitions shall apply to this section:

1. A-weighted Noise Level - A single number measurement of a noise level that approximates the human ear's response to an equal-loudness contour of 40 phons. (A *phon* is a unit of apparent loudness, equal in number to the intensity in decibels of a 1,000-hertz tone judged to be as loud as the sound being measured.)
2. Background Environmental Noise Level - The environmental noise level without the suspected offending noise source.
3. Environmental Noise Level - The equivalent continuous noise level measured at any specified point which is representative of the noise level of that environment.
4. Equivalent Continuous Noise Level (ECNL) - The constant A-weighted noise level that would produce the same energy density exposure as a continuously varying noise level. ECNL is calculated from a series of measurements by the following formula:

$$ECNL = 10 \log \left( \frac{\sum \Delta t_i 10^{L_i/10}}{\sum \Delta t_i} \right)$$

where  $L_i$  is an A-weighted noise level, and  $t_i$  is the time over which that level occurs, or, for measurements taken over an equal, fixed time interval:

$$ECNL = 10 \log \left( \sum 10^{L_i/10} \right)$$

5. Intentional Radiator - A source of sound, or noise source, which is designed or operated to produce sound, as its primary function. For example, sirens, air horns, and loud speaker systems are all intentional radiators.
6. Noise Source - A single piece of equipment, or a collection of equipment under the control and operation of a single entity, 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.

7. Radiated Noise Level - The noise produced by a single radiator, measured under controlled conditions, at a fixed distance from the radiator. Radiated noise level measurements characterize the acoustic performance of that radiator. Radiated noise levels are the subject of state and federal regulations. For example, radiated noise levels from boats are regulated by the Pennsylvania Fish and Boat Commission using SAE Standards J2005 and J34.
8. Suspect Source - A noise source that may be in violation of this chapter, identified by the nature of sound or a correlation with the times of operation and the alleged violation.
9. Unintentional Radiator - A source of sound, or noise source, which is not designed or operated as its primary function to produce sound, but produces sound as an unintentional byproduct of its operation. For example, chain saws, rock crushers, wood chippers, vacuum cleaners, and lawn mowers are all unintentional radiators.

C. Limits

1. Between the hours of 10 PM and 7 AM (local time), no intentional or unintentional radiator shall raise the ECNL at any point in the Municipality outside the boundaries of the property on which it is located by more than 3 dB.
2. Between the hours of 7 PM and 10 PM (local time), no intentional or unintentional radiator shall raise the ECNL at any point in the Municipality outside the boundaries of the property on which it is located by more than 5 dB.
3. Between the hours of 7 AM and 7 PM (local time), no intentional or unintentional radiator shall raise the ECNL at any point in the Municipality outside the boundaries of the property on which it is located by more than 10 dB.

- D. Measurement Equipment - 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 or Type 2 instruments. The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements shall be taken using the FAST response time and A-weighting. For automatic recording instruments, a calibration mark shall be recorded before the start of any measurements, and reported with the other data.

E. Investigation of Complaints

1. 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. 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 operator of the suspect source that the complaint has not been validated.
2. If, by the nature of the sound, or correlation with the operation of the suspect noise source, the Zoning Officer determines a complaint to 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. 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. The Zoning Officer shall conduct a background noise level measurement before and after the operation of the suspect source. 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. 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.

The background noise level shall be the power weighted average of the two background level measurements, calculated using the formula:

$$L_{background} = 10 \log \left( \frac{10^{L_{before}/10} + 10^{L_{after}/10}}{2} \right)$$

- F. Measurement of Background Environmental Noise Levels - The background environmental noise level shall be measured without the suspect source in operation. The weather conditions at the time of measurement shall be as near the weather conditions reported at the time of the complaint (wind direction and speed, temperature, temperature gradient, etc.). Background activities shall be representative of those expected in the neighborhood for the time of day and day of the week.

Measurements of the background environmental noise level shall be made for the length of time the suspected offending source will be in operation, but need not be any longer than 15 minutes. If manual measurements are being taken, the measurements shall be recorded every 15 seconds. If an automatic recording device is being used, the recording interval shall be one second, or the closest fixed or variable interval allowed by the meter and recording equipment.

- G. Operation of Intentional Radiators for Test - The environmental noise level with an intentional radiator shall be measured with the suspect source in operation according to the following options:
  1. Mechanical or pneumatic sources shall be operated at the design speed, amplitude or pressure, and with all units in operation (depending on the equipment specification), or the approved speed, amplitude or pressure, and with the maximum number of units allowed from the conditional use approval.
  2. Electrical powered sources shall be operated from the normal power supply at the design voltage, or the approved supply voltage from the conditional use approval.
  3. Electronic sources shall be operated from the normal power supply, at the design power output, into the design load, with all normally connected speakers in operation. If the system is subject to a conditional use approval, the system shall be operated at the approved power output, not the design power output. If the program is selectable, a 1000 Hz tone or the closest available constant level signal shall be selected for the test.
- H. Measurement of Intentional Radiators - The weather conditions at the time of measurement should be as near as possible to the weather conditions reported at the time of the complaint (wind direction and speed, temperature, temperature gradient, etc.). Background activities should be representative of those expected in the neighborhood for the time of day and day of the week. These measurements should be conducted within a few minutes of obtaining the background noise level measurements.

Measurements of the equivalent continuous noise level with the suspect source in operation shall be made for

the length of time the suspect source will normally be in operation, but in any case shall not be less than 2 minutes, and need not be longer than 10 minutes. If manual measurements are being taken, the measurements shall be recorded every 10 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.

- I. Operation of Unintentional Radiators for Test - The environmental noise level with an unintentional radiator shall be measured with the suspect source in operation at its design or approved conditional use capacity (tons per hour, cubic feet per minute, etc.), with design supply conditions (voltage, current, pressure, speed, etc.).
- J. Measurement of Unintentional Radiators - The weather conditions at the time of measurement should be as near as possible to the weather conditions reported at the time of the complaint (wind direction and speed, temperature, temperature gradient, etc.). Background activities should be representative of those expected in the neighborhood for the time of day and day of the week. These measurements should be conducted within a few minutes of obtaining the background noise level measurements.

Measurements of the equivalent continuous noise level with the suspect source in operation shall be made for the length of time the source will normally be in operation, but in any case shall not be less than 5 minutes, and need not be any longer than 15 minutes. If manual measurements are being taken, the measurements shall be recorded every 15 seconds. If an automatic recording device is being used, the recording interval shall be one second, or the closest fixed or variable interval allowed by the meter and recording equipment.

- K. Report. The Zoning Officer's report shall include:
  - 1. The instrument type, serial number, field calibration date, time, background noise level, calibration level and any adjustments made during the most recent field calibration of the sound level meter.
  - 2. The type and serial number of the field calibrator used at the last field calibration of the sound level meter.
  - 3. The location of the environmental 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 background environmental 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 table of times and sound levels as reported on the meter
    - the calculated ECNL for each set of measurements



10. For automatic measurements:
    - a notation of the time the instrument was started and the time stopped
    - the reported ECNL
    - 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
    - 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.
- L. 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 §701.6 by providing documentary evidence as follows:
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.
  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 Governing Body 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.
- M. Exceptions - These standards 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 7 AM local time and dusk.
  3. Emergency equipment and signals.
  4. Emergency operations of any kind, including, but not limited to, road repairs, utility repairs, response to accidents, injuries, fires, flooding, or hazardous material spills.
  5. Short duration activities such as construction or repair of facilities or infrastructure.
  6. The development of oil and gas wells but not the on-going operation.

#### 701.7 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 conducted in accord with applicable regulations that may be necessary during construction of streets, structure and utilities.

**701.8     Lighting and Glare**

The standards of this §701.8 shall apply to all uses including residential and agricultural. Lighting shall be controlled in both height and intensity to maintain community character; and lighting design should be an inherent part of the project design. The standards of the Illuminating Engineering Society of North America shall be used as a guideline for the said design. The applicant shall provide the specifications of the proposed lighting and its arrangement on the site; and all required lighting shall be considered improvements for the purpose of regulation by the Subdivision and Land Development Ordinance.

- A. Exemption - This §7.108 shall not apply to street lighting that is owned, financed or maintained by the Municipality or State.
- B. Areas to be Lighted - All access ways, off-street parking areas and areas of intensive pedestrian use shall be adequately lighted for safety purposes. Appropriate lighting fixtures shall be provided for walkways and to identify steps, ramps, and directional signs.
- C. Shielding - No light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source.
- D. Glare - No direct or sky-reflected glare, whether from overhead lighting, floodlights or from high-temperature processes such as combustion or welding or otherwise, shall be permitted.
- E. Nuisances - The intensity, height and shielding of lighting shall provide for adequate and proper safety, and shall not be a nuisance or hazard to drivers and residents.
- 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>.

**701.9     Smoke**

No emission of smoke shall be permitted from any chimney or otherwise except in full compliance with PA Department of Environmental Protection requirements.

**701.10    Odors**

No emission shall be permitted of odorous gases or other odorous matter except in full compliance with PA Department of Environmental Protection requirements. The spreading of manure as part of a bonafide agricultural operation shall not be considered an offensive odor and shall be exempt from this §701.10; however, this exemption shall not apply to sewage sludge and concentrated animal feeding operations.

**701.11    Other Forms of Air Pollution**

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

**701.12    Surface and Ground Water Protection**

All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. In cases where any earth disturbance will result in the excavation of bedrock, the Municipality may require the applicant to submit a report from a qualified engineer or geologist detailing the geologic structure of the area proposed to be disturbed and identifying the probable impacts on groundwater supply

and quality Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and details of planned safety devices and contamination response actions shall be provided by the developer. The Municipality may require a plan to be submitted for review and approval and may require security for insuring contamination response. Monitoring wells and water quality testing may also be required by the Municipality. 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. No use shall be permitted which would result in the depletion of ground water supplies. In cases where the use is of such a nature that large volumes of ground water are required the developer shall provide appropriate hydro-geologic studies which clearly establish that the proposed use will not cause a reduction in the quantity or the quality of ground water supplies available to other properties located within one-thousand (1,000) feet of any portion of the property where the proposed use will be located.

#### 701.13 Storm Water Management and Soil Erosion Control

A storm water management plan and soil erosion control plan shall be required for review and approval. Said plan shall be prepared and implemented pursuant to the standards contained in the Subdivision Ordinance or other applicable regulations and County Conservation District standards, and shall be based on generally accepted engineering principles appropriate for the proposed use.

The protection of the quality of ground water and surface water shall be an integral part of all proposed storm water management practices; and all storm water management plans shall include an element specifically addressing water quality. The plan shall provide for the minimization of the discharge of "first flush" sediments off the project site or directly to infiltration structures. Containment of "first flush" sediments shall be accomplished by accepted and proven engineering design and practice, including but not limited to the use of grass buffer/filter strips, grass swales, detention basins, sediment traps, and special inlet devices.

In any area of the Municipality where a storm water management plan has been prepared and adopted in accord with the Pennsylvania Storm Water Management Act, the provisions of any applicable storm water control ordinance shall apply.

#### 701.14 Waste Materials

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

#### 701.15 Handicapped Access

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

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

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

enclosed by a chain link fence not less than eight (8) feet high.

#### 701.17 Security

In cases where deemed necessary by the Municipality (detention facilities and drug treatment centers, for example), the applicant shall provide a plan addressing security needs to protect the health and safety of the public as well as the occupants of the proposed facility. Such plan shall include a description of the specific services to be offered, type of patients and/or residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.

#### 701.18 Water Supply

All uses shall be provided with an adequate and safe water supply, as demonstrated by evidence to be provided by the applicant, documenting that the siting, density, and design of all proposed residential, commercial, industrial and other developments or 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.

#### 701.19 Sewage Disposal

Sewage disposal shall be provided by a system meeting the needs of the proposed use and the requirements of the Municipality 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. No discharge of wastes, by-products or materials in any way associated with a production process, health care or veterinary facility medical wastes, funeral home wastes, or other commercial wastes shall be permitted to any subsurface, land application or other soil based sewage disposal system.

#### 701.20 Other Regulations

The Zoning Officer, Planning Commission, Governing Body 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.

### **702 Placement and Screening of Waste Containers**

#### 702.1 Screening

All trash dumpsters shall be screened to a height of not less than eight (8) feet on all four (4) sides as needed to screen the dumpster from view from public streets or dwellings on abutting lots. A solid wooden fence, brick wall, evergreen plants or structure designed to be architecturally compatible with the principal building shall be used for such screening.

#### 702.2 Setback from Dwellings

Any solid waste container with a capacity over fifteen (15) cubic feet shall be kept a minimum of fifteen (15) feet from any property line.

**702.3     Food Sales**

Any use that involves the sale of ready-to-eat food for consumption outside of a building shall provide at least one (1) outdoor solid waste receptacle for customer use at a convenient location outside of the main exit door of the property. The operator of such use shall be responsible for regular emptying and maintenance of such receptacle.

**702.4     Enclosed Containers**

Solid waste receptacles stored outdoors shall be adequately enclosed and covered to control the attraction of rodent and insects.

**703   Environmental Impact Statement**

The intent of this §703 is to provide the identification of environmental and community impacts and means of mitigation of impacts of development projects in the Municipality, and to determine what conditions should be required to mitigate any adverse effects of the proposed use. The Governing Body, Planning Commission, or Zoning Hearing Board, as the case may be, may, based upon the nature of a project and potential impacts on the Municipality, require the developer to prepare and submit an environmental impact statement (EIS) for the types of developments and uses listed below. The requirements of this §703 may also be applied to any other proposed conditional use or special exception, which for reasons of location, design, existing traffic or other community or environmental considerations, as determined by the Municipality, warrants the application of the study required contained herein. The Governing Body, Planning Commission, or Zoning Hearing Board, as the case may be, may waive certain components of the EIS should such components be deemed unnecessary for certain uses.

1. Industrial parks
2. Light manufacturing or manufacturing or industrial uses
3. Junkyards
4. Mineral extraction
5. Mineral processing
6. Agricultural products processing
7. Solid waste facilities and staging areas
8. Warehouses and trucking terminals
9. Concentrated animal operations
10. Airports and heliports
11. Any use involving the initial or cumulative disturbance of 87,120 or more square feet of soil surface areas
12. Any use involving the initial or cumulative construction, installation and/or placement of 43,560 square feet or more of buildings, structures or other impervious surface areas

**703.1     Purpose of EIS**

The purpose of this EIS is to disclose the environmental consequences of a proposed action for consideration by the Municipality for the determination of approval or denial of the project, and, if the project is approved, for the establishment of conditions of approval. This requirement is made in order to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of all kinds, flooding and waste disposal and to preserve trees and vegetation, to protect water courses, air resources and aquifers.

**703.2     Contents of EIS**

An Environmental Impact Statement shall include a description of the proposed use including location relationship to other projects or proposals, with adequate data and detail for the Municipality to assess the environmental impact. The EIS shall also include a comprehensive description of the existing environment and the probable future effects of the proposal. The description shall focus on the elements of the environment most likely to be affected as well as potential regional effects and ecological interrelationships.

At a minimum, the EIS shall include an analysis of the items listed below regarding the impact of the proposed use

and the mitigation of any such impacts; and said proposal shall comply with all other standards included in this Ordinance and other Ordinances:

A. Soil Types

1. U.S.D.A. Soil Types (show on map)
2. Permeability of soil on the site.
3. Rate of percolation of water through the soil for each five acres.

B. Surface Waters

1. Distance of site from nearest surface water and head waters of streams.
2. Sources of runoff water.
3. Rate of runoff from the site.
4. Destination of runoff water and method of controlling down stream effects.
5. Chemical additives to runoff water on the site.
6. Submission of an erosion and sediment control plan meeting the requirements of the PA DEP and the Wyoming County Conservation District.
7. Said information shall be set forth in a storm water management plan meeting the requirements of the Subdivision Ordinance.

C. Ground Cover Including Vegetation and Animal Life

1. Extent of existing impervious ground cover on the site.
2. Extent of proposed impervious ground cover on the site.
3. Type and extent of existing vegetative cover on the site.
4. Extent of proposed vegetative cover on the site.
5. Type of animal life and effect on habitat.

D. Topographic and Geologic

1. Maximum existing elevation of site.
2. Minimum existing elevation of site.
3. Maximum proposed elevation of site.
4. Minimum proposed elevation of site.
5. Description of the topography of the site and any special topographic features, and any proposed changes in topography.
6. Surface and subsurface geology

E. Ground Water

1. Average depth to seasonal high water table.
2. Minimum depth to water table on site.
3. Maximum depth to water table on site.
4. Quality

F. Water Supply

1. The source and adequacy of water to be provided to the site.

2. The expected water requirements (g.p.d.) for the site.
3. The uses to which water will be put.

G. Sewage Disposal

1. Sewage disposal system (description and location on the site, of system).
2. Expected content of the sewage effluent (human waste, pesticides, detergents, oils, heavy metals, other chemical).
3. Expected daily volumes of sewage.
4. Affected sewage treatment plant's present capacity and authorized capacity.

H. Solid Waste

1. Estimated quantity of solid waste to be developed on the site during and after construction.
2. Method of disposal solid waste during and after construction.
3. Plans for recycling of solid waste during and after construction.

I. Air Quality

1. Expected changes in air quality due to activities at the site during and after construction.
2. Plans for control of emissions affecting air quality.

J. Noise

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

K. Land Use

1. Past and present use of the site with particular attention to storage or disposal of toxic or hazardous waste.
2. Adjoining land uses and character of the area.

L. Critical Impact Areas - Any area, condition, or feature which is environmentally sensitive, or which if disturbed during construction would adversely affect the environment. Critical impact areas include, but are not limited to, stream corridors, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, areas of high water table, and mature stands of native vegetation and aquifer recharge and discharge areas

M. Historic Resources - Identification of structures or sites of historic significance and probable effect of project.

N. Transportation Network - Existing network traffic volumes and capacities and need for improvements required by the project. In the case of PennDOT roads a copy of the traffic study required by PennDOT shall be submitted, and in the case of local municipal roads, the study shall be conducted in accord with PennDOT requirements.

O. Law Enforcement - Existing law enforcement capabilities of the Municipality and State; and assess the impact of the proposed development on said law enforcement agencies along with actions proposed to mitigate any

burdens created by the development.

- P. Community Facilities and Services - Existing community facilities and services and how the proposed use will effect those facilities and services, including projected needs for additional facilities and services.
- Q. Additional Requirements - In addition to the above requirements, the Planning Commission and/or Governing Body or the Zoning Hearing Board may require such other information as may be reasonably necessary for the Municipality to evaluate the proposed use for its effect on the community.

#### 703.3 Additional Considerations

The following shall also be addressed:

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

#### 703.4 Qualifications

The EIS shall be prepared by a professional architect, landscape architect, planner, engineer or other qualified individual whose qualifications have been previously approved by the Governing Body or the Zoning Hearing Board as the case may be.

#### 703.5 Procedures for Evaluating the Environmental Impact Statement Shall be as Follows

- A. Upon receipt of the application the Municipality shall forward the EIS to the Municipal Engineer and any other Agency or firm which the Municipality may desire for consultation.
- B. The above mentioned Agencies shall review the applicant's EIS and shall report its comments to the Planning Commission and Governing Body or Zoning Hearing Board.
- C. The Planning Commission and/or Governing Body or Zoning Hearing Board may require the opinion of experts in their review of the EIS.
- D. Fees for the costs of such consultation as described in §§A and §§C above shall be paid by the applicant.
- E. Copies of the EIS shall be on file and available for inspection in the municipal office.
- F. The Planning Commission shall evaluate the proposed project and the EIS and recommend action on same to the Governing Body or Zoning Hearing Board.

#### 704 Special Conservation Standards

All uses permitted by this Ordinance shall be subject to the following special conservation performance standards.



The procedures and standards are as follows:

704.1 Steep Slope Areas

Steep slopes shall be defined as slopes in excess of twenty-five (25) percent as determined by the Zoning Officer, from United States Geological Survey topographic maps or USDA NRCS maps. In cases where the slope cannot be specifically determined by said means, the Zoning Officer may require the applicant to provide certification from a Professional Engineer or Registered Land Surveyor of the slope in question. Slope shall be measured at the points where any earth will be disturbed or where structures or other improvements are proposed. Any use or development of such steep slope areas shall be considered a conditional use, and in reviewing applications for use of sites partially or wholly included within an area identified as steep-sloped, the Governing Body and Planning Commission shall be satisfied that the following performance standards have been or will be met:

- A. An accurate map prepared by a Registered Surveyor in the Commonwealth of Pennsylvania has been submitted showing property boundaries, building and drive locations, contours at two (2) foot intervals and any areas to be graded. The proposed location of other factors shall also be shown including streams, wetlands, areas subject to landslides and extent of vegetative cover.
- B. A grading and drainage plan has been prepared showing existing and proposed ground surfaces, plans for drainage devices, plans for walls or cribbing, etc., map of the drainage area affected, computation of the amount of runoff expected, an erosion control plan and schedule for completion of work.
- C. The total amount of impervious surface that may be installed or maintained on steep slopes shall not exceed fifty (50) percent of the maximum amount of impervious surface permitted for such use on any lot in the underlying zoning district. Provision shall be made and approved by the Municipal Engineer for control of runoff from impervious surfaces to prevent erosion and stormwater damage to downstream properties.
- D. No finished grade where fill is used shall exceed a fifty (50) percent slope.
- E. Where fill is used to later support structures, a minimum compaction of ninety (90) percent of maximum density shall be achieved.
- F. At least fifty (50) percent of the area to be used for any building or construction purposes shall be less than fifteen (15) percent slope.
- G. Soils listed by the Natural Resource Conservation Service as highly susceptible to erosion shall be avoided.
- H. Roads and utilities shall be installed along existing contours to the greatest extent possible.
- I. Any steep slope areas also characterized by seasonal high water tables shall be avoided.
- J. Removal of, or disturbance to, existing vegetation on the site shall be minimized. The proposed impacts on existing vegetation shall be evaluated in terms of the potentially detrimental effects on slope stability, erosion potential, transpiration and recharge of stormwater, aesthetic and traditional characteristics of the landscape, and existing drainage patterns. Mitigation measures may be required by the Board as it deems appropriate.
- K. In cases where structures are proposed, the applicant shall submit plans to the Zoning Officer detailing how the limitations of slope will be mitigated by the design of the structure(s).

**704.2     Buffers for Wetlands**

- A. If the Municipality determines that wetlands may be present or may be impacted by the proposed development, the Municipality may require wetlands, as defined and regulated by the Pennsylvania Department of Environmental Protection, the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service, and vernal pools to be delineated on any application proposing a new use or expanded use of land.
- B. The applicant shall be responsible for said delineation and shall warrant that said wetlands have been properly delineated
- C. A buffer of not less than fifty (50) feet in width shall be maintained for all wetlands of one-half (0.50) acre or more in size, and not less than twenty-five (25) feet for wetlands less than one-half (0.50) acre in size. The buffer shall be measured perpendicular to and horizontally from the edge of the delineated wetland for the required distance.
  - 1. Unpaved trails and non-clear cut forestry enterprises (e.g., selective regeneration harvest) shall be permitted in accord with this Zoning Ordinance shall be permitted.
  - 2. Vegetation shall not otherwise be disturbed except for buffer maintenance and restoration, or the correction of hazardous conditions.
  - 3. No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted.
- D. If no wetlands are present, the applicant shall provide a certified statement to that effect. No development shall be undertaken by the applicant except in accord with all State and Federal wetland regulations; and the applicant shall provide to the Municipality evidence of such compliance.
- E. No zoning approval granted by the Municipality shall in any manner be construed to be an approval of compliance by the applicant with any State or Federal wetland regulations; and the Municipality shall have no liability or responsibility to the applicant or any other person for compliance with said regulations.

**704.3     Buffers for Lakes and Ponds in Clinton Township R, RA and CI Districts**

In Clinton Township R, RA and CI Districts a buffer of not less than fifty (50) feet in width, measured perpendicular to and horizontally from the edge of the water body, shall be maintained from the edge of all lakes and ponds one-half (0.5) acre or more in size. The buffer for lakes and ponds less than one-half (0.5) acre in size shall be not less than twenty-five (25) feet.

- A. Unpaved trails and stormwater conveyance facilities required by the Municipality shall be permitted.
- B. Vegetation shall not otherwise be disturbed except for buffer maintenance and restoration, or the correction of hazardous conditions.
- C. Residential accessory structures, boat docks and accesses, and tree trimming for lake front views shall be permitted provided that no more than thirty-five (35) percent of the buffer area is affected.
- D. No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted.

**704.4 Stream Buffer**

A buffer of not less than fifty (50) feet in width shall be maintained along all streams. The buffer shall be measured perpendicular to and horizontally from the top of bank of the stream for a distance of fifty (50) feet.

- A. Encroachments and obstructions as defined and approved by DEP, stormwater conveyance facilities required by the Municipality, and unpaved trails shall be permitted.
- B. Vegetation shall not otherwise be disturbed except for buffer maintenance and restoration, or the correction of hazardous conditions.
- C. No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted except as permitted by the applicable Floodplain Ordinance.

**705 Grading or Filling in Nicholson Borough**

This §705 shall apply in all Zoning Districts in Nicholson Borough.

**705.1 Intent**

The intent of this §705 is to regulate earth disturbance, minimize storm water runoff and protect soil resources and water quality. All grading or filling shall comply with this §705.

**705.2 Permit**

Any activity which will result in the earth disturbance of more than two thousand five hundred (2,500) square feet of land area shall require a zoning permit. This §705 shall not apply to:

- A. Projects where zoning or subdivision and land development approval has been otherwise granted.
- B. Agricultural uses with an approved soil erosion and sedimentation control plan meeting the requirements of the County Conservation District and PA DEP.
- C. The installation of a lawn or garden.

**705.3 Plan**

The Applicant shall include with the application for a zoning permit a plan setting forth the details of the earth disturbance and including any additional information deemed necessary by the Borough to determine compliance.

**705.4 Soil Erosion and Sedimentation and Stormwater Control**

Any earth disturbance shall comply with all applicable Borough, state and federal regulations.

**705.5 Drainage**

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

**705.6 Excavation**

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

**705.7 Storage Piles**

Excavation materials shall not be stored in piles on a property for more than one (1) year before being redistributed and graded on the property or removed from the property.

**705.8     Dust**

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

**705.9     Bedrock Disturbance - Aquifer Protection**

In cases where any earth disturbance will result in the excavation of bedrock, 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 and how such impacts will be mitigated.

**705.10   Revegetation/Reforestation**

The plan shall include provisions for the revegetation, stabilization, and/or reforestation of any disturbed areas.

**705.11   Soil Suitability**

Disturbed areas shall be prepared for revegetation using soil in an amount and of a type necessary to support the vegetation.

**706   Property Line Buffer Areas**

It is the intent of this section to preserve the character of the Municipality by requiring the conservation of trees and other vegetation, especially during the land development process, and by requiring property line buffers. This effort will also minimize the detrimental effects of soil erosion and sedimentation and storm water run-off. This section is not intended to prescribe specific cutting practices; or to prevent or hinder any landowner from realizing financial return from the sale of trees; or to prevent or hinder commercial tree harvesters from operating in the Municipality. (Note: This §706 shall not apply to agricultural uses and lands owned by the Commonwealth of Pennsylvania or the Pennsylvania Game Commission.)

**706.1     Natural Vegetation**

In order to minimize soil erosion and storm water run-off and to preserve community character, natural vegetation shall be maintained to the greatest extent possible.

- A. Clearing of vegetation shall be limited to those areas of the site needed for proposed and required improvements.
- B. Any part of a site where existing vegetation has been disturbed and which is not used for buildings, structures, loading or parking spaces and aisles, sidewalks, designated storage areas or other improvements, shall be provided with an all-season ground cover and shall be landscaped.
- C. In the case of conditional uses and special exceptions, additional landscaping, screening and/or buffers may be required by the Municipality where the same are determined by the Municipality as necessary to protect adjoining uses.

**706.2     Buffer Areas**

In addition to the requirements of §706.1, the following requirements shall apply to all parcels in CI, R-1 and C-1 Districts:

- A. A buffer shall be maintained until such time as a development plan is approved for the parcel and buffers are provided in accord with this Zoning Ordinance. The buffer shall be maintained along all property lines and any road right-of-way and shall not be less than:
  - 1. Seventy-five (75) feet in width in CI and C-1 Districts.
  - 2. Ten (10) feet in width in R-1 Districts.

- B. Existing vegetation in this buffer area shall not be disturbed except that trees may be harvested to the extent that the basal area of trees in the seventy-five foot buffer area shall not be reduced below fifty (50) percent of the basal area present before cutting or below sixty-five (65) square feet per acre, whichever is higher. Basal area is the area in square feet per acre occupied by tree stems at four and one-half (4.5) feet above the ground, normally measured by a calibrated prism or angle gauge.
- C. Clearing of vegetation and landscaping for a development project shall be in accord with an overall plan to be submitted with the zoning and land development plan application. Such clearing shall not be initiated until the application is approved by the Municipality. For the purposes of installation, landscaping shall be considered an improvement in accord with the Subdivision and Land Development Ordinance. The clearing and landscaping plan shall show the type and extent of existing vegetation, the area proposed for clearing and proposed landscaping.

#### **707 Reserved**

#### **708 Traffic Impact Study (TIS)**

Traffic impact studies are required for certain activities to enable the Municipality to assess the effect on the transportation system in and around the Municipality and to:

- A. Ensure that proposed uses do not adversely affect the transportation network.
- B. Identify any traffic problems associated with site access.
- C. Determine traffic problems on private, local municipal, County or State roads in the project traffic study area.
- D. Assist in the protection of the safety of the motoring public, air quality, and energy conservation.

##### **708.1 TIS Requirement.**

- A. Thresholds - A TIS shall be required for all residential and nonresidential proposals that are projected to generate one hundred fifty (150) or more trip-ends per project peak hour or one thousand five hundred (1,500) trip-ends or more per day based on the latest edition of *Trip Generation* published by the Institute of Transportation Engineers. A TIS shall also be required for additions to a use, changes of use and replacements of nonconforming uses that increase the total traffic (i.e., existing plus new traffic) above the peak hour or daily thresholds.
- B. Other Projects - The Governing Body, Planning Commission, or Zoning Hearing Board, as the case may be, may also, based upon the nature of a project and potential impacts on the Municipality, require the developer to prepare and submit a TIS for the types of developments and uses listed below. The requirements of this §708 may be applied to any other proposed conditional use or special exception, which for reasons of location, design, existing traffic or other community or environmental considerations, as determined by the Municipality, warrants the application of the study required contained herein in order to determine what conditions should be required to mitigate any adverse effects of the proposed use. The Governing Body, Planning Commission, or Zoning Hearing Board, as the case may be, may waive certain components of the TIS should such components be deemed unnecessary for certain uses.
  - 1. Industrial parks
  - 2. Light manufacturing or manufacturing or industrial uses
  - 3. Junkyards

4. Mineral extraction
5. Mineral processing
6. Agricultural products processing
7. Solid waste facilities and staging areas
8. Warehouses and trucking terminals
9. Concentrated animal operations
10. Airports and heliports
11. Any use involving the initial or cumulative disturbance of 87,120 or more square feet of soil surface areas
12. Any use involving the initial or cumulative construction, installation and/or placement of 43,560 square feet or more of buildings, structures or other impervious surface areas

#### 708.2 Professional Requirements

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

#### 708.3 Study Methodology and Area

- A. Methodology - The TIS shall be in accord with the Institute of Transportation Engineers recommended Methodology and Pennsylvania Department of Transportation Guidelines.
- B. Study Area - The study area for the traffic study shall be based on engineering criteria and an understanding of existing traffic conditions at the site. It shall represent that area likely to be affected by the development, where highway users are likely to experience a change in the existing level of service. The study limits shall be initially agreed upon by the developer, his engineer and the Municipal Engineer. The study area shall be specifically subject to the approval of the Municipality with the advice of the Municipal Engineer and/or a qualified traffic engineer.

#### 708.4 Study Contents

The TIS shall contain the following elements:

- A. The study area boundary and identification of the roadways included within the study area.
- B. A general site description, including:
  1. Size, location, existing and proposed land uses and dwelling types, construction staging, and completion date for the proposed project.
  2. Existing land uses, approved and recorded subdivision and land developments, and subdivisions and land developments proposed but not yet approved and recorded in the study area that are agreed upon by the developer, his traffic engineer, and the Municipal Engineer, as having bearing on the development's likely impact.
  3. Within the study area, a description of existing roadways and intersections (geometrics and traffic signal control) as well as improvements contemplated by government agencies or private parties.
- C. An analysis of existing conditions, including:
  1. Daily and Peak Hour(s) Traffic Volumes - Schematic diagrams depicting daily and peak hour(s) traffic volumes shall be presented for roadways within the study area. Turning movement and mainline volumes shall be presented for the three (3) peak hour conditions (AM, PM and site generated). However, only

mainline volumes are required to reflect daily traffic volumes. The source and/or method of computation for all traffic volumes shall be included.

2. Level of Service at Critical Points - Levels of service (A through F) for each lane group (not overall average) shall be computed and presented along with a description of typical operating conditions at each level of service.
  3. Accident Locations - A tabulation of accident locations during the most recent three-year period.
- D. An analysis of future conditions without the proposed development. The future year(s) for which projections are made will be specified by the Municipality and will be dependent on the timing of the proposed development. The following information shall be included:
1. Daily and Peak Hour(s) Traffic Volumes - This section shall clearly indicate the method and assumptions used to forecast future traffic volumes. Regardless of the methods and other assumptions used, no TIS shall assume less than two (2) percent per year growth in traffic levels without the proposed development unless there are particular limitations applicable to a given highway that prevent such growth from being realized (e.g., a dead-end road with no room for further development). Schematic diagrams depicting projected future daily and peak hour(s) traffic volumes shall be presented for the roadways within the study area. Projected turning movement and mainline volumes shall be presented for the three (3) peak hour conditions (AM, PM and site generated). The source and/or method of computation for all projected traffic volumes shall be included.
  2. Levels of Service at Critical Points - Levels of service (A through F) for each lane group (not overall average) shall be computed and presented along with a description of typical operating conditions at each level of service.
- E. Trip Generation - The amount of traffic generated by the site shall be presented in this section for daily and the three (3) peak hour conditions (AM, PM and site generated). The trip generation rates used in this phase of the analysis shall be justified and documented to the satisfaction of the Municipality. Trip Generation (latest edition) published by the Institute of Transportation Engineers shall be used unless the Municipality approves other studies.
- F. Trip Distribution - The direction of approach for site generated traffic shall be presented in this section for the appropriate time periods. As with all technical analysis steps, the basic method and assumptions used in this work shall be clearly stated in order that the Municipality can replicate these results.
- G. Traffic Assignment - This section shall describe the utilization of study area roadways by site generated traffic. The proposed traffic volumes shall then be combined with the projected future traffic volumes without the project to describe mainline and turning movement volumes for future conditions with the site developed as the applicant proposed.
- H. Analysis of Future Conditions with Development - This section shall describe the adequacy of the roadway system to accommodate future traffic with development of the site. Any unique characteristics of the site or within the study (i.e., holiday shopping) affecting traffic shall be considered. If staging of the proposed development is anticipated, analysis for each stage of completion shall be made. The following information shall be included:
1. Daily and Peak Hour(s) Traffic Volumes - Mainline and turning movement volumes shall be presented for the highway network in the study area as well as driveways for the appropriate time periods.

2. Levels of Service at Critical Points - Levels of service (A through F) for each lane group (not overall average) shall be computed and presented along with a description of typical operating conditions at each level of service.
  3. Effect on Highway Structure - The probable effect on the structure of the highway network shall be presented, particularly any effects associated with heavy vehicles.
- I. Recommended Improvements - If the analysis indicates that unsatisfactory levels of service (levels of service D, E or F) as described in Highway Capacity Manual (Transportation Research Board *Special Report 209* - 2000 or latest edition) will occur on study area roadways, a description of proposed improvements to remedy deficiencies shall be included in this section. Such proposals shall not include committed projects by the Municipality and State that have been described and analyzed as required above. The following information shall be included:
1. Proposed Recommended Improvements - Describe the location, nature and extent of proposed improvements to ensure sufficient roadway capacity. Accompanying this list of improvements shall be preliminary cost estimates.
  2. Signs - Specific recommendations shall be included for the placement of traffic control signs (e.g., stop signs, speed limit signs, no parking signs, etc.) conforming to state and local regulations.
  3. Levels of Service at Critical Points - Levels of service (A through F) for each lane group (not overall average) shall be computed and presented along with a description of typical operating conditions at each level of service for the highway system with improvements.
  4. Highway Structure Improvements - Describe the location, nature and extent of proposed improvements to ensure the structural integrity of the roadway. Accompanying this list of improvements shall be preliminary cost estimates.
- J. Conclusion - The last section of the report shall include a clear concise description of the study findings.
- K. Implementation - All traffic improvements or improved levels of service shall be incorporated into the subdivision plan and/or land development plan and implemented and installed at applicant's expense as permitted by law.



**ARTICLE VIII  
STANDARDS FOR SPECIFIC USES**

**801 Adult Businesses**

**801.1 Findings**

In adopting these standards which apply to adult businesses, the Governing Bodies have made the following findings in regard to the secondary effects on the health, safety and welfare of residents. 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 Governing Bodies, 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.

- A. 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.
- B. Certain employees of sexually oriented business regulated by this Ordinance as adult businesses engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.
- C. 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.
- D. Offering and providing such space, encourages such activities, which create unhealthy conditions.
- E. 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.
- F. 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.
- G. 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.
- H. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.
- I. Classifying adult businesses as special exceptions 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.

- J. 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.
- K. 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.
- L. The Municipalities desire 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.

#### 801.2 Intent

It is the intent of this §801. to:

- A. 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.
- B. Designate a zoning district where adult businesses are permitted, and establish reasonable, content neutral standards applicable to such uses.
- C. 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.
- D. 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.
- E. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
- F. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.

#### 801.3 Special Exception in I-2 District

Adult businesses are classified as special exceptions in the I-2 District which provides a suitable area for the development of such uses away from areas designated for residential development.

#### 801.4 Standards

In addition to other applicable ordinances, and the other applicable general standards and the special exception criteria contained in this Ordinance, the following standards shall apply to adult businesses:

- A. Setback - In addition to the other setbacks established by this Ordinance, adult businesses shall not be located less than one hundred (100) feet from any:
  - 1. residence

2. group care facility
  3. commercial enterprises catering primarily to persons under eighteen (18) years of age
  4. public or semi-public building or use
  5. public park or public recreation facility
  6. health facility
  7. church or synagogue
  8. public or private school
- B. Similar Businesses - Adult businesses shall not be located within two hundred and fifty (250) feet of any existing adult business.
- C. Measurement - The setback distances established in this §801. 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. Limit of One (1) 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.
- E. 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 special exception permit, a use from which an adult business is required to provide a setback under Subsection A above is developed within the required setback distance. Any additions or expansions of the use shall comply with Subsection A above.
- F. 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 XI of this Ordinance; 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.
- G. Exemption for Modeling Class: It is a defense to prosecution under this §801. that a person appearing in a state of nudity did so in a modeling class operated:
1. By a proprietary school, licensed by the State, or an academically accredited college or university;
  2. 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;
  3. In a structure -
    - a. 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
    - b. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
    - c. 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.
- H. 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 §801. shall be deemed a nonconforming use. Such nonconforming use shall not be increased, enlarged, altered or extended, except as permitted in Article 7. The use may be changed to a conforming use. However, under no circumstances shall a nonconforming use as defined and regulated by

this Ordinance be changed to any type of adult business.

## **802      Reserved**

### **803      Agricultural Uses -- Crop Production and Livestock Operations**

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

#### **803.1      Crop Production**

Crop production shall be permitted in any district on any size of parcel of land.

#### **803.2      Livestock Operations**

Livestock operations shall be permitted only in those districts as designated on the schedule of uses. In any District where a minimum parcel size is required by the Schedule of Uses for livestock operations, any barn or other indoor or outdoor area used for concentrated confinement of animals or manure storage shall not be less than one hundred (100) feet from any property line or road right-of-way. The setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback..

#### **803.3      State Protected Agricultural Operations**

Nothing in this Zoning Ordinance is intended to preclude the rights and protections of bona fide agricultural operations afforded by the Pennsylvania Right To Farm Law, as amended; the Pennsylvania Agricultural Securities Area Law, as amended; and other applicable state statutes. Such rights and protections, in terms of limiting the application of the standards in this Zoning Law, shall be afforded to such uses of land which meet the minimum definition of agricultural use as established by the applicable state statute.

#### **803.4      Manure Odors**

Because the Municipalities are in a rural/agricultural area with many farms, the spreading of manure shall not be considered an offensive odor and shall be exempt from §701.10; however, this exemption shall not apply to sewage sludge or concentrated animal feeding operations.

## **804      Reserved**

### **805      Amusement Parks**

In addition to all other applicable standards of this Ordinance, amusement parks shall be subject to the following standards.

#### **805.1      Parcel Size**

A minimum parcel of five (5) acres shall be required.

#### **805.2      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.

#### **805.3      Hours of Operation**

Hours of operation shall be limited to the period between 9:00 a.m. and 11:00 p.m.

## **806      Animals, Keeping of**

### **806.1      Kennels**

Kennels are considered conditional uses in certain districts and shall be subject to §1208 of this Ordinance and the

following conditions:

- A. Minimum Parcel Size - Two (2) acres.
- B. Setbacks - Any structure, outdoor kennels, or animal exercise areas used for the keeping of dogs shall meet the setbacks on Table 806.
- C. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance with one space for each non-resident employee and one (1) space per four (4) dogs kept on the premises.
- D. Noise Barrier - A noise barrier consisting of a solid fence not less than six (6) feet in height or a dense vegetative planting of not less than six (6) feet in height shall be provided at a distance not to exceed fifteen (15) feet and fully encircling all kennel areas or animal exercise areas not enclosed in a building.
- E. Hours Outdoors - All animals shall be restricted from using kennel areas not fully enclosed in a building from dusk to 8:00 A.M.
- F. 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 §806.1,B until disposed of and proof of such disposal shall be provided.
- G. Nuisances - All animal wastes shall be stored in an area meeting the setbacks in §§B of this §806.1 and shall be disposed of properly. The kennel shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property.

TABLE 806					
	Minimum	Number of	Property Line	Road*	Existing
Private Stables in R and CI Districts	1	2 horses plus 1 horse per	50	50	100
Private Stables in RA Districts	not regulated				
Private Stables in all	5	1 horse per full acre	125	100	200
Commercial Stables, Horses for Hire	5	not regulated	100	75	100
Kennels	2	not applicable	75	75	200
*Applies to any public or private road right-of-way.					

#### 806.2 Stables, Private

Private stables are permitted as an accessory use to a single-family residence in accord with the Schedule of Uses and the following conditions:

- A. Parcel Size - See Table 806.
- B. Number of Horses - See Table 806.
- C. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by adequate fences or other means.

- D. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance.
- E. Setbacks - Any stable building or corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or manure storage shall meet the setbacks on Table 806. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback. However, no setback shall be reduced in violation of the Ordinance requirements.
- F. 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 on Table 806, may be permitted as a conditional use in the Township and a special exception in the Borough, provided the applicant can document that no nuisances will be created due to noise, odor or other factors; and, the Governing Body can establish adequate conditions to assure the same.
- G. Nuisances; Manure Management - The operation of the stable shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property, and the applicant shall provide a plan for soil erosion and sedimentation control and manure management for approval by the Municipality.
- H. Uses Permitted - The following types of uses shall be permitted as part of the operation:
1. Breeding, raising, keeping and sale of horses, and necessary buildings and structures.
  2. Training of horses, and necessary buildings and structures for training.
  3. Boarding of horses.

#### 806.3 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:

- A. Parcel Size - A minimum parcel of five (5) acres shall be required and a single-family residence for the owner or manager shall be permitted on the premises provided all other Sections of this Ordinance and other applicable standards are met.
- B. Number of Horses - Not regulated.
- C. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by fences or other means.
- D. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance with one space provided for each non-resident employee and one (1) space per two (2) horses kept on the premises
- E. Setbacks - Any stable building or corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or manure storage shall meet the setbacks on Table 806. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback
- F. Nuisances; Manure Management - The operation of the stable shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property, and the applicant shall provide a plan for soil erosion and sedimentation control and manure management for approval by the Municipality.

G. Uses Permitted - The following types of uses shall be permitted as part of the horse farm operation:

1. Breeding, raising, keeping and sale of horses, and necessary buildings and structures.
2. Training of horses, and necessary buildings and structures, including facilities for training only, which are set back in accord with Table 806..
3. Boarding of horses, and necessary buildings and structures.
4. The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests.
5. Sale of horses other than the horses raised or boarded on the premises.
6. Retail sales of any goods or merchandise which are incidental and accessory to the stable use.

806.4 Zoos, Menageries, and Wild and Exotic Animals

Menageries and zoos shall, in addition to all other applicable requirements of this Ordinance, comply with the following requirements:

- A. A minimum parcel size of five (5) acres shall be required.
- B. All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained.
- C. The permit holder shall use every reasonable precaution to assure that the animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any means.
- D. Animals which are enemies by nature or are temperamentally unsuited shall not be quartered together or so near each other as to cause the animals fear or to be abused, tormented or annoyed.
- E. The permit holder shall maintain the premises so as to eliminate offense odors or excessive noise.
- F. The permit holder shall not permit any condition causing disturbance of the peace and quiet of his neighbors.
- G. Animals must be maintained in quarters so constructed as to prevent their escape. The permit holder assumes full responsibility for recapturing any animal that escapes from his premises. The permit holder shall make adequate provisions and safeguards to protect the public from the animals.
- H. The operation shall conform to all applicable local, state and federal laws and regulations
- I. Any building, corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or animal waste storage shall not be located within one hundred twenty-five (125) feet of any adjoining property line and one hundred (100) feet from any public or private road right-of-way.
- J. The applicant shall provide for adequate disposal of all any waste materials generated on the premises, and a detailed plan for the same shall be included with the zoning application.

**807      Reserved**

**808     Bulk Fuel Storage Facilities**

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

**808.1   Parcel Size**

Bulk fuel storage facilities shall be located on a tract of land not less than three (3) acres in area.

**808.2   Setbacks**

Storage tanks shall be located not less than one hundred and 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.

**808.3   Fence**

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 Municipality.

**808.4   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.

**809     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 Section 809 and the Schedule of Uses.

**809.1   Purposes**

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

**809.2   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:

- A. 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 twenty (20) feet shall be permitted in all districts as an accessory use and conditional use/special exception approval shall not be required. Any subsequent installations above the initial fifteen-foot height increase shall be a conditional use in the Township and a special exception in the Borough. The applicant



shall provide the following information:

1. Evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the Building or other Structure, considering wind and other loads associated with the antenna location.
  2. Detailed construction and elevation drawings indicating how the antennas will be mounted on the Structure for review for compliance with the applicable requirements.
  3. Evidence of recorded agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the CCD and associated equipment can be accomplished.
- B. 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 twenty (20) feet higher than the structure on which it is mounted shall be permitted only in those districts specified in the Schedule of Uses and shall require conditional use/special exception approval in accord with this Section 809.
- C. 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.
- D. CCD as a Second Principal Use - A CCD shall be permitted on a property with an existing use subject to the following land development standards:
1. The CCD facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
  2. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the CCD and support structure shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
  3. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  4. The applicant shall present documentation that the owner of the property has granted an easement filed of record or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

#### 809.3 Standards

- A. Location Requirement and Number - The applicant shall demonstrate to the satisfaction of the Municipality, using technological evidence, that the CCD and support structure must go where it is proposed, in order to satisfy its function in the company's grid system. The number of CCD to be installed at a site by an applicant may not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by that applicant. The applicant shall provide information on the general location of other towers/sites planned for the region.
- B. Collocation; New Tower - If the applicant proposes to build a tower (as opposed to mounting the CCD on an

existing structure), the Municipality may require the applicant to demonstrate that it contacted in writing the owners of tall structures within a five-mile radius of the site proposed, asked for permission to install the CCD on those structures, and was denied. This would include smoke stacks, water towers, tall buildings, CCD support structures of other cellular phone companies, other communications towers (fire, police, etc.) and other tall structures. The Municipality may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the CCD on an existing structure thereby documenting that there exists no other support structure which can reasonably serve the needs of the owner of the proposed CCD. A good faith effort shall demonstrate that one (1) or more of the following reasons apply to a particular structure:

1. The proposed equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
  2. The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
  3. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  4. Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the federal communications commission governing human exposure to electromagnetic radiation.
  5. A commercially reasonable agreement could not be reached with the owners of such structures.
- C. CCD Height - The applicant shall demonstrate that the CCD does not exceed the minimum height required to function satisfactorily and provide adequate height for five (5) service providers. The Municipality 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 Municipality may require *stealth* design (typically resembling a common tree) to ensure that the CCD is compatible with the surrounding landscape.
- D. 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 twenty (20) feet, the minimum setbacks in this §§D shall apply.
1. Separate Parcel - If the parcel on which the CCD and support structure is a separate and distinct parcel, the distance between the base of the support structure and any adjoining property line shall not be less than the height of the CCD structure. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet.
  2. Lease, License or Easement - If the land on which the CCD and support structure is leased, or is used by license or easement, the setback for any part of the CCD, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement. In any case, the distance between the base of the support structure and any adjoining property line (not lease, license or easement line) shall not be less than the height of the CCD structure.
- E. CCD Support Structure Safety - The applicant shall demonstrate that the proposed CCD and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency or emergency communications interference. All support

structures shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed CCD and support structure will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of any applicable building code. Within forty-five (45) days of initial operation, the owner and/or operator of the CCD and support structure shall provide a certification from a Pennsylvania registered professional engineer that the CCD and support structure comply with all applicable regulations.

- F. 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.
- G. 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 Municipality 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.
- H. Collocation; Other Uses - In order to reduce the number of CCD support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including but not limited to other cellular phone companies, and local fire, police, and ambulance companies. The applicant shall provide evidence of written contact with all wireless service providers who supply service within the Municipality for the purpose of assessing the feasibility of co-located facilities. The proposed structure, if evidenced by need as determined by the Municipality, shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.
- I. 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.
- J. Access - The Applicant shall provide and maintain access to the CCD and support structure by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length.
- K. Color and Lighting; FAA and PA DOT Notice - CCD support structures under two hundred (200) feet in height should be painted silver or have a galvanized finish retained, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures two hundred (200) feet in height or taller, those near airports, or those which are otherwise subject to Federal Aviation Administration (FAA) regulations shall comply with the said regulations. No CCD support structure may be artificially lighted except in accord with Federal Aviation Administration requirements. The applicant shall provide a copy of the response to *Notice of Proposed Construction or Alteration* forms submitted to the FAA and PA DOT Bureau of Aviation, and the CCD and support structure shall comply with all FAA and PA DOT requirements.
- L. 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.

- M. 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.
- N. 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 Municipality to remove the facility and assess the cost of removal to the foregoing parties. The Municipality may also require a financial guarantee for the removal of the structure, such guarantee in an amount deemed adequate by the Municipality and in a form approved by the Municipal Solicitor.
- O. Fire Suppression System - The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the CCD.
- P. 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 twenty (20) feet.
- Q. Review Fees - The Applicant shall pay all professional costs incurred by the Municipality for review of structural, radio frequency and other technical aspects of the proposal, and shall deposit with the Municipality an amount deemed adequate by the Municipality to cover the anticipated costs. Should the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

## **810 Reserved**

### **811 Contractor Yards** (See §505.3E for temporary contractor yards.)

The intent of this section is to provide standards for access to public roads and setbacks for contractor yards.

#### **811.1 Access to Public Roads**

- A. Highway Occupancy Permit - Access roads to Municipal and State roads shall be in accord with a valid highway occupancy permit.
- B. 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.
- C. Weight Limitations - All operations shall comply with all posted weight limits and road bonding regulations.
- D. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Municipality proposed to be used to access the operation and provide an evaluation of the condition of any Municipal road which will be used and the potential damage which may occur from such use. The Applicant shall also comply with the Municipality road bonding requirements.

#### **811.2 Setbacks**

- A. Residential and Nonresidential Buildings - Contractor yards 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.

- B. Property Lines/ Road Rights-of-Way - Contractor yards shall not be less than fifty (50) feet from any property line and any public road right-of-way.
- C. Slope - Contractor yards shall be located on slopes of less than eight (8) percent. Low spots and poorly drained places shall be avoided.

## **812 Reserved**

### **813 Detention Facilities**

In addition to all other applicable standards, detention facilities shall be in strict conformity with the following specific requirements and regulations and shall be permitted only in those districts as specified in the Schedule of Uses.

#### **813.1 Parcel Size**

In order to provide an adequate buffer area for adjoining private property owners the site shall contain a minimum of ten (10) acres.

#### **813.2 Site Design Standards**

The site shall be improved in accordance with the following minimum requirements:

- A. The building and all secure areas shall not be less than two hundred (200) feet from any property line and the right-of-way line of any abutting public road, and five hundred (500) feet from any:
  - A. residence
  - B. group care facility
  - C. commercial enterprises catering primarily to persons under eighteen (18) years of age
  - D. public or semi-public building or
  - E. public park or public recreation facility
  - F. health facility
  - G. church or synagogue
  - H. public or private school
- B. A perimeter security fence, of a height and type determined by the Municipality, may be required.

#### **813.3 Security**

All applications for institutions shall include a plan addressing security needs to protect the health and safety of the public as well as residents of the proposed facility. Such plan shall include a description of the specific services to be offered, types of residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.

#### **813.4 Accessory Uses and Ancillary Activities**

Accessory uses permitted in conjunction with an institution shall include laboratories, offices, snack bars, educational facilities and programs, vocational training facilities and programs, recreational and sports facilities and other

accessory uses ordinarily provided in conjunction with such institutions.

#### **814 - 816 Reserved**

#### **817 Gambling and Betting Uses**

Gambling and betting uses shall, in addition to all other applicable regulations, comply with the following:

##### **817.1 Setbacks**

Such an establishment shall not be located less than two hundred (200) feet from any R, R-1, R-2 or R-3 District or any residence and any:

- A. Group care facility.
- B. Commercial enterprises catering primarily to persons under eighteen (18) years of age.
- C. Public or semi-public building or use.
- D. Public park or public recreation facility
- E. Health facility
- F. Any establishment that sells alcoholic beverages.
- G. Church or synagogue
- H. Public or private school.

The distance between any such gambling or betting establishment and any of the protected land shall be measured in a straight line, without regard to intervening structures, from the closest point of the structure in which such establishment is located to the closest point on the property line of such protected land use.

##### **817.2 Parking**

Off-street parking shall be provided at the rate of three (3) spaces per each one hundred (100) square feet of floor area open to customers of such gambling or betting establishment, including, but not limited to, related dining, restaurant, bar, and snack bar areas, plus one (1) space per each employee on the largest shift.

##### **817.3 Hours of Operation**

The gambling or betting establishment shall not be open for operation between the hours of 11:00 p.m and 10:00 a.m.

##### **817.4 Nuisances**

The gambling or betting establishment shall ensure that noise from the property shall not reach neighboring properties, and shall not permit loitering outside the establishment; and, a litter control plan shall be established, maintained and paid for by the property owners to ensure that the property shall not become littered.

##### **817.5 Plan**

The application shall be accompanied by a preliminary plan containing the information and satisfying the standards as required for a major subdivision under the Subdivision and Land Development Ordinance.

Compilation Note: The following was added as a second §817 by Clinton Township Ordinance 317-11, April 1, 2011 and Nicholson Borough Ordinance 11-306, April 1, 2011.

#### **817 Industrial Wastewater Treatment Facilities and Hydraulic Fracturing Water Withdrawal Facilities**

Industrial wastewater treatment facilities and hydraulic fracturing water withdrawal facilities (referred to as *facilities*) shall be allowed only in those districts as specified in the Schedule of Uses. In addition to the performance standards in §701 and all other applicable standards of this Ordinance, the requirements of this §817 shall apply.

**817.1 Requirements for Facilities**

The facilities shall comply with the following requirements:

- A. **Setbacks** - The following setbacks shall be maintained for the facilities and any truck parking or staging areas. Ancillary facilities such as offices, employee parking, and accessory structures shall comply with the buffer requirements in §817.1.B.
1. **Property Lines, Road Rights-of-Way** - Two hundred (200) feet to adjoining properties and public road rights-of-way.
  2. **Residential Structures** - Three hundred (300) feet to any existing residential structure not located on the project parcel.
  3. **Water Bodies** - Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland. This shall not apply to any required discharge or intake structures or facilities at the receiving stream or water supply.
- B. **Buffer**
1. An undisturbed area of not less than 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 Governing Body 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. **Conditions of Approval** - If the Governing Body/Zoning Hearing Board determines that the standards in §701 are not adequate, it shall attach such other conditions deemed necessary to protect the public health, safety and welfare. Such conditions may be related to increased setbacks, security fencing, hours of operation, more stringent noise control, outdoor operations and storage, lighting and glare, stormwater management, security, and other necessary safeguards.

**817.2 Requirements**

- A. **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.
- B. **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.

**C. Informational Requirements**

1. Application Information - The applicant and/or operator for all facilities shall provide the information required by this §817, all other application information required by this Ordinance, and all other necessary information to enable the Municipality to determine compliance with this Ordinance.
2. DEP/SRBC Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection (DEP) Rules and Regulations and the Susquehanna River Basin Commission (SRBC).
3. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Municipality proposed to be used to access the facility and provide an evaluation of the condition of any municipal road which will be used and the potential damage which may occur from such use and how damage to public roads adjacent to the site will be addressed. The Applicant shall also comply with the municipal road bonding requirements.
4. Conditions - The findings of the Governing Body based on this information shall serve as a basis for the establishment of conditions of approval in accord with §1208.4 of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code.

- D. Reporting Requirements - For any facility approved by the Municipality, the operator shall submit to the Municipality copies of all documents and reports associated with the operation which are required or issued by PA DEP or SRBC within fifteen (15) days of the submission/receipt of the document or report.

**817.3 Review Fees**

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

**818 - 819 Reserved****820 Junk Yards**

Junk yards shall be permitted only in those districts as specified in the Schedule of Uses and, in addition to the standards in Article VII, §1208 and other applicable regulations, shall comply with the following requirements:

**820.1 Reserved****820.2 Property Owner Responsibility**

It shall be the ultimate responsibility of the property owner of the premises upon which any junk is situated and the owner of any such junk to comply with this Ordinance; and to provide for the removal of such junk and remediation of any environmental problems associated with any junk.

**820.3 Operating Standards**

All existing and proposed junk yards licensed under the provisions of this Ordinance shall be established, maintained, and operated in accord with the following standards:

- A. Federal and State Regulations - Any junk yard located adjacent to a Federal Aid Highway shall comply with all regulations of the Federal Highway Administration, and all junk yards shall meet the licensing and screening



requirements of the Commonwealth of Pennsylvania.

- B. Fencing - All junk yards shall be completely enclosed by a chain link fence not less than eight (8) feet in height. All fences and gates shall be maintained in good repair and in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence. The foregoing fencing provisions shall be applicable only to that portion of the premises being immediately used for the storage of junk and shall not be applicable to the balance of the property owned or used by said junk yard operator so long as said remaining portion of land is not being used for the storage of junk as defined in this Ordinance.
- C. Screening - All junk yards shall be screened, to the satisfaction of the Municipality, from any adjoining or neighboring property, any public road right-of-way, or any other premises; and, natural vegetative cover shall be maintained in all required setback areas. Vegetative plantings of sufficient height and density, berms, topography or fencing of such design may be used to effect the required screening as determined by the Municipality. All screening shall be maintained in such fashion as to continue to provide the required screening.
- D. Setbacks - The fence enclosing any junk yard and any structures associated with the junk yard shall be located not less than one hundred (100) feet from any public road right-of-way, one hundred (100) feet to any property line or one hundred and fifty (150) feet from any principal residential or commercial structures existing at the time of adoption of this Ordinance. The requirements of this §D shall not apply to junk yards existing prior to the effective date of this Ordinance and which fully complied with prior regulations applicable to junk yards. However, the expansion of any such existing junk yard into an area already not used for the storage of junk shall comply with this §D.
- E. Dumping - The area used for a junk yard shall not be used as a dump area for any solid waste as defined by this Ordinance.
- F. Burning - No burning whatsoever shall be permitted on the premises.
- G. Water Bodies - No junk yard shall be located less than two hundred (200) feet from any body of water, stream, wetland or well.
- H. Hazardous Materials - In cases where the junk yard includes ten (10) or more junk vehicles or where the Municipality deems it necessary to meet the intent of this Ordinance, and to further protect ground water and surface water, all batteries, coolants, gasoline, diesel fuel, engine oil, any other petroleum products and any other noxious or potentially contaminating materials must be removed from all junk within two (2) working days after arrival to the premises and shall be disposed of in a manner meeting all state and federal requirements. Such liquids and materials, while stored on the premises, shall be kept separately in leak-proof containers at a central location on the premises.
- I. Water Quality - In cases where the junk yard includes ten (10) or more junk vehicles or where the Municipality deems it necessary to meet the intent of this Ordinance, the owner of any junk yard shall be required to monitor the ground and surface water in the vicinity of the junk yard. Water testing shall be conducted every three (3) 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 sample shall be taken from the stream at a point upstream of the junkyard drainage area and one sample shall be taken from the stream at a point below the junk yard drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Municipality, and results shall be provided to the Municipality. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the junkyard shall cease

operation until such time as the source of the contamination has been identified and corrected in accord with DEP requirements.

- J. 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.
- K. Hours of Operation - Any activity associated with the operation of the junk yard that produces any noise audible beyond the property line shall be conducted only between the hours of 7:00 a.m. and 8:00 p.m. During business hours, an adult attendant shall, at all times, remain on the premises.
- L. Stacking of Junk - Junk vehicles or major parts thereof shall not be stacked on top of any other junk vehicle or major part. No junk shall be stacked or piled to a height of greater than six (6) feet.
- M. Nuisances - All premises shall, at all times, be maintained so as not to constitute a nuisance, or a menace to the health, safety, and welfare of the community or to the residents nearby, or a place for the breeding of rodents and vermin. Within two (2) days of arrival on the premises, all glass shall be removed from any broken windshield, window or mirror, and all trunk lids, appliance doors and similar closure devices shall be removed. Grass and weeds on the premises shall be kept mowed.
- N. Waste - Waste shall not be stored outside and shall not be accumulated or remain on any premises except temporarily awaiting disposal in accord with this Ordinance. No junk yard shall be operated or maintained in violation of any state or federal regulations governing the disposal of any solid or liquid waste.
- O. Fireproof Structures - Every structure erected upon the premises and used in connection therewith shall be of fireproof construction.

## **821 Reserved**

### **822 Large Retail Establishments**

The standards in this section shall apply to new *large retail establishments* or any combination of retail establishments in a single building (or multiple buildings developed as a shopping center or plaza) occupying more than one hundred thousand (100,000) gross square feet of lot area or any addition to an existing large retail establishment.

- A. Any facades greater than one hundred (100) feet in length which abuts a public street shall incorporate two-foot recesses and two-foot projections along at least twenty (20) percent of the length of the facade. Windows, awnings, and arcades shall total at least sixty (60) percent of the length of the public entrance facade. (For the purposes of this section arcade shall mean *a continuous passageway parallel to and open to a street, open space, or building, usually covered by a canopy or permanent roofing, and accessible and open to the public.*)
- B. Smaller retail stores that are part of a larger principal building shall have display windows and separate outside entrances.
- C. Parapets shall be provided to conceal flat roofs and rooftop equipment. Public entrance facades shall incorporate at least two (2) of the following features: overhanging eaves, sloped roofs, or three (3) or more roof slope planes.
- D. Each principal building shall have a clearly defined, highly visible customer entrance with features such as canopies or porticos, arcades, arches, wing walls, and integral planters.

- E. Predominate exterior building materials shall be of brick, wood, sandstone, other native stone, and tinted/textured concrete masonry. Smooth-faced concrete block, tilt-up concrete panels, or prefabricated steel panels shall be prohibited as the predominant exterior building material.
- F. Loading docks, trash collection, outdoor storage and similar facilities and functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are minimized and out of view from adjacent properties and public streets
- G. Sidewalks shall be provided along the full length of the building along any facade featuring a customer entrance and along any facade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the facade of the building to provide planting beds for foundation landscaping.
- H. Security cameras shall be provided and shall be monitored for all exterior areas associated with any large retail establishment.
- I. The parking of trailers or use of containers for storage shall only be permitted at a location which is approved as part of the zoning application, and additional setbacks, screening and/or buffers may be required.

### **823 to 824 Reserved**

#### **825 Mineral Extraction**

In addition to other applicable standards of this Ordinance, this §825 shall apply to mineral extraction and oil and gas well operations.

##### **825.1 Findings**

The Pennsylvania Municipalities Planning Code clearly recognizes mineral extraction as a lawful use. Along with other community effects, such uses can have impacts on water supply sources and are governed by state statutes that specify replacement and restoration of affected water supplies. Planning Code Section 603(l) states that *zoning ordinances shall provide for the reasonable development of minerals in each municipality*. The Code definition of minerals is: *Any aggregate or mass of mineral matter, whether or no coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas*. The Code, at Section 603(b) allows zoning ordinances to regulate mineral extraction, but only to the extent that such uses are not regulated by the state Surface Mining Conservation and Reclamation Act, the Noncoal Surface Mining Conservation and Reclamation Act, and the Oil and Gas Act.

##### **825.2 Intent and Exemption**

- A. Intent - The intent of this section is to ensure the Municipality 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.
- B. Oil and Gas Wells; Horizontal Capture of Natural Gas - Oil and gas wells shall comply with this §825 and the other applicable requirements of this Ordinance. However, the horizontal capture of natural gas or oil under the surface of a property where no surface disturbance is involved on the horizontal capture property is exempt from regulation by this Zoning Ordinance.

##### **825.3 Use Classification; Mineral Extraction, Minor; Mineral Processing a Separate Use**

- A. Use Classification - Mineral extraction, mineral extraction, minor, and oil and gas wells shall be permitted only in those Districts as listed in the Schedule of Uses.
- B. Mineral Extraction, Minor - The intent of this section is to permit mineral extraction operations limited in area, duration and mechanical operations.
1. Extent of Operation - Mineral extraction operations with an open face of ten thousand (10,000) square feet or less which will not result in a total disturbed area of more than two (2) acres on any one parcel over the life of the operation, and which do not involve on-site screening, washing, crushing and grading, and/or any mineral processing or the use of manufacturing equipment, shall be hereinafter referred to as *mineral extraction, minor*.
  2. Duration - The duration of the minor mineral extraction process shall not exceed one-hundred eighty (180) days and reclamation of the entire site shall be completed within one (1) year of the issuance of the zoning use permit.
  3. Subdivision - The subdivision of a parcel to qualify for additional mineral extraction, minor uses shall not be permitted.
  4. Plan Exemption - Mineral extraction, minor shall be exempt from the reporting requirements of §825.7; however, said operations shall comply with the other standards of this §825.
  5. Oil and Gas Wells - No oil or gas well shall be considered mineral extraction, minor.
- C. Mineral Processing (See also §826.)
1. 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.
  2. 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.

#### 825.4 Standards

In addition to the performance standards in §701 and all other applicable standards of this Ordinance which are not preempted by state statute, mineral extraction, mineral extraction, minor, and oil and gas wells shall comply with the following:

A. Oil and Gas Wells

1. Multiple wells may be permitted on one (1) oil and gas well pad.
2. When multiple wells are located on the same well pad, a separate permit for each well is not required. However, written notification must be provided to the Zoning Officer at least fourteen (14) days, but no more than ninety (90) days, prior to drilling of each well not already identified in a zoning permit.
3. Installation, operation and maintenance of oil and gas pipelines, including water lines and reused water pipelines related to oil and gas development (even when initially installed from the surface), subsurface

horizontal drilling boreholes and associated subsurface production pipe, casing, cement, are permitted uses by right in all zoning districts.. Application for and issuance of a zoning permit for pipeline installation in any zoning district is not required. However, a highway occupancy permit may be required.

B. Setbacks; Structure Height

1. Setbacks

(a) A setback of one hundred (100) feet shall be maintained between any disturbed area associated with any mineral extraction, mineral extraction, minor or oil or gas well pad and adjoining properties and public road rights-of-way.

(b) Side and rear setback requirements shall not apply to oil or gas well pads where common law, contractual rights or statutory provisions authorize the surface use to cross property lines.

2. Structure Height - The height of a drilling rig and other temporary facilities on site such as drying tanks, etc. shall be exempt from the height limits in this Ordinance. Permanent structures, whether principal or accessory, shall comply with the height limitations applicable to the underlying zoning district.

C. 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.

D. Conditional Use/Special Exception Buffers - In determining the type and extent of the buffer required for conditional uses/special exceptions, the Governing Body/Zoning Hearing Board 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.

1. If required, the landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide.

2. Buffers shall be designed in accord with §701.1 of this Ordinance 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.

3. 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.

E. 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.

F. Conditions of Approval - If the Governing Body/Zoning Hearing Board determines that the standards in §701 are not adequate, it shall attach such other conditions deemed necessary to protect the public health, safety and welfare. Such conditions may be related to increased setbacks, security fencing, hours of operation, more stringent noise control, outdoor operations and storage, lighting and glare, stormwater management, security, and other necessary safeguards.

825.5 Local, State and Federal Regulations

Mineral extraction, mineral extraction, minor and oil and gas well operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant

provides evidence of compliance with state and federal regulations. Applicable laws and rules and regulations include, but are not limited to the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law.

#### 825.6 Informational Requirements

The applicant shall provide:

- A. 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 Municipality to assess the environmental, community and other public health, safety and welfare effects of the proposed operation.
- B. DEP/SRBC Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection (DEP) Rules and Regulations and the Susquehanna River Basin Commission (SRBC).
- C. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Municipality proposed to be used to access the operation and provide an evaluation of the condition of any municipal road which will be used and the potential damage which may occur from such use and how damage to public roads adjacent to the site will be addressed. The Applicant shall also comply with the municipal road bonding requirements.
- D. Conditions - The findings of the Municipality based on this information shall serve as a basis for the establishment of conditions of approval in accord with §1208.4 of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code.
- E. 911 Address - A site address assigned by the County 911 addressing program at the time of application for emergency and safety services and information needed to gain access in the event of an emergency.

#### 825.7 Reporting Requirements

For any mineral extraction operation approved by the Municipality, the operator shall submit to the Municipality copies of all documents and reports associated with the operation which are required or issued by PA DEP or SRBC within fifteen (15) days of the submission/receipt of the document or report.

#### 825.8 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 Schedule of Uses may expand to the limits of the DEP permit in effect at the time the operation became nonconforming. Any such expansion shall comply with the requirements of this §825.

#### 825.9 Review Fees

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

#### 826 Mineral Processing

Mineral processing is considered a conditional use. In addition to the performance standards in §701 and all other

applicable standards of this Ordinance, the requirements of this §826 shall apply.

#### 826.1 Location Requirements

Mineral processing operations shall comply with the following location requirements:

A. Setbacks - The following setbacks shall be maintained for any mineral processing operation:

1. Property Lines, Road rights-of-Way - Two hundred (200) feet to adjoining properties and public road rights-of-way.
2. Residential Structures - Three hundred (300) feet to any existing residential structure not located on the project parcel.
3. Water Bodies - Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland. This shall not apply to any required discharge or intake structures or facilities at the receiving stream or water supply.

B. Buffer

1. An undisturbed area of not less than 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 Municipality 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. Conditions of Approval - If the Governing Body/Zoning Hearing Board determines that the standards in §701 are not adequate, it shall attach such other conditions deemed necessary to protect the public health, safety and welfare. Such conditions may be related to increased setbacks, security fencing, hours of operation, more stringent noise control, outdoor operations and storage, lighting and glare, stormwater management, security, and other necessary safeguards.

#### 826.2 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.

#### 826.3 Informational Requirements

The applicant shall provide the information required by this §826.3 and all other necessary information to enable the Municipality to assess the environmental, community and other public health, safety and welfare effects of the

proposed operation. The findings of the Municipality based on this information shall serve as a basis for the establishment of conditions of approval in accord with §1208.4 of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code. The Applicant shall provide the following:

- A. Application Information - The information required by this §826, §1202, and all other necessary information to enable the Municipality to assess compliance with this Ordinance.
- B. DEP Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection Rules (DEP) Rules and Regulations.
- C. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Municipality proposed to be used to access the operation and provide an evaluation of the condition of any municipal road which will be used and the potential damage which may occur from such use and how damage to public roads adjacent to the site will be addressed. The Applicant shall also comply with the municipal road bonding requirements.
- D. Conditions - The findings of the Municipality based on this information shall serve as a basis for the establishment of conditions of approval in accord with §1208.4 of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code.

#### 826.4 Reporting Requirements

For any mineral processing operation approved by the Municipality, the operator shall submit to the Municipality 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.

#### 826.5 Review Fees

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

### 827 Gas Compressor Stations and Metering Stations

Gas compressor stations and metering stations (referred to as *facilities*) shall be allowed only in those districts as specified in the Schedule of Uses. In addition to the performance standards in §701 and all other applicable standards of this Ordinance, the requirements of this §827 shall apply.

#### 827.1 Location Requirements

The facilities shall comply with the following location requirements:

- A. Building; Noise - All compressors and mechanical equipment shall be located within a fully enclosed building with soundproofing and blow down silencers and mufflers adequate to comply with the noise levels established by §701.6. The standards in §701.6. or as otherwise established as a condition of approval. In any case, the operation of the equipment shall not create any noise that causes the exterior noise level to exceed the pre-development ambient noise levels as measured within three hundred (300) feet of the station building(s). The applicant and or operator shall be responsible for establishing and reporting to the Municipality the pre-development ambient noise level prior to the issuance of the zoning permit for the station.
- B. Setbacks - The following setbacks shall be maintained:



1. Property Lines, Road rights-of-Way - Two hundred (200) feet to adjoining properties and public road rights-of-way.
2. Residential Structures - Three hundred (300) feet to any existing residential structure not located on the project parcel.
3. Water Bodies - Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland.

C. 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 Municipality 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.

- D. Conditions of Approval - If the Governing Body/Zoning Hearing Board determines that the standards in §701 are not adequate, it shall attach such other conditions deemed necessary to protect the public health, safety and welfare. Such conditions may be related to increased setbacks, security fencing, hours of operation, more stringent noise control, outdoor operations and storage, lighting and glare, stormwater management, security, and other necessary safeguards..

827.2 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.

827.3 Informational Requirements

The applicant shall provide the information required by this §827.3 and all other necessary information to enable the Municipality to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Municipality based on this information shall serve as a basis for the establishment of conditions of approval in accord with §1208.4 of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code. The Applicant shall provide the following:

- A. Application Information - The information required by this §827, all required application information, and all other necessary information to enable the Municipality to assess compliance with this Ordinance.
- B. DEP Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection Rules (DEP) Rules and Regulations.

- C. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Municipality proposed to be used to access the facility and provide an evaluation of the condition of any municipal road which will be used and the potential damage which may occur from such use and how damage to public roads adjacent to the site will be addressed. The Applicant shall also comply with the municipal road bonding requirements.
- D. Conditions - The findings of the Municipality based on this information shall serve as a basis for the establishment of conditions of approval in accord with §1208.4 of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code.

#### 827.4 Reporting Requirements

For any facility approved by the Municipality, the operator shall submit to the Municipality 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.

#### 827.5 Review Fees

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

### **828 - 840 Reserved**

#### **841 Self-Storage Facilities**

Self-storage facilities shall be permitted only in those districts as specified in the Schedule of Uses and shall comply with the following standards in addition to all other applicable standards of this Ordinance.

##### 841.1 Bulk Requirements

Minimum lot size, lot width and yards, and maximum lot coverage and building height shall conform to district standards. Minimum distance between buildings shall be twenty (20) feet.

##### 841.2 Setback Areas

There shall be no storage, use or structure within the setback area, with the exception of the access drive(s).

##### 841.3 Reserved

##### 841.4 Habitation

No storage unit shall be used for habitation or residential purposes and individual mini-warehouse units shall not be served by a water supply or a sewage disposal system.

##### 841.5 Storage Limitations

No storage unit shall be used for any other purpose except storage and shall not be used for any other type of commercial or manufacturing activity. No material, supplies, equipment or goods of any kind shall be stored outside of the warehouse structure, with the exception of the vehicles required for the operation of the warehouse and boats and recreational vehicles and trailers.

##### 841.6 Lighting

All facilities shall be provided with adequate outdoor lighting for security purposes; and such lighting shall be so directed as to prevent glare on adjoining properties.

**841.7 Fire - Water Damage**

All storage units shall be fire-resistant and water-resistant.

**841.8 Materials Stored**

All self-storage facilities shall prohibit the storage of hazardous and explosive materials and all proposals shall include detailed information on the nature of materials to be prohibited on the premises. Proposed space rental agreements shall be submitted with the application and shall provide specific rules and regulations to insure that the requirements of this §841 are or will be satisfied.

**842 to 843 Reserved****844 Shooting Ranges and Archery Ranges -- Outdoor Commercial**

This §844 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. Such ranges shall be permitted only in those districts as specified in the Schedule of Uses.

**844.1 Setbacks**

- A. All outdoor shooting ranges shall be situated not less than five hundred (500) feet from any property line and not less than seven hundred and fifty (750) feet from any principal residential or commercial structure existing on the effective date of this §844. This shall not apply to structures on the same parcel as the shooting range.
- B. All outdoor archery ranges shall be situated not less than two hundred (200) feet from any property line and not less than three hundred (300) feet from any principal residential or commercial structure existing on the effective date of this §844. This shall not apply to structures on the same parcel as the shooting range.

**844.2 Safety Design**

All ranges shall be designed and constructed with safety facilities to prevent accidental wild or ricocheting projectiles and stray arrows, and the Municipality may require such additional safety features deemed necessary to meet the intent of this §844. Such features may include but not be limited to increased setbacks, earthen berms and setbacks, range orientation, and a limitation of hours of operation.

**844.3 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 §701 of this Ordinance unless more restrictive standards are required by the Municipality as a condition of approval.

**844.4 Hours of Operation**

No firearm shall be discharged outdoors between the hours of 9:00 P.M. and 9:00 AM prevailing local time. However, the Municipality may establish more restrictive time limits as a condition of approval.

**844.5 Fence**

Security fencing may be required by the Municipality of such extent and design to restrict accidental access to any range.

**844.6 Posting**

A three hundred (300) foot perimeter around any outdoor range shall be posted with warning signs to adequately inform anyone entering the area.

**844.7 NRA, State and Federal Regulations**

The applicant shall provide evidence of compliance with any applicable National Rifle Association guidelines and state and federal regulations.

**845 Shopping Centers, Malls, and Multiple Occupant Commercial Establishments**

It is the intent of this §845 to provide standards for the flexibility of design of shopping centers and malls, and multiple occupant commercial establishments, (referred to as *multiple occupant commercial establishments*) while at the same time to assure the compatibility of the commercial development with the surrounding character of the community. This shall be accomplished by:

- A. Siting buildings, parking areas and other facilities and improvements based upon the particular topography of development site;
- B. Designing buildings with consideration of architectural style and type of construction material in keeping with the surrounding landscape and development pattern;
- C. Providing safe and convenient vehicle and pedestrian access from the public right-of-way based on the existing area-wide traffic circulation pattern and the expected traffic generated by the proposed use;
- D. Designing parking areas to complement patterns of traffic and pedestrian flow and to provide adequate off-street parking for shopping center patrons;
- E. Maintaining to the greatest extent possible natural vegetation and provide landscaping as an integral part of the overall design of the proposed use and parking areas;
- F. Considering the impact of storm water, noise, traffic and lighting on surrounding land uses and providing buffers to minimize adverse impacts;

**845.1 Conditional Use/Special Exception and Land Development**

Any proposed multiple occupant commercial establishment shall be considered a conditional use in the Township and a special exception in the Borough, and in addition to the other applicable requirements of this Ordinance, shall be subject to the requirements of this §845.

Said proposal shall also be considered a "land development" as defined by the Pennsylvania Municipalities Planning Code and the Subdivision and Land Development Ordinance and shall comply in all respects with all the requirements for plan submission and content for land developments contained therein, as well as the information which follows. The Municipality may also require any additional information, studies or reports as it deems necessary to meet the intent of this and other Ordinances.

- A. Location, widths, and names of all existing or prior platted streets and utility rights-of-way, parks, and other public open spaces, permanent buildings and structures, houses or permanent easements, and municipal boundary lines, within five hundred (500) feet of the tract;
- B. A traffic and pedestrian flow chart showing circulation patterns from the public right-of-way and within the confines of the shopping center.
- C. Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes;
- D. Location, arrangement, and dimensions of automobile parking space, width of aisles, width of bays, angle of parking;

- E. Location, arrangement, and dimensions of truck loading and unloading spaces and docks;
- F. Location and dimensions of pedestrian entrances, exits, walks;
- G. Location, height, and materials of walls, fences, screen plantings, and other landscaped areas.
- H. Preliminary architectural drawings for all buildings;
- I. Location, size, height, and orientation of all signs other than signs flat on building facades;

#### 845.2 Ownership

The site proposed for any multiple occupant commercial establishment shall be held in single ownership or in unified control; and the applicant shall provide evidence of said ownership and/or control.

### 846 **Reserved**

#### 847 **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 Schedule of Uses.

##### 847.1 Purposes

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

##### 847.2 Permits; Use Regulations

- A. Permits - A permit shall be required for every solar power facility installed in the Municipality.
- B. Associated Use - All other uses ancillary to the solar power facility (including a business office, maintenance depot, etc., greater than 1,000 sq. ft.) are prohibited from the solar power facility, unless otherwise permitted in the zoning district in which the solar power facility is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the solar power facility.
- C. 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:
  - 1. 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.
  - 2. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  - 3. 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.

##### 847.3 Standards and Design

- A. Height - Solar collectors shall not exceed the principal structure height limitations for the underlying zoning district.
- B. 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 solar collectors, all structures, equipment containers and any associated mechanical facilities shall comply with setback requirements for principal structures of the underlying zoning district.
- C. Fencing - A fence may be required around the facility or portions of the facility for safety reasons.
- D. 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 Municipality 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.
- E. Licenses; Other Regulations; Insurance - The applicant must 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.
- F. 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.
- G. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished, and this may be accomplished by remedial measures instituted by the solar power facility developer.
- H. 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 will be controlled.
- I. Historic Structures - A solar power facility shall not be located within five-hundred (500) feet of any structure listed on any public historic register.
- J. 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.
- K. Uniform Construction Code - To the extent applicable, the solar power facility shall comply with the Pennsylvania Uniform Construction Code.

- L. 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.
- M. Warnings - A clearly visible warning sign concerning voltage must 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 (ten) feet from the ground.
- N. Signs - No advertising material or signs other than warning, manufacturer and equipment information or indication of ownership shall be allowed on any equipment of structures.
- O. Transmission and Power Lines - On-site transmission and power lines shall, to the greatest extent possible, be placed underground.
- P. Stray Voltage/Electromagnetic Fields (EMF) - The operator shall use good industry practices to minimize the impact, if any, of stray voltage and/or EMF.
- Q. 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.
- R. 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.

#### 847.4 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.

#### 847.5 Decommissioning

- A. The solar power facility owner and operator shall, at its own expense, complete decommissioning of the solar power facility, or individual components, within (12) twelve 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.
- B. 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.
- C. 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.
- D. 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 Municipality after the first year of operation and every fifth year thereafter.
- E. The solar power facility owner or operator, prior to the issuance of a zoning permit, shall provide a financial security bond with the Municipality as payee in an amount approved by the Governing Body, but not less than \$50,000, from a company and in a form and content acceptable to the Governing Body, 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.

- F. 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 Municipality.
- G. If the solar power facility owner or operator fails to complete decommissioning within the prescribed time period, then the landowner shall have eighty (180) days to complete decommissioning.
- H. If neither the solar power facility owner or operator, nor the landowner complete decommissioning within the prescribed periods, then the Municipality 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 Municipality shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Municipality may take such action as necessary to implement the decommissioning plan.
- I. The escrow agent shall release the decommissioning funds when the solar power facility owner or operator has demonstrated and the Municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the Municipality in order to implement the decommissioning plan.

#### **847.6 Review Fees**

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

#### **848 Solid Waste**

Solid waste facilities, including transfer stations, and staging areas, herein referred to as facilities, shall be permitted only in those districts as specified in the Schedule of Uses, and 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 §848.

##### **848.1 Traffic Study**

The applicant shall provide a traffic study in accord with §708 of this Ordinance.

##### **848.2 Yards**

No part of any facility created after the effective date of this Ordinance shall be located closer than three hundred (300) feet to an existing public right-of-way, property line or stream. The yard areas shall remain unoccupied with no improvements except required fencing and access road(s). A buffer not less than fifty (50) feet in width shall be provided in all yards in accord with §701 of this Ordinance. Additional buffers and setbacks may be required in accord with this Ordinance.

##### **848.3 Fencing**

All facilities shall be completely enclosed by a chain link fence not less than ten (10) feet in height. The erection of said fence shall be completed within six (6) months after the effective date of this Ordinance for existing facilities and prior to the issuance of a certificate -of-use for a new facility. All gates shall be closed and locked when closed for business. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence.



**848.4 Environmental Impact Statement**

As part of the application process, the Municipality may require the applicant to prepare and submit an Environmental Impact Statement pursuant to §703 of this Ordinance.

**848.5 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.

**848.6 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.

**848.7 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.

**848.8 Water Quality**

The owner of any facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three months on any stream located on the premises or any stream within five hundred (500) feet of any area used for the storage or disposal of solid waste if water drainage from the facility is to said stream. For each testing period two (2) samples shall be collected; one sample shall be taken from the stream at a point upstream of the solid waste disposal facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Municipality, and results shall be provided to the Municipality. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall cease operation until such time as the source of the contamination has been identified and corrected.

**848.9 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.

**848.10 Hours of Operation**

Under the authority granted to the Municipality under State Act 101 of 1988, all such uses shall be permitted to operate only between the hours of 7:00 a.m. to 7:00 p.m. and are not permitted to operate on Sundays, Christmas Eve Day, Christmas Eve, New Year's Day, 4th of July, Labor Day, Memorial Day or Thanksgiving Day. All deliveries of solid waste shall be made during the hours between 7:00 a.m. to 5:00 p.m. and not on Sundays or the above specified holidays.

**848.11 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 Municipality 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 Municipality 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.

**848.12 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 Municipal Officials and provide the Municipality with the name and phone number of a responsible person(s) to be contacted at any time in the event of an inspection.

**848.13 State and Federal Regulations and Reporting**

The operation and day-to-day maintenance of the facility shall comply with all applicable State and Federal regulations as a condition of the continuance of any zoning permit. Violations of this condition shall also be considered to be violations of this Ordinance. All solid waste transfer facilities (as defined by this Ordinance) shall be subject to all requirements of 25 PA Code Chapter 279 (as amended) Transfer Facilities, regardless of whether a permit pursuant to said requirement is required. Where a difference exists between applicable State regulations and Municipal regulations, it is intended for the purposes of this §848 that the more stringent requirements shall apply. A copy of all written materials and plans that are submitted to DEP by the applicant shall be concurrently submitted to the Zoning Officer.

**849 Reserved****850 Storage Yards for Forest Products and Minerals**

The intent of this section is to provide standards for access to public roads and setbacks for storage yards for forest products and minerals. (See definition of *storage yards for forest products and minerals* in Article III.)

**850.1 Access to Public Roads**

- A. Highway Occupancy Permit - Access roads to local municipal and State roads shall be in accord with a valid highway occupancy permit.
- B. 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.
- C. Weight Limitations - All operations shall comply with all posted weight limits and road bonding regulations.
- D. Use of Public Roads - Felling or skidding on or across any public road shall be prohibited without the express written authorization of the Municipality or the Pennsylvania Department of Transportation, as applicable.

**850.2 Setbacks**

- A. Residential and Nonresidential Buildings - Storage yards shall not be less than three hundred (300) feet from any existing residential, commercial, institutional, public or semi-public building, other than such building located on the property on which the landing is located.
- B. Property Lines - Storage yards shall not be less than fifty (50) feet from any property line other than a property

line along a public road right-of-way.

- C. Public Roads - Storage yards shall not be less than fifty (50) feet from any public road right-of-way.
- D. Streams, Water Bodies and Wetlands - Storage yards shall not be less than one hundred (100) feet from any stream, water body or wetland.
- E. Slope - Storage yards shall be located on gently sloping ground that will provide good drainage. Low spots and poorly drained places shall be avoided.

#### **851 Swimming Pool, Commercial**

Commercial swimming pools shall be permitted only in those districts as specified in the Schedule of Uses and, in addition to all other applicable requirements of this Ordinance, shall comply with the standards in this §851.

##### **851.1 Setback**

The water surface shall be not less than fifty (50) feet from any lot line.

##### **851.2 Parcel Size**

The minimum lot area shall be two (2) acres.

##### **851.3 Enclosure**

A fence, wall or other enclosure not less than six (6) feet high and of a design to restrict access shall completely surround the area of the swimming pool. This enclosure shall be designed to be difficult for children to climb or slip through. All gates or door openings through such enclosure shall be self-closing and include a self-latching device on the pool side for keeping the gate or door securely closed when the pool is not in use.

##### **851.4 Access**

Access to all pools shall be restricted when the pool is not in use.

##### **851.5 Hours of Operation**

The hours of operation of outdoor commercial pools shall be limited to the hours between 9:00 a.m. and 9:00 p.m.

#### **852 - 855 Reserved**

#### **856 Vehicle Related Uses**

Vehicle related uses shall be permitted only in those districts as specified in the Schedule of Uses, and in addition to all other applicable standards, shall comply with the standards in this §856.

##### **856.1 Car and Truck Wash Facilities**

All car and truck wash facilities shall be subject to the following specific regulations and requirements:

- A. The principal building housing the said facility shall be set back a minimum of sixty (60) feet from the road or street right-of-way line and thirty (30) feet from the side or rear property lines.
- B. Appropriate facilities for the handling of waste water from the washing activities shall be provided including, the prevention of water being dripped onto the adjoining road or street from freshly washed vehicles during periods of freezing weather.
- C. The facility shall have adequate means of ingress and egress to prevent adverse effects to either vehicular or pedestrian traffic. When a wash facility occupies a corner lot, the access driveways shall be located at least

seventy-five (75) feet from the intersections of the front and side street right-of-way lines.

- D. The site shall be sufficiently large to accommodate vehicles awaiting washing during peak periods, but in no case shall the waiting area for each stall accommodate less than three (3) automobiles.
- E. Any wash facility located within two hundred (200) feet of any residential district shall not operate between the hours of 9:00 p.m. and 7:00 a.m.

#### 856.2 Gasoline Service Stations and Vehicle or Equipment Repair Operations

All gasoline service stations and vehicle or equipment repair operations shall be subject to the following specific regulations and requirements:

- A. All service and repair activities shall be conducted within completely enclosed buildings 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.
- B. Only vehicles with current licenses and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored outdoors. If a legitimate, bonafide, service station stores more than four (4) vehicles per interior service stall, it shall comply with the junk regulation set forth in this Ordinance.
- C. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- D. 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 and under cover to prevent breeding of mosquitoes. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a month of normal operation.
- E. Gasoline pumps and other service appliance may be located in the required front yard but shall not be situated closer than thirty (30) feet from the road or street right-of-way line. Any above ground storage tanks shall not be placed in the front setback area.
- F. No vehicles shall be stored in any required setback areas.
- G. All major repair, welding, auto body, painting and similar work shall be performed within a building with a fume collection and ventilation system that directs noxious fumes away from any adjacent buildings. All such systems shall meet all required state and federal health and safety standards.

#### 856.3 Vehicle or Equipment Sales Operations

All vehicle or equipment display and sales operations of new and used automobiles, trucks, motorcycles, mobile homes, recreation vehicles, boats, and travel trailers and other vehicles and equipment shall be subject to the following specific requirements:

- A. All principal and accessory buildings and structures shall be in accord with the yard setback, building height and lot coverage requirements of the district.
- B. The outdoor display of new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers shall meet the appropriate front, side and rear setback requirements as for the district.

- C. Activities which are normally accessory to such sales operations, such as engine tuneup and repairs, body repairs, painting, undercoating and other similar activities shall be conducted in accord with the applicable standards in §856.2 above.
- D. Only vehicles with current license and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored in any exterior area. If a legitimate, bonafide, service station stores more than four (4) vehicles per service stall in exterior areas, it shall comply with the junkyard regulations set forth in this Ordinance. Proof of current license and current registration or ownership of any vehicle will be required upon demand by the Zoning Officer.
- E. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- F. 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 and under cover to prevent breeding of mosquitoes. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a month of normal operation.
- G. No vehicles shall be stored in any required setback areas.

#### 856.4 Race Tracks

- A. The track/course shall not be less than thirty (30) feet from any property line or public road right-of-way.
- B. No race shall be conducted between the hours of 9:00 P.M. and 9:00 AM prevailing local time. However, the Governing Body may establish more restrictive time limits as a condition of approval.
- C. Adequate measures shall be taken to minimize motor noise, fumes, glare and other nuisances.
- D. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- E. 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.
- F. No vehicles, supplies, parts, or any other material shall be stored in any setback areas normally required for the District.
- G. All major repair, welding, auto body, painting and similar work shall be performed within a building with a fume collection and ventilation system meeting all required state and federal health and safety standards.

#### **857     Reserved**

#### **858     Wind Energy Facilities**

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

##### 858.1 Purposes

- A. To accommodate the need for wind energy facilities while regulating their location and number in the

Municipality in recognition of the need to protect the public health, safety, and welfare.

- B. To avoid potential damage to adjacent properties from wind turbine structure failure and falling ice, through engineering and proper siting of such structures.

#### 858.2 Number

The number of wind turbines on a particular parcel shall be governed by compliance with all setback, separation and height requirements.

#### 858.3 Permits; Use Regulations

- A. Permits - A permit shall be required for every wind energy facility and wind turbine installed in the Municipality.
- B. Associated Use - All other uses ancillary to the wind energy facility (including a business office, maintenance depot,, etc., greater than 1,000 sq. ft.) are prohibited from the wind energy facility, unless otherwise permitted in the 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.
- C. 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:
  - 1. 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.
  - 2. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  - 3. 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.

#### 858.4 Standards

- A. 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.
- B. Parcel Size; Setbacks
  - 1. 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. No wind turbine shall be located closer to any property line than 1.1 times the turbine height as measured from the center point of the turbine base. The setback for equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet.
  - 2. Lease, License or Easement - If the land on which the 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 1.1 times the turbine height as measured from the center point of the turbine base.

3. Principal Structures on Wind Energy Facility Parcel - No wind turbine shall be located less than 1.1 times the turbine height from any principal structure on the wind energy facility parcel or lease, license or easement parcel as measured from the center point of the turbine base.
4. Principal Structures on Other Parcels - No wind turbine shall be located less than five (5) times the hub height 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.
5. Public Roads - No wind turbine shall be located less than 1.1 times the turbine height from any public road right-of-way as measured from the center point of the turbine base.

C. Wind Energy Facility Design

1. 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.
2. Uniform Construction Code - To the extent applicable, the wind energy facility shall comply with the Pennsylvania Uniform Construction Code, 34 Pa. Code §§403.1 - 403.142.
3. 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.
4. 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.
5. Warnings - A clearly visible warning sign concerning voltage must 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 (ten) feet from the ground.
6. Climb Prevention/Locks/Fence
  - a. Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
  - b. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
  - c. A fence shall be required around each wind turbine support structure and other equipment. The fence shall be a minimum of eight (8) feet in height.
  - d. Other Regulations - The applicant shall document compliance with all applicable state and federal regulations.

D. Noise and Shadow Flicker

1. Audible sound from a wind energy facility shall not exceed fifty-five (55) 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*.
2. The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on any other parcel.

E. Landscaping - Landscaping may 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 Municipality 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.

F. Licenses - The applicant shall demonstrate that it has obtained the required licenses from governing state and federal agencies.

G. Insurance - The applicant shall submit a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence covering the proposed wind energy facility, related structures and site, and an additional umbrella policy in the amount of \$10,000,000 covering the same items, both having the Municipality named as an additional insured party. This shall be maintained for the duration that the wind energy facility is erected in the Municipality, and both policies shall have clauses that give thirty (30) days notice to the Municipality before coverage under the policies cease.

H. 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.

I. 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. 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.

J. Transmission and Power Lines - On-site transmission and power lines between wind turbines shall, to the greatest extent possible, be placed underground.

K. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished; and, this may be accomplished by remedial measures instituted by the wind energy facility developer.

L. 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.



- M. 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.
- N. 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.

#### 858.5 Certification

The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed wind energy facility and support structure will be designed and constructed in accord with accepted engineering practices and all requirements of this Ordinance. Within forty-five (45) days of initial operation, the owner and/or operator of the wind energy facility shall provide a certification from a Pennsylvania registered professional engineer that the wind energy facility and all structures comply with all applicable regulations.

#### 858.6 Use of Public Roads

- A. The applicant shall identify all state and local public roads to be used within the Municipality to transport equipment and parts for construction, operation or maintenance of the wind energy facility.
- B. The Municipal Engineer or a qualified third party engineer hired by the Municipality and paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits,
- C. The Municipality may bond the road in compliance with state regulations.
- D. Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.
- E. The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

#### 858.7 Maintenance; Identification; Notice of Problems

Maintenance of the wind energy facility shall be monitored by the Zoning Officer. There shall be affixed to the security fence in an accessible, visible place the name and mailing address of the owner(s) and a 24-hour emergency telephone number. This information shall be kept current by the owner(s). The Zoning Officer shall inform the owner(s) of any safety problems, maintenance problems or any matter relative to the wind energy facility in accordance with the enforcement requirements of this Zoning Ordinance, sent to the posted address. If the problem outlined in the letter from the Zoning Officer is not resolved within thirty (30) days of receipt of notice, or within such other period as allowed in writing by the Zoning Officer, this shall constitute a violation of the Zoning Ordinance. An unresolved violation shall constitute grounds for revoking the conditional use permit.

#### 858.8 Public Inquiries and Complaints

The facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project, and the facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.

858.9 Decommissioning

- A. The facility owner and operator shall, at its own expense, complete decommissioning of the wind energy facility, or individual wind turbines, within (12) twelve months after the end of the useful life of the facility or individual wind turbines. The wind energy facility or individual wind turbines 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.
- B.. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.
- C. 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.
- D. 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 Municipality after the first year of operation and every fifth year thereafter.
- E. The facility owner or operator shall post and maintain decommissioning funds in an amount equal to net decommissioning costs; provided, that at no point shall Decommissioning Funds be less than twenty-five (25) percent of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth and is approved by the Municipality.
- F. 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 Municipality.
- G. If the facility owner or operator fails to complete decommissioning within the prescribed time period, then the landowner shall have six (6) months to complete decommissioning.
- H. If neither the facility owner or operator, nor the landowner complete decommissioning within the prescribed periods, then the Municipality may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating landowner agreement to the Municipality shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Municipality may take such action as necessary to implement the decommissioning plan.
- I. The escrow agent shall release the decommissioning funds when the facility owner or operator has demonstrated and the Municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the Municipality in order to implement the decommissioning plan.

858.10 Fees

- A. Application Fees - Wind energy facility and wind turbine application fees shall be established by resolution of the Governing Body.
- B. Review Fees - The applicant shall pay all professional costs incurred by the Municipality for review of structural, radio frequency and other technical aspects of the proposal and shall deposit with the Municipality an amount deemed adequate by the Governing Body to cover the anticipated costs. If the review costs exceed the deposit,

an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the applicant. No approval shall become effective until all costs have been paid by the applicant.

#### 858.11 Definitions

In addition to the definitions in Article III the following definitions shall apply to this §858:

Hub Height: The distance measured from the surface of the tower foundation to the height of the wind turbine hub to which the blade is attached.

Turbine Height: The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

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*.

## ARTICLE IX NONCONFORMITIES

### **901 Purpose, Applicability, Registration, and Continuation and Change**

#### **901.1 Purpose**

It is the purpose of this Article to recognize that if, prior to the adoption of the original Municipal 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 Municipality from regulating the change, alteration, reconstruction, reestablishment, extension, destruction and abandonment of nonconforming uses in accord with the Pennsylvania Municipalities Planning Code and general case law.

It is also the purpose of this Article to limit the injurious impact of nonconforming uses and/or structures on other adjacent properties within a particular district and the community as a whole, while recognizing that the change, alteration, reconstruction, reestablishment, or extension of non-conforming uses and/or structures may not be contrary to the public interest or the general purpose of this Zoning Ordinance, when failure to allow such change, alteration, reconstruction, reestablishment, or extension would itself lead to neighborhood or district deterioration.

It is further the purpose of this Article to prescribe those standards which are to be applied by the Municipality in determining the reasonableness of a proposal to change, alter, reconstruct, reestablish, or extend a non-conforming use. The following are regulations which shall apply.

#### **901.2 Applicability**

The provisions and protections of this Article IX 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 §903 or §904 of this Article IX. 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.

#### **901.3 Registration**

It shall be the responsibility of the party asserting a nonconformity to provide the evidence that the nonconformity is legal. A property owner may request a written statement of nonconformity from the Zoning Officer after providing sufficient evidence. 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.

#### **901.4 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. Any expansion, alteration, extension or change in a nonconformity shall only proceed in compliance with this Article.

### **902 Definitions**

#### **902.1 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 of this Zoning Ordinance, as amended.

**902.2 Nonconforming Structure**

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

**902.3 Nonconforming Structure, Alteration or Expansion**

As applied to a nonconforming structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**902.4 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.

**902.5 Nonconforming Use**

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

**902.6 Nonconforming Use, Change**

The conversion of a nonconforming use to a different use classification as enumerated on the Schedule of Uses of this Zoning Ordinance.

**902.7 Nonconforming Use, Extension**

The expansion of a nonconforming use throughout the structure which the said use partially occupies; or the expansion of a nonconforming use onto property not already occupied by the said use.

**902.8 Nonconforming Use, Reestablishment**

The reopening or reinstitution of a nonconforming use which has been discontinued by the owner of the said use, such reopening effected prior to the abandonment of the nonconforming use as determined under the provisions of this Zoning Ordinance.

**903 Nonconformities Under Development**

For the purposes of this Article IX, a building, structure or use, legally permitted, planned and substantially under construction in compliance with existing 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.

**904 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.

**905 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 nonconforming, or otherwise create more incompatibility with the surrounding

permitted uses. Such maintenance and repair activities shall, however, shall comply with all other applicable standards and permit requirements of this Ordinance.

## **906 Changes of Nonconforming Uses**

### **906.1 Conditional Uses/Special Exceptions**

All changes of nonconforming uses shall be considered conditional uses in the Township and special exceptions in the Borough subject to the specific procedures and review criteria contained in Article XI of this Ordinance and the review factors in §912. A nonconforming use may only be changed to a use of equal or less nonconformity (i.e. more restrictive classification) as determined in accord with classification of the uses in the Schedule of Uses of this Ordinance. The general standard shall be that no change of a nonconforming use shall be permitted if such change will result in the establishment of a use which is materially different from the existing use in terms of negative affects on the community and the long term application of the Zoning Ordinance to eliminate incompatible uses from specific zoning districts. For example, a change from a nonconforming retail store in an R District to a bank may be permitted; however, a change to a manufacturing use would not be permitted.

### **906.2 Conforming Changes and Conversions**

- A. Change - A change in a nonconforming use to a conforming use shall not be considered a conditional use/special exception unless the proposed use is classified as a conditional use or special exception by the Schedule of Uses. A change of a nonconforming use to a conforming use shall be considered an abandonment of the nonconforming use which shall not thereafter revert to a nonconforming use.
- B. Conversion - The conversion of a nonconforming use to a nonconforming use of like classification shall not be considered a conditional use/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.

### **906.3 Other Standards**

All changes to nonconforming uses shall also be subject to all other applicable standards in this Ordinance.

## **907 Extension of Nonconforming Uses**

### **907.1 Conditional Uses/Special Exceptions**

All extensions of nonconforming uses into more area of a structure or onto more area of property shall be considered conditional uses in the Township and special exceptions in the Borough subject to the specific procedures and review criteria contained in Article XI of this Ordinance, and the review factors in §912 of this Article.

### **907.2 Extension onto Other Properties of Record in the Same Ownership; New Structures**

Extensions of a non-conforming use shall be on land contiguous to the existing use and shall be limited to the same parcel of property on which the non-conforming use is situated as said parcel existed on record at the time of the adoption of this Ordinance. For any non-conforming uses not involving a non-conforming structure, no new structures shall be permitted as part of an extension.

### **907.3 Extension Limitation**

In R Districts, an extension of land or structure utilized for the non-conforming use shall be limited to a total increase not to exceed twenty-five (25) percent of land and twenty-five (25) percent of structure beyond what existed on the effective date of this Ordinance, as amended. In all other Districts such extension 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. All such extensions of a non-conforming 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 upon the completion of the previously approved addition or extension.

**907.4 Prohibited Extensions**

Should the use proposed for extension be one which is specifically prohibited as a new use in the Municipality or is a use judged to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this Ordinance, the requested extension shall be denied.

**908 Reconstruction**

**908.1 Clinton Township Zoning Districts**

In Clinton Township Zoning Districts, if any nonconforming structure or use is damaged to any extent by any cause it may be restored or reconstructed to its preexisting condition of nonconformity

**908.2 Nicholson Borough Zoning Districts**

In Nicholson Borough Zoning Districts, if any nonconforming structure or use is damaged by seventy-five (75) percent or less of its appraised fair market value by any cause it may be restored or reconstructed to its preexisting condition of nonconformity in accord with this §908. A nonconforming structure that has been damaged or destroyed by more than seventy-five (75) percent of its appraised fair market value by any cause shall not be rebuilt in any nonconforming manner. Any structure not reconstructed within the required eighteen-month 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.

**908.3 Conditions**

- A. Time Limit - The application for a building permit shall be submitted within eighteen (18) months of the date of the casualty.
- B. Increased Nonconformity - The nonconformity shall not be increased and no new nonconformity shall be created.

**908.4 Procedure - Permits**

All applicable permits for the reconstruction of a nonconforming use shall be required. Such reconstruction shall be considered a conditional use if the reconstruction involves a change or extension of use as regulated by §906 and §907 of this Ordinance, respectively.

**908.5 Extension**

The Zoning Officer may grant a one-time extension of not more than one (1) year for the re-establishment of the non-conforming use. Said extension shall only be considered upon written application for same submitted by the property owner.

**909 Abandonment**

Unless extended in accord with this §909, if a nonconforming use of land or structure ceases operations, is discontinued, is vacated or is otherwise abandoned for a period of twelve (12) months or more, then this shall be deemed to be an intent to abandon such nonconforming use, and any subsequent use of the land or structure shall be for conforming purposes only and said use shall in all respects conform to the applicable provisions of this Zoning Ordinance. A change of a nonconforming use to a conforming use shall be considered an abandonment of the nonconforming use which shall not thereafter revert to a nonconforming use.

**910 Alterations and Expansions of Nonconforming Structures****910.1 Alterations**

The alteration or expansion of nonconforming structures shall be permitted only in accord with this §910.

**910.2 Procedure - Permits**

All applicable permits for the alteration or expansion of a nonconforming structure shall be required. Such alteration or expansion shall be considered a conditional use if the alteration or expansion involves a change or extension of a nonconforming use as regulated by §906 and §907 of this Ordinance, respectively.

**910.3 Nonconforming Setbacks**

A structure which is non-conforming as to a setback requirement may be extended along the non-conforming 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 non-conforming structure or the applicable district maximum height.

**910.4 Increase in Area or Bulk Nonconformity**

In the case where a proposed alteration or expansion of a nonconforming structure will result in an increased nonconformity of setback, height, lot coverage or other area or bulk standard, a variance shall be required.

**911 Use of Nonconforming Lots of Record****911.1 Single Family Dwelling**

A single-family dwelling may be erected or expanded on any lawful nonconforming lot of record in any District where permitted by the Schedule of Uses, provided:

- A. Setbacks - See Schedule of Development Standards.
- B. Other Standards - All other applicable standards in this Ordinance are satisfied.
- C. Water Supply - An adequate water supply is provided in accord with all applicable regulations.
- D. Sewage Disposal - Sewage disposal is provided in accord with all applicable regulations.

**911.2 Commercial Uses**

A commercial use may be developed on any lawfully existing nonconforming lot where permitted by the Schedule of Uses provided:

- A. Setbacks - All setbacks normally required in the District are maintained.
- B. Lot Size Requirement - This Ordinance does not require a lot size for the specific use which is greater than the lot size for the district.
- C. Water Supply - An adequate water supply is provided in accord with all applicable regulations.
- D. Other Standards - All other applicable standards in this Ordinance are satisfied.
- E. Sewage Disposal - Sewage disposal is provided in accord with all applicable regulations.



**912 Review Factors**

In addition to the standards in §1208, Article VII, and other applicable requirements, the Municipality shall consider any nonconformity conditional use application in terms of the effect on the following factors:

**912.1 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.

**912.2 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 §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. Yards and buffers shall be provided in accord with §701.1 of this Ordinance.
- C. Yards and 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 Municipality may require vegetative screening of the parking area from nearby residential areas in accord with §701.1 of this Ordinance.

**ARTICLE X**  
**OWNERSHIP AND MAINTENANCE OF**  
**CONSERVATION OPEN SPACE, OPEN LAND, RECREATION LAND, AND COMMON FACILITIES**

This Article X shall apply to any development which involves the ownership and maintenance of conservation open space, open land, recreation land, and common facilities (referred to as "common area" in this Article) as required by this Ordinance and the Subdivision and Land Development Ordinance.

**1001     Purpose**

The requirements of this Article X are intended to assure in perpetuity the ownership, use and maintenance of common areas. The general principle shall be to assign ownership and maintenance responsibility to that entity which is best suited for the same and which will allocate any associated costs to the individuals which directly benefit from the use of the common area.

**1002     Plan and Legal Documents**

The developer shall submit a plan and proposed legal documents for the purpose of dedicating, in perpetuity, the use, ownership and maintenance of the approved common area. The plan shall be approved by the Municipality with the advice of the Municipal Solicitor. The provisions of the approved Plan shall be incorporated into a development agreement with the Municipality, deed covenants and restrictions, or other legal document which will effect the plan and which can be enforced by the Municipality.

**1003     Use Restriction**

The use of any common area shall be limited to those uses which are specifically permitted or required by the applicable sections of this Ordinance and the Subdivision and Land Development Ordinance.

**1004     Development Plan Designations**

The subdivision/land development plan which will be recorded following final approval of the development shall clearly show all common areas and specifically note the use, ownership and maintenance responsibility of the same. Reference to the legal document(s) governing the use, ownership and maintenance of common areas shall be noted on the plan. The plan shall also contain the following statement: Open land, recreation land, and common facilities shall not be sold separately or be further subdivided or developed, nor shall such land be used for density for any other development.

**1005     Methods for Use Dedication and Common Area Ownership and Maintenance**

The use of common areas and common area ownership and maintenance shall be addressed by one or a combination of the methods which follow. In any case, the developer shall document to the satisfaction of the Municipality that the chosen method(s) will preserve the common area use rights established in accord with this Article and provide for the perpetual ownership and maintenance of all open land, recreation land, and common facilities. All methods shall establish a mechanism for the Municipality to effect the use dedication and require operation and maintenance of common areas, if the means established by the developer fail to provide the same.

All methods for use dedication and common area ownership and maintenance, any combination of methods, and any change in method which may be proposed by the ownership and maintenance entity, shall be subject to the approval of the Municipality. Operation and maintenance provisions shall include, but not be limited to, capital budgeting for repair and/or replacement of common facilities, working capital, operating expenses, casualty and liability insurance, and contingencies.

**1005.1   Property Owners Association or Condominium Agreements**

All common areas may be owned and maintained by a property owners association (POA) or condominium agreements (CA), including all lot owners in the development provided that:

- A. The POA/CA is established by the developer as a nonprofit corporation for the express purpose of ownership and maintenance of the common area, or as otherwise may be required by state statute.
- B. Participation in the POA/CA is mandatory for all lot owners.
- C. Provision is made for the maintenance of common areas during the lot sale period and the orderly transition of responsibility from the developer to the POA.
- D. The POA/CA is empowered to assess POA/CA members to fund the administration of the POA/CA and other costs associated with the common area responsibilities.

#### 1005.2 Transfer to a Private Conservation Organization

In the case of open land and recreation land, the landowner may transfer fee simple title to the said areas, or parts thereof, to a private, nonprofit organization among whose purposes is the conservation of open land and/or natural resources provided that:

- A. The deed contains the necessary covenants and restrictions in favor of the Municipality to effect the use dedication and common area ownership and maintenance standards of this Article and this Zoning Ordinance.
- B. The organization proposed is a bona fide, operating and stable conservation organization with a perpetual existence, as approved by the Municipality.
- C. The conveyance of title contains the necessary provisions for proper retransfer or reversion if the organization is unable to continue to execute the provisions of title.
- D. A maintenance agreement between the developer, the organization and the Municipality is executed to the satisfaction of the Municipality and its Solicitor.

#### 1005.3 Deed Restricted Private Ownership

On privately held lands used for agriculture, forestry enterprises and other uses permitted on open land in accord with this Ordinance, deed restrictions may be used to preserve open land provided such restrictions include a conservation easement in favor of the Municipality, with provisions for reversion to the Municipality, POA or trustee holding the remainder of the common area. Title to such restricted lands may be transferred to other parties for use as restricted by the deed.

#### 1005.4 Deed or Deeds of Trust

The landowner may provide, as approved by the Municipality, for the use, ownership and maintenance of common area by establishing a trust for the same via a deed or deeds. The trustee shall be empowered to levy and collect assessments from the property owners for the operation and maintenance of the development.

#### 1005.5 Conservation Easements Held by the Municipality

In the case of open lands and recreation lands, the Municipality may, but shall not be required to, accept title to conservation easements on any such lands. In such cases, the land remains in the ownership of an individual, POA or condominium, while the development rights are held by the Municipality. The lands may be used for agriculture, forestry enterprises and other uses permitted on open land in accord with this Ordinance; and, title to such lands may be transferred to other parties for use as restricted by the conservation easement.

#### 1005.6 Fee Simple and/or Easement Dedication to the Municipality

In the case of open lands or recreation lands, the Municipality may, but shall not be required to, accept in fee, the title to any such lands, or any interests (such as development rights or conservation easements) therein, for public

use and maintenance provided that:

- A. There is no consideration paid by the Municipality.
- B. Such land is freely accessible to the public.
- C. The Municipality agrees to and has access to maintain such lands.

#### **1006     Failure to Preserve Dedication of Use and Operation and Maintenance of Common Area**

If the method established for the dedication of use and operation and maintenance of common areas fails to do so in reasonable order and condition in accord with the approved development plan, the Municipality shall have the right and authority to take all necessary legal action to effect such use dedication, operation and maintenance. The action of the Municipality shall be in accord with the following:

##### **1006.1     Notice**

The Municipality shall serve written notice on the assigned entity or the property owners in the development setting forth the details of the failure of the entity with regard to use dedication and operation and maintenance of common areas.

##### **1006.2     Correction of Deficiencies**

The notice shall include a demand that the deficiencies be corrected in a reasonable period of time which shall be stated in the notice.

##### **1006.3     Public Hearing**

A public hearing shall be conducted subsequent to the notice and shall be advertised in accord with the definition of "public notice" contained in this Ordinance. At such hearing, the Municipality may modify the terms of the original notice as to the deficiencies and may extend the time for correction of the deficiencies.

##### **1006.4     Failure to Correct**

In the event the deficiencies in the notice, as may have been modified at the public hearing, are not corrected in accord with the established time period, the Municipality may enter upon the common area and maintain the same and/or correct the deficiencies. The Municipality shall continue such action for such time as may be necessary to correct the deficiencies. Said action shall not constitute a taking or dedication of any common areas, nor vest in the public the right to use any common area.

##### **1006.5     Reinstatement of Responsibility**

The responsibility of operation and maintenance shall not be reinstated to the assigned entity until such time as the entity has demonstrated to the Municipality that the proper steps have been effected to modify the terms of use dedication, operation and maintenance; and/or to reorganize or replace the responsible entity so that use dedication and operation and maintenance established by the approved development plan will be assured.

##### **1006.6     Appeal**

Any party to the action of the Municipality may appeal such action to court as provided for such appeals in the Pennsylvania Municipalities Planning Code.

##### **1006.7     Public Costs**

The costs of the preservation of use dedication and the cost of maintenance and operation of any open land conducted by the Municipality in accord with this Article, including any administrative and legal costs, shall be assessed ratably against the properties in the subject development which have a right of enjoyment and/or use of the common areas. The assessment shall be made a lien on the properties, and the Council shall, at the time of the notice in §1006.1 above, file the required notice of lien against the properties.

## ARTICLE XI SIGNS

### 1101 Administration

#### 1101.1 Administration

The Purpose of this Article XI is to establish standards for the regulation of signs in order to safeguard the public interest and:

- A. to preserve the beauty and the unique character of the Municipalities;
- B. to promote and aid in the tourist industry of the Municipalities;
- C. to protect the general public from damage and injury which may caused by the faulty construction of signs;
- D. to protect pedestrians and motorists from damage of injury caused, or partially attributable to the distractions and obstructions caused by improperly situated signs;
- E. to promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic;
- F. to assure that signage is clear and provides the essential identity or direction to facilities in the community; and,
- G. to enable the fair and consistent enforcement of the sign restrictions throughout the Municipalities.

#### 1101.2 Applicability - Effect

A sign may be erected, placed, established, painted, created or maintained only in conformance with the standards, procedures, exceptions, and other requirements of this Ordinance. The effect of this Ordinance as more specifically set forth herein is:

- A. to establish a permit system to allow a variety of types of signs in the various zones, subject to the standards and the permit procedures of this Ordinance;
- B. to allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Ordinance, but without a requirement for permits;
- C. to provide for temporary signs without commercial messages in limited circumstances in the public right-of-way; and,
- D. to prohibit all signs not expressly permitted by this Ordinance.

#### 1101.3 Requirement of Conformity

No sign, for which a permit is issued after the effective date of this Ordinance, may be placed or maintained except as provided herein. All signs maintained contrary to the provisions of this Ordinance are declared to be nuisances, and as such may be abated as provided by law.

### 1102 Definitions And Interpretation

Words and phrases used in this Article shall have the meanings set forth in this Section. Words and phrases not defined in this Section but defined in Article III shall be given the meanings set forth in said Article. Principles for

computing sign area and sign height are contained in this section. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this Ordinance.

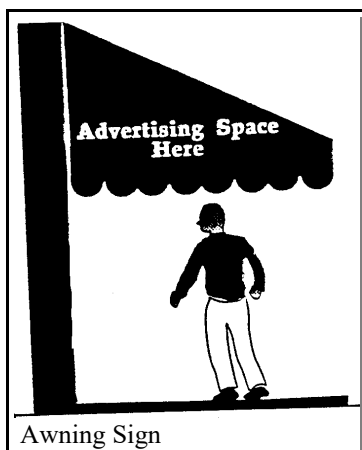
**ABANDONED SIGN** - A Sign located on a property or premise which is vacant and/or unoccupied for a period of six (6) months, or a sign which is damaged, in disrepair, or vandalized and not repaired within sixty (60) days of the date of the damaging event and/or for which no legal owner can be found.

**ADVERTISING SIGN, OFF-PREMISES** - A sign which conveys a commercial or noncommercial message unrelated to the activity conducted on the lot where the sign is located or a sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than on the same lot where the sign is located. A structure intended to support or contain such a sign shall also be considered an off-premises advertising sign.

**ANIMATION** - The movement or the optical illusion of movement of any part of the sign structure, design or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a sign; the movement of a sign set in motion by the atmosphere. Time and temperature devices shall be considered animated signs.

**APPLICANT** - A person or entity who applies for a sign permit in accordance with the provisions of this Ordinance.

**AREA OF SIGN** - In the case of individual letters used as a sign, the area is ninety percent (90%) of the area enclosed within the smallest regular geometric figure needed to completely encompass all letters, insignias or symbols, except as otherwise provided herein. For signs other than individual letters, words, insignias or symbols, the area is the total area of the facing or the total area within the outer edge of any existing border of the sign.



**ATTRACTION BOARD** - See *changeable panel sign*.

**AUTOMATED TELLER MACHINE DIRECTIONAL SIGN** - A traffic directional sign which is used to direct pedestrian or vehicular traffic on a parcel to the location of an automated teller machine.

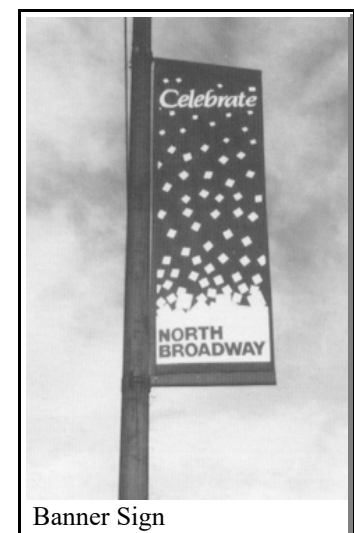
**AUTOMATED TELLER MACHINE SIGN** - Any sign located on or architecturally associated with the exterior face of an automated teller machine.

**AWNING SIGN** - Signs which are placed on or integrated into fabric or other material canopies which are mounted on the exterior wall of a building.

**BANNER SIGN** - Any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges with no enclosing framework. National flags, state or municipal flags of any institution or business shall not be considered banners.

**BANNER, DECORATIVE** - A banner which contains no text.

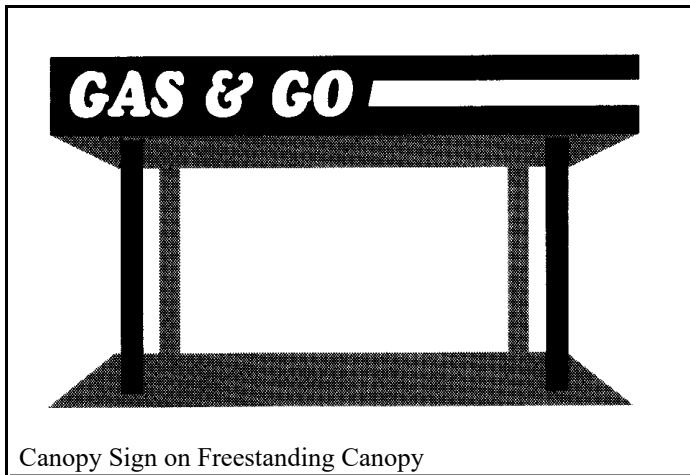
**BANNER, PUBLIC INFORMATION** - A banner which displays graphics and limited text regarding a special event.



**BILLBOARD** - A type of off-premises advertising sign and which conveys a commercial or noncommercial message unrelated to the activity conducted on the lot where the sign is located, or a sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than on the same lot where the sign is located. A structure intended to support or contain such a sign shall also be considered a billboard.

**BUSINESS** - For the purposes of this Article XI, business shall mean any approved non-residential use including commercial, manufacturing, and industrial enterprises; public buildings and uses such as public schools, parks, civic centers, municipal buildings; and semi-public buildings and uses such as churches, fire houses, ambulance buildings, private schools, and libraries.

**BUSINESS NAME** - The name by which a business is commonly recognized and used by the applicant. The applicant shall provide stationary or other supporting documents illustrating the use of the business name or verification of the official business license or tax name. Slogans or product information shall not be considered as the business name.



Canopy Sign on Freestanding Canopy

**CABINET** - A three-dimensional structure which includes a frame, borders and sign panel face and may include internal lighting upon which the sign letters and logos are placed or etched, and is architecturally integrated with the building.

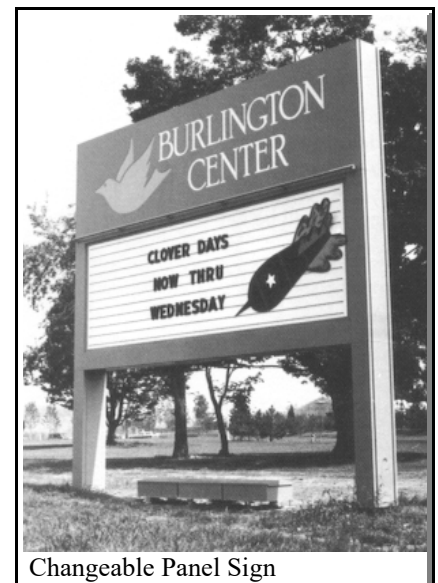
**CANOPY SIGN** - Any sign that is a part of or attached to an awning, canopy or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

**CHANGEABLE PANEL SIGN** - A sign designed to allow its informational content to be changed or altered.

**COMMERCIAL MESSAGE** - Any sign wording, logo, or other representations that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**COMPUTATION OF AREA IN INDIVIDUAL SIGNS** - The area of sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

**COMPUTATION OF AREA OF MULTI-FACED SIGNS** - The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42") inches apart, the sign area shall be computed by the



Changeable Panel Sign

measurement of one of the faces.

**COMPUTATION OF HEIGHT** - The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

**CONSTRUCTION SIGN** - A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

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

**DEVELOPMENT SIGN** - A temporary sign used to identify an approved future development.

**DIRECTORY SIGN** - A sign which provides a listing of the names of businesses, activities, addresses, locations, uses or places within a building or complex of buildings for the purposes of giving directions, instruction, or facility information and which may contain the name and logo of an establishment but no advertising copy.

**DOUBLE-FACED SIGN** - A sign with two faces, essentially back to back.

**EMERGENCY SIGNS** - Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

**FACADE** - Any exterior wall of a building exposed to public view; and any structure or part of a structure attached to, or otherwise mounted parallel to, an exterior wall or other vertical part of the structure.

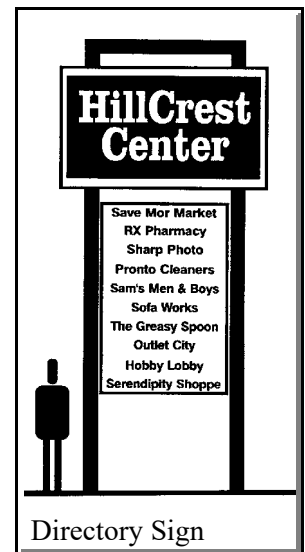
**FLAG** - Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity which is mounted on a pole, cable, or rope at one end.

**FLAG, DECORATIVE** - A flag which contains no text or graphics.

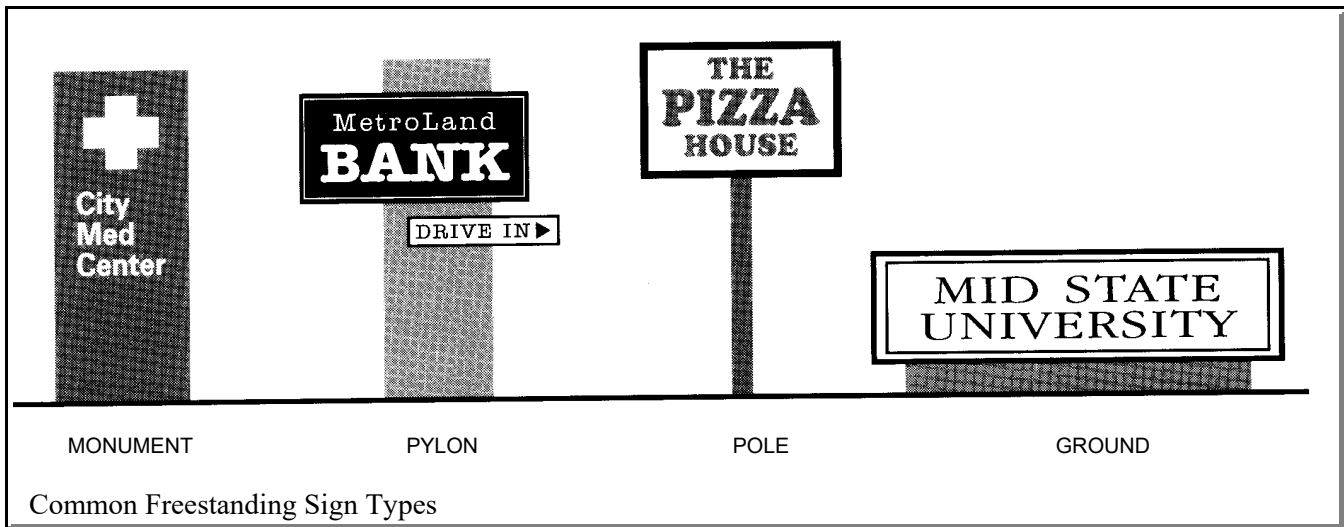
**FREESTANDING SIGN** - A sign supported permanently upon the ground by poles or braces and that is not attached to any building.

**GOVERNMENT SIGN** - Any temporary or permanent sign erected and maintained by the Municipalities, county, state, or federal government for traffic direction or for designation of or any school, hospital, historical site, or public service, property, or facility.

**GRAND OPENING** - The introduction, promotion or announcement of a new business, store, shopping center or office, or the announcement, introduction or promotion of an established business changing ownership. A business qualifies for a grand opening sign when it has been closed to the public for a period of thirty (30) days.







**GROUND LEVEL** - The finished grade of the adjacent street curb or where there is no street curb, six (6) inches above street grade. Ground level shall be the existing natural grade.

**GROUND SIGN** - A freestanding sign that is architecturally integrated with the building with individually mounted letters and/or logos only. This sign shall be built with continuous background surface built from the ground up.

**HEIGHT** - The vertical distance measured from the highest point of the sign, excluding decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

**ILLEGAL SIGN** - Any sign erected without first obtaining an approved sign permit, other than non-conforming signs, and which does not meet the requirement of this ordinance.

**ILLUMINATED SIGN** - A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

**INCIDENTAL SIGN** - A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

**INDIRECT ILLUMINATION** - A source of external illumination located away from the sign, but which is itself not visible to persons viewing the sign from any street, sidewalk or adjacent property.



Incidental Sign

**INDIVIDUAL LETTERS** - A cut-out or etched letter or logo which is individually placed on a landscape, screen wall, building wall or ground sign.

**INTERNAL ILLUMINATION** - A source of illumination entirely within the sign which makes the contents of the sign visible at night by means of the light being transmitted through a translucent material but wherein the source of illumination is not visible.

**INTERNAL/INDIRECT ILLUMINATION** - A source of illumination entirely within an individual letter, cabinet or

structure which makes the sign visible at night by means of lighting the background upon which the individual letter is mounted. The letters are opaque, and thus are silhouetted against the background. The source of illumination is not visible.

**LOGO** - A graphic symbol representing an activity, use or business. Permitted logos shall be registered trademarks or symbols commonly used by the applicant, and may include graphic designs in addition to lettering. The applicant shall provide stationary or other supporting documents illustrating the use of the logo.

**MAINTENANCE** - The replacing or repairing of a part or portion of a sign necessitated by ordinary wear, tear or damage beyond the control of the owner or the reprinting of existing copy without changing the wording, composition or color of said copy.

**MARQUEE** - Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building generally designed and constructed to provide protection from the weather.

**MENU SIGN** - A temporary sign used to inform the public of the list of dishes, foods or entrees available in a restaurant and may include the corresponding prices.

**MODIFIERS** - A word describing uses and activities other than the business name.

**MONUMENT SIGN** - A free-standing cabinet or panel sign mounted on, or within a base (above grade), which is detached from any building.

**MULTIPLE TENANT COMMERCIAL BUILDING** - A commercial development in which there exists two or more separate commercial activities, in which there are appurtenant shared facilities (such as parking or pedestrian mall), and which is designed to provide a single area in which the public can obtain varied products and services. Distinguishing characteristics of a multiple tenant commercial building may, but need not, include common ownership of the real property upon which the center is located, common-wall construction, and multiple occupant commercial use of a single structure.

**NAMEPLATE** - A small sign which identifies a resident's or home's name and address or the name of a farm, ranch or commercial stable. Such signs may be shingle, building wall or archway-mounted signs.

**NONCONFORMING SIGN** - Any sign which is not allowed under this Ordinance, but which, when first constructed before this ordinance was in effect and for which a sign permit was issued, was legally allowed.

**OCCUPANCY** - A purpose for which a building, or part thereof, is used or intended to be used.

**OWNER** - A person recorded as such on official records. For the purpose of this Ordinance, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the Zoning Officer.

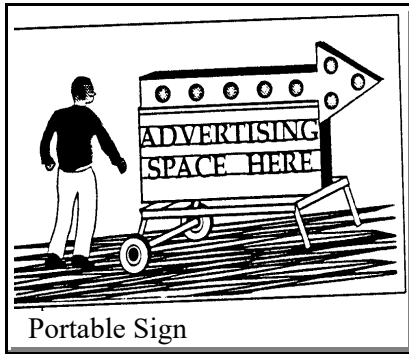
**PANEL** - A two-dimensional visual background behind the sign letters and logos which is visually separated from the mounting upon which the sign letters and logos are placed by the presence of a border, different colors, different materials, or other technique of visual framing around the letters or logos.

**PARAPET** - That portion of a building exterior wall projecting above the plate line of the building.

**PENNANT** - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**PERMANENT SIGN** - Any sign which is intended to be and is constructed as to be in lasting and enduring condition remaining unchanged in character, condition (beyond normal wear) and position, and in a permanent manner affixed to the ground, wall or building, provided the sign is listed as a permanent sign in the Ordinance.

**PLATE LINE** - The point at which any part of the main roof structure first touches or bears upon an external wall.



Portable Sign

**POLITICAL SIGN** - A temporary sign which supports candidates for office or urges action on any other matter on the ballot of primary, general and special elections.

**PORTABLE SIGN** - Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels, signs converted to A or T-frames, menu and sandwich board signs, balloons used as signs, umbrellas used for advertising and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

**PROJECTING SIGN** - Any sign affixed to a building wall in such a manner that it's leading edge extends more than six (6) inches beyond the surface of such building or wall.

**PUBLIC PROPERTY** - Unless otherwise expressly provided, public property means any and all real or personal property over which the Municipalities or other governmental entity has or may exercise control, whether or not the government owns the property in fee, including, sidewalks, rights-of-ways and improved or unimproved land of any kind and all property appurtenant to it.

**REAL ESTATE SIGN** - A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

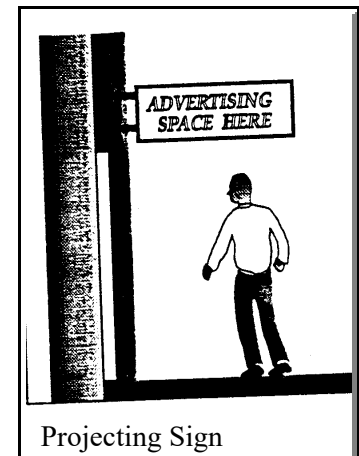
**RIGHT-OF-WAY** - No commercial sign shall be erected so as to project beyond a property line, over a public sidewalk or over or within a public right-of-way.

**ROOF LINE** - The uppermost line of the roof of a building or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

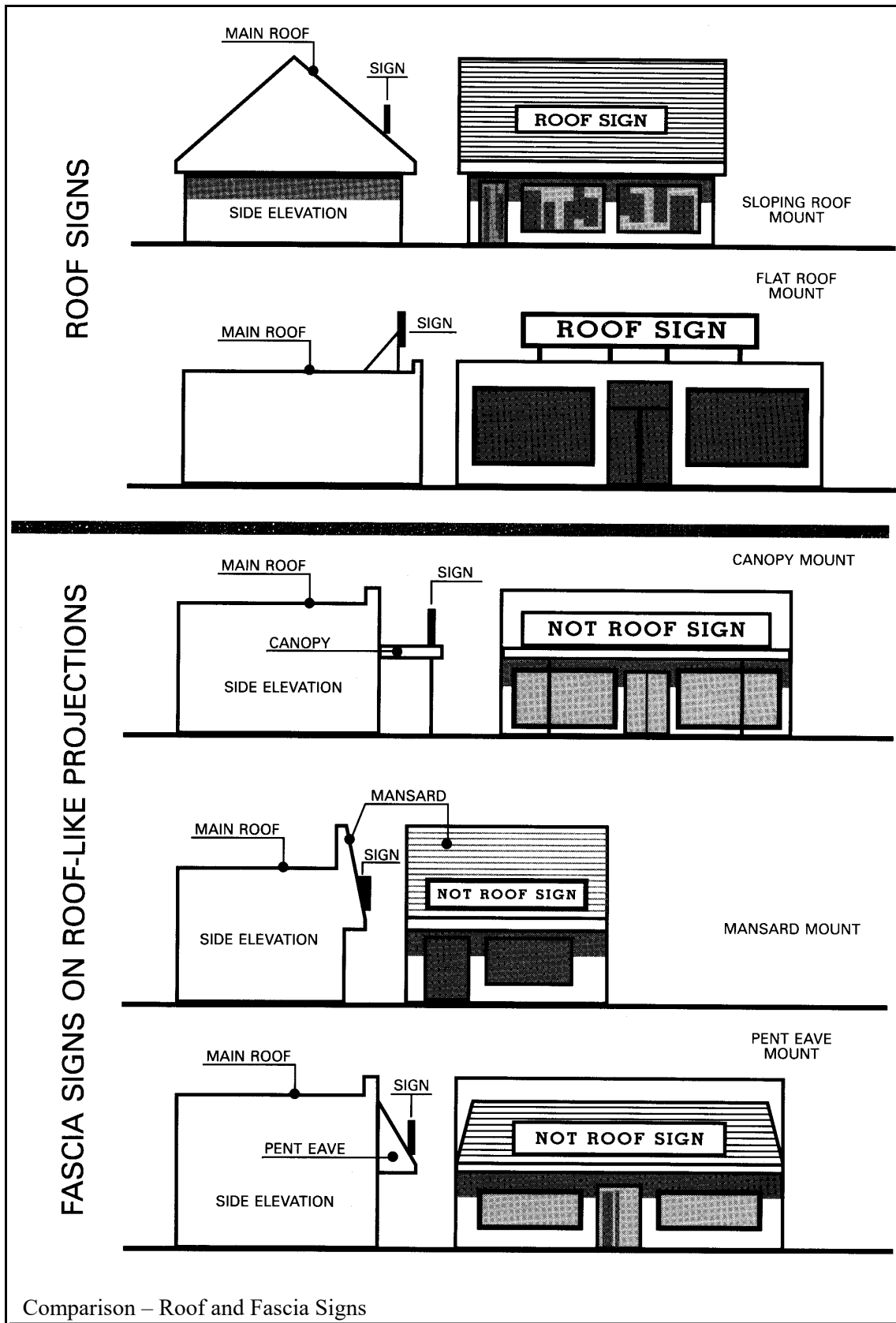
**ROOF SIGN** - Any sign mounted on the main roof portion of a building or on the topmost edge of a parapet wall of a building and which is wholly or partially supported by such building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs. See the following illustration for example of roof signs, and comparison of differences between roof and fascia signs.

**SHINGLE SIGN** - A sign suspended from a roof overhang of a covered porch, walkway or horizontal plane surface which identifies the tenant of the adjoining space.

**SIGN** - Any device for visual communication which is used or is intended to attract the attention of the public with a purpose of identifying, when the display of the device is visible beyond the boundaries of the public or private property upon which the display is made. The term "sign" shall not include any flag or badge or insignia of the United States, State of Pennsylvania, Wyoming County, the Municipalities, or official historic plaques of any governmental jurisdiction or agency.



Projecting Sign

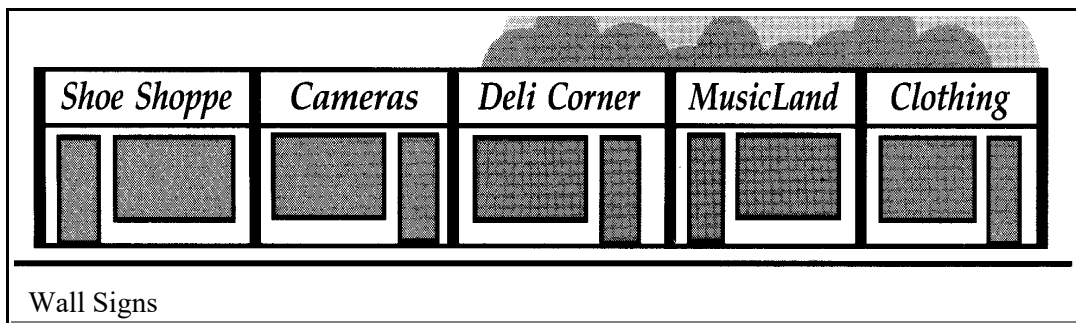


**SIGN WALL** - Any surface (excluding windows) of a building within twenty-five (25) degrees vertical.

**SPECIAL EVENT** - A promotional event such as, but not limited to, grand openings, bazaars, street fairs, shows, exhibitions, sporting events, runs, bicycling events, and block parties. This does not include sidewalk sales occurring on private property where merchandise normally sold indoors is transferred from indoors to outdoors for sale.

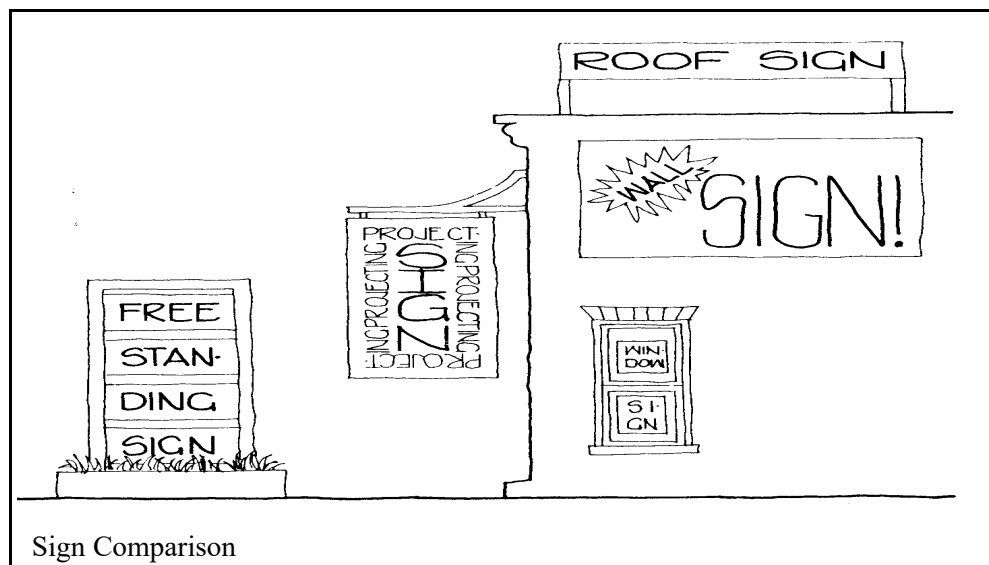
**TEMPORARY SIGN** - Any sign, banner, pennant, or valance of advertising display constructed of cloth, canvas, light fabric, cardboard, plastic, wallboard or other like materials, with or without frames; or any sign not permanently attached to the ground, wall or building.

**TRAFFIC DIRECTIONAL SIGN** - Signs used at driveways to improve public safety and to enhance public access to the site from public streets, which provides information to assist the operators of vehicles in the flow of traffic. Such signs may use names, logos, or symbols of buildings, businesses, activities, uses or places as a means of direction.



**WALL SIGN** - Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

**WINDOW SIGN** - Any poster, cut-out letters, painted text or graphics, or other text or visual presentation affixed to or placed behind a window pane which is intended to be read from the exterior of the building.



**1103     Procedures**

The procedures included in this §1103 shall apply to all signs requiring permits.

**1103.1     Requirement of Permit**

A sign permit shall be required before the erection, re-erection, construction, alteration, placing, or installation of all signs regulated by this Ordinance. However, a permit shall not be required for the following signs and actions, provided however, that such signs shall be subject to any and all applicable provisions of this Ordinance.

- A. Exempt signs as specified in §1104.2.
- B. Real estate, temporary construction and contractor 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 non-conforming.

**1103.2     Permit Application**

Applications for sign permits shall be submitted to the Zoning Officer and shall, at a minimum, contain or have attached thereto the information listed in this section. The applicant shall pay the required application fee at the time when the sign application is filed. Two copies of plans and specifications shall be submitted with each application. One copy shall be returned to the applicant at the time the permit is granted. The plans shall include complete details about the size of the sign, the method of attachment or support, locations and materials to be used, and the name, address and profession of the person designing the plans and specifications. If the Zoning Officer determines that the sign will be subject to excessive stresses, additional data shall be required, showing that supporting surfaces and other members of an existing building to which the sign is to be attached are in good condition and are adequately strong to support the load, including the proposed sign.

- A. The names, addresses, and telephone numbers of the applicant, the owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the person to be erecting or affixing the sign.
- B. The location of the building, structure, or zoning lot on which the sign is to be erected or affixed.
- C. A sketch plan of the property involved, showing accurate placement thereon of the proposed sign.
- D. Two (2) blueprints or ink drawings of the plans and specifications of the sign to be erected or affixed and method of construction and attachment to the building or in the ground. Such plans and specifications shall include details of dimensions, color, materials, and weight.
- E. If required by the Zoning Officer, a copy of stress sheets and calculations prepared by or approved by a registered structural engineer, licensed by the State of Pennsylvania, showing that the sign is designed for dead load and wind pressure in any direction in the amount required by this and all other applicable ordinances.
- F. The written consent of the owner of the building, structure, or property on which the sign is to be erected or affixed.
- G. Such other information as the Zoning Officer may require to determine full compliance with this and other applicable ordinances.

**1103.3     Issuance of Permits**

Upon the filing of an application for a sign permit, the Zoning Officer shall examine the plans, specifications, and other submitted data, and the premises upon which the sign is proposed to be erected or affixed. If it appears that

the proposed sign is in compliance with all the requirements of this Ordinance and other applicable ordinances and if the appropriate permit fee has been paid, the Zoning Officer shall issue a permit for the proposed sign.

#### 1103.4 Expiration

If the work authorized under a sign permit has not been completed within ninety (90) days after the date of issuance, the permit shall become null and void, unless otherwise extended by the Zoning Officer for a single additional ninety (90) day period.

#### 1103.5 Permit Fees

Each sign required by this Ordinance requiring a sign permit shall pay a fee as established pursuant to a Resolution duly adopted by the Municipalities.

#### 1103.6 Inspections

All signs for which a permit is required shall be subject to the following inspections:

- A. Footer inspection on all free standing signs. However, the Zoning Officer may waive the required inspection for signs five (5) feet or less in height.
- B. Inspection of braces, anchors, supports and connections and wall signs.
- C. Site inspection to insure the sign has been constructed according to the approved application and valid sign permit.

### 1104 General Requirements

#### 1104.1 Prohibited Signs

All signs not expressly permitted or exempted under this Ordinance from regulation are prohibited. Such prohibited signs include, but are not limited to the following:

- A. "A" Frame or Sandwich Board Signs - "A" frame or sandwich board and sidewalk, or curb signs, except as a temporary sign as provided for in §1105 of this Ordinance.
- B. Light Strings, Banners, Pennants, and Balloons - Strings of lights not permanently mounted to a rigid background, except those exempt under the §1104.2, banners, pennants, streamers, balloons, and other inflatable figures, except as a temporary sign as provided for in §1105 of this Ordinance.
- C. Animated, Moving and Flashing Signs - Signs which flash, revolve, rotate, swing, undulate, or move by any means, or otherwise attract attention through the movement or flashing of parts, including automatic, electronically controlled copy changes, or through the impression of movement or flashing except for time and temperature indicators whose movement is either digital or analogue, and flags as permitted by this Ordinance.
- D. Mirrors - Signs which use a mirror or similar device to attract attention by reflecting images or otherwise reflecting light.
- E. Portable and Wheeled Signs - Portable and Wheeled signs, except as a temporary sign, as provided for in §1105 of this Ordinance.
- F. Projecting Signs - Signs which are attached or otherwise affixed to a building and project more than fifteen (15) inches beyond the wall surface of such building to which the sign is attached or otherwise affixed thereto.

- G. Signs on Parked Vehicles - 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, organization or activity.
- H. Signs on Utility Poles or Trees - Signs which are attached or otherwise affixed to utility poles, or trees or other vegetation.
- I. 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.
- J. Emissions - No sign shall be permitted to emit any sound, odor or visible matter such as smoke.

#### 1104.2 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.

- A. 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.
- B. Civic and Religious - Civic and religious organization signs indicating only the organization insignia, name, meeting place, and time. Such signs shall not exceed two (2) square feet for each exposed surface area.
- C. Directional or Instructional Signs - Signs, not exceeding four (4) feet in aggregate gross surface area, which provide direction or instruction to guide persons to facilities intended to serve the public, providing that such signs contain no advertising of any kind. Such signs include those identifying rest rooms, public telephones, public walkways, affiliation with motor clubs, acceptance of designated credit cards, and other similar signs providing direction or instruction to persons using a facility, but not including those signs accessory to parking areas. Advertising material of any kind is strictly prohibited on directional and instructional signs.
- D. Non-Commercial Signs - Flags, emblems, and insignia of political, professional, religious, educational, or fraternal organizations providing that such flags, emblems, and insignia are displayed for non-commercial purpose.
- E. Governmental Signs - Governmental signs for control of traffic, emergency response, 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.
- F. 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.
- G. Interior Signs - Signs not affixed to a window and visible from outside and which are fully located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs located within the inner or outer lobby court or entrance of any theater and which are not displayed to be visible from outside.
- H. Memorial Signs - Memorial plaques or tablets, grave markers, statutory, or other remembrances of persons or events that are non-commercial in nature.



- I. Name and Address Plates - Wall signs, one (1) per street frontage and not exceeding one and one-half (1.5) square feet in surface area, 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.
- J. No Trespassing, No Hunting, No Fishing, No Dumping, No Parking, No Towing, and Other Similar Signs - No trespassing, no hunting, no fishing, no dumping, no parking, towing and other similar signs (as set forth in Title 75 of the Pennsylvania Vehicle Code and its regulations and as set forth in Title 18 of the Pennsylvania Crimes Code and its regulations) not exceeding two (2) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four (4) square feet.
- K. Parking Lot Directional and Instructional Signs
  - 1. Directional Signs - Signs designating parking area entrances and exits limited to one (1) sign for each entrance and/or exit and not exceeding four (4) square feet in gross surface area for each exposed face. Parking lot directional signs shall not project higher than five (5) feet in height, as measured from the established grade of the parking area to which such signs are accessory.
  - 2. Instructional Signs - Signs designating the conditions of use or identity of parking areas and not exceeding eight (8) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of sixteen (16) square feet. Parking lot instructional signs shall not project higher than ten (10) feet for wall signs and seven (7) feet for ground signs, as measured from the established grade of the parking area(s) to which such signs are accessory.
- L. Patron Advertising Signs - Signs erected on the perimeter of an organizational sponsored youth athletic field for the sole purpose of sponsoring or contributing to the organized youth athletic sport. Signs erected for this purpose shall be one sided with a maximum of thirty-two (32) square feet of gross aggregate surface area. Sponsors advertising on score boards may not exceed twenty-five percent (25%) of the surface area of the score board.
- M. 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.
- N. Public Notices - Official notices posted by public officers or employees in the performance of the officer's or employee's duties
- O. Government Signs - Signs required by governmental bodies or specifically authorized for a public purpose by any law, statute, or ordinance. Such signs may be of any type, number, area, height, location, or illumination as required by law, statute, or ordinance.
- P. 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.
- Q. Symbols or Insignia - Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding two (2) square feet in gross surface area for each exposed face not exceeding four (4) square feet in aggregate gross surface area.
- R. Vending Machine Signs - Permanent, non-flashing signs on vending machines, gasoline pumps, ice or milk

containers, or other similar machines indicating only the contents of such devices, the pricing of the contents contained within, directional or instructional information as to use, and other similar information as to the use, and other similar information not exceeding four (4) square feet in gross surface area for each exposed face not exceeding an aggregate gross surface area of eight (8) square feet on each machine.

- S. 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.
- T. Tourist Signs - Tourist orientation directional signs when erected in accord with a permit issued by PennDOT.

#### 1104.3 Construction Requirements

All signs permitted by this Ordinance shall be constructed in accord with the National Electrical Code and the Building Code and the provisions of this §1104.3.

- 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. Traffic Hazards - No sign shall be erected in such a way as to interfere with or to confuse traffic, to present any traffic hazard, or to obstruct the vision of motorists, and all signs shall comply with the clear sight triangle requirements of this Ordinance.
- G. Public Right-of-Way - No sign may be erected or maintained in the public right-of-way unless an encroachment permit has first been obtained for the sign.

#### 1104.4 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.

#### 1104.5 Illumination

All signs permitted by this Ordinance may be illuminated in accord with the provisions of this §1104.5.

- A. Type of Illumination - Illumination may be by internal, internal indirect or by indirect means.
- B. Flashing - Flashing signs are prohibited in accord with §1104.1.
- C. Glare - All signs shall be so designed located, shielded, and directed so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated roadways and surrounding property.
- D. Illumination of Buildings, Structures, and Areas
  - 1. 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 during the month of December for areas in which Christmas trees are offered for sale and on a temporary basis for areas in which carnivals, fairs, or other similar activities are held;
  - 2. 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.

1104.6 Reserved

1104.7 Awning, Canopy, and Marquee 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 §1104.2,A.
- 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.
- E. Awning Valance - If sign letters or logos are place on the awning valance, no letters or logos may be placed elsewhere on the awning.

1104.8 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.
- F. Fuel Prices - Establishments engaged in the retail sale of fuel may also erect one additional changeable panel sign on the same frame as the main business identification sign to list fuel prices, and said sign shall not exceed six (6) square feet for each exposed face.

#### 1104.9 Sign Faces

All signs may be multi-faced.

#### 1104.10 Window Signs

Window signs for commercial, manufacturing, industrial, public and semi-public uses shall be permitted and the size of such signs is not regulated by this Ordinance.

#### 1104.11 Reserved

#### 1104.12 Reserved

#### 1104.13 Flags

Flags shall be permitted for commercial, manufacturing, industrial, public and semi-public uses, referred to as *business* in this section, subject to the following:

- A. Business Identification - The flag shall identify the business.
- B. Flag Pole - The flag shall be suspended from a pole and the maximum height shall be thirty-six (36) feet.
- C. Area - The maximum area of the flag shall be twenty-four (24) square feet, however this shall not apply to the United States Flag or the Commonwealth of Pennsylvania Flag.
- D. Government Flags - Governmental flags provided for elsewhere in the Ordinance are not restricted by the provisions of this Section.

#### 1104.14 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 six (6) inches from the wall, nor above or beyond the top and ends of the wall.

#### 1105 Temporary Signs

Temporary signs may be erected and maintained in accordance with the provisions contained in this §1105.

### 1105.1 General Conditions

- A. Permit Required - No person shall erect, construct, repair, alter, or relocate any temporary sign without first obtaining a permit from the Zoning Officer, unless such sign is specifically exempted from permit requirements.
- B. Materials and Methods - The Zoning Officer shall impose as a condition of the issuance of a permit for temporary signs such requirements as to the material, manner of construction, and method of erection of a sign as are reasonably necessary to assure the health, safety, welfare, and convenience of the public.
- C. Illumination - Temporary signs may be illuminated in accord with this Ordinance.
- D. Sign Types - Temporary signs shall be limited to non-projecting wall signs, attached ground signs, or portable and wheeled signs.

### 1105.2 Temporary Business Signs

Temporary business signs in association with an approved use identifying a special, unique, or limited activity, service, product, or sale of limited duration shall be subject to the following:

- A. Number - There shall not be more than 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. Area - Temporary business signs shall not exceed sixteen (16) square feet in gross surface area for each exposed face.
- C. Location - Temporary business signs shall be located only upon the premises upon which the special, unique, or limited activity, service product, or sale is to occur. Such signs may be located in any required yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access to a public roadway.
- D. Height - Temporary business signs shall not project higher than fifteen (15) feet, as measured from the average grade of the associated principal use or structure.

### 1105.3 Temporary Development Signs

Temporary development signs in association with an approved use identifying the parties involved in the development to occur or occurring on the premises on which the sign is placed shall be subject to the following:

- A. Number - There shall not be more than one (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. Residential and C-1 Districts - In R, R-1, R-2, R-3 and C-1 Districts, temporary construction signs shall not exceed eight (8) square feet in gross surface area for each exposed face.

2. Other Districts - In all other districts, temporary construction signs shall not sixteen (16) exceed square feet in gross surface area 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 public roadway.
- D. Height - Temporary construction signs shall not project higher than fifteen (15) feet, as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is higher.
- E. Special Conditions - Temporary construction signs shall be permitted only as accessory to an approved building permit for a project or development. Temporary construction signs may be erected and maintained for a period not earlier than sixty (60) days prior to the commencement of construction of the project or development and must be removed prior to an occupancy permit being issued or if no occupancy permit is required, the sign shall be removed upon project completion.

#### 1105.4 Temporary Event Signs (including Banners)

Temporary event signs announcing a campaign, drive, activity, or event of a civic, philanthropic, educational, or religious organization for non-commercial purposes shall be subject to the following:

- A. Number, Area, Height, and Location - The permitted number, area, height, location, and construction of temporary event signs shall be determined by the Zoning Officer with consideration given to the public intended purpose. In any event, no sign shall exceed sixteen (16) 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 two (2) permits for temporary event signs shall be issued for the same premises within one (1) calendar year.

#### 1105.5 Reserved

#### 1105.6 Temporary Real Estate Signs (permit not required)

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 lot except that where a lot abuts two (2) or more streets, one (1) additional sign, oriented to each abutting street, shall be permitted.
- B. Area
  1. Residential and C-1 Districts - In R, R-1, R-2, R-3 and C-1 Districts temporary real estate signs shall not exceed six (6) square feet for each exposed face.
  2. Other Districts - In non-residential 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 to a public roadway.

- D. Height - Temporary real estate signs shall not project higher than fifteen (15) feet, as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is higher.
- E. Special Conditions - Temporary real estate signs shall be removed within seven (7) days of the sale or lease of the premises upon which the sign is located.

#### 1105.7 Temporary Contractor or Subcontractor Signs (permit not required)

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 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. Special Conditions - Temporary contractor or subcontractor signs shall be removed immediately upon completion of the contractor's or subcontractor's work.

1105.8 Reserved

1105.9 Reserved

#### 1106 Residential Uses

For all residential uses, only the following signs are permitted and then only if accessory and incidental to a permitted residential use.

##### 1106.1 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, one (1) additional sign oriented to each abutting street shall be permitted.
- C. Area - Building name and address signs shall not exceed four (4) square feet in area 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 to a public roadway. The location and arrangement of all building name and address signs shall be subject to the review and approval of the Zoning Officer.

- E. Height - Building name and address signs shall not project higher than fifteen (15) feet for wall signs and five (5) feet for ground signs, as measured from base of sign or building to which the sign is to be affixed or grade of the nearest adjacent roadway whichever is higher.

#### 1106.2 Residential Development Road Entrance Signs

Residential development road entrance signs for developments with two (2) or more buildings with a total of twenty (20) or more dwelling units indicating only the name of the development, including single-family, two-family, and multi-family developments and mobile home parks, the management or developer thereof, and/or the address or location of the development shall be subject to the following:

- A. Type - The residential development road entrance signs shall be ground signs.
- B. Number - There shall not be more than two (2) residential development road entrance signs for each point of vehicular access to a development
- C. Area - Residential development road entrance signs shall not exceed twenty-four (24) square feet in gross surface area.
- D. Location - Residential development road entrance 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 public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Officer.
- E. Height - Residential development road entrance signs shall not project higher than five (5) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
- F. Sign Faces - Residential development road entrance signs may be double-faced only when one (1) such sign is used at a road entrance.

#### 1106.3 Exempt Signs

Exempt signs as specified in §1104.2 of this Ordinance.

#### 1106.4 Temporary Signs

Temporary signs as specified in §1105 of this Ordinance.

### **1107 Commercial, Manufacturing, Public Use and Semi-Public Use Signs**

For all commercial, manufacturing, industrial, public and semi-public uses, referred to as *business* in this section, only the following signs are permitted and then only if accessory and incidental to a permitted use, and such signs shall be subject to the requirements of this §1107 and any other special provisions contained in this ordinance:

#### 1107.1 Individual Business Identification Signs

The provisions of this §1107.1 shall apply to parcels upon which an individual business is located.

A. Building Wall Signs

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, one (1) additional such sign oriented to each abutting street shall



be permitted.

2. Area - The surface area of a wall sign shall not exceed ten (10) percent of the area of the building wall, including doors and windows, to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller. The surface area of a wall sign may be increased by ten (10) percent if such wall sign 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 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. Location - A wall sign may be located on the outermost wall of any principal building. The location and arrangement of all wall signs shall be subject to the review and approval of the Zoning Officer.
4. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or fifteen (15) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.

B. Freestanding Business Identification Signs - Freestanding business identifications signs shall be subject to the following:

1. Number - There shall not be more than one (1) freestanding business identification sign for each lot.
2. Area - The surface area of a freestanding business identification sign shall not exceed forty (40) square feet.
3. Location - A freestanding business identification 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.
4. Height - A freestanding business identification sign shall not project higher than fifteen (15) feet, as measured from the average grade at the base of the sign or the grade of the nearest adjacent roadway, whichever is lower.

C. Projecting Business Identification Signs in B-1 District - In the B-1 District one (1) projecting sign can be used instead of the freestanding sign permitted in §1107.1,B.

1. Area - The surface area of a projecting business identification sign shall not exceed twenty-four (24) square feet.
2. Projection - A projecting business identification sign not extend more than five (5) feet from the wall to which it is attached and shall not, in any case, project over any public street.
3. Height - A clear space of not less than ten (10) feet shall be provided below all parts of any projecting business identification sign.

1107.2 Shopping Center and Multiple Occupant Business Identification Signs

The provisions of this §1107.2 shall apply to developments in which two (2) or more businesses are housed in one (1) or more principal structures.

A. Building Wall Signs

1. Number - There shall be not more than one (1) wall sign for each principal business occupant except that

where a principal occupant abuts two (2) or more streets, one (1) additional such sign oriented to each abutting street shall be permitted.

2. Area - The surface area of a wall sign shall not exceed ten (10) percent of the occupant's proportionate share of the area of the building wall, including doors and windows, to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller. The surface area of a wall sign may be increased by ten (10) percent if such wall sign 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 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. Location - A wall sign may be located on the outermost wall of any principal building. The location and arrangement of all wall signs shall be subject to the review and approval of the Zoning Officer.
  4. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or fifteen (15) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.
- B. Freestanding Business Identification Signs - Freestanding business identifications signs may be ground signs or monument signs used solely for the identification of the development and shall be subject to the following:
1. Number - There shall not be more than one (1) freestanding business identification sign for each development.
  2. Area - The surface area of a freestanding business identification sign shall not exceed a maximum of forty (40) square feet.
  3. Location - A freestanding business identification 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.
  4. Height - A freestanding business identification sign shall not project higher than fifteen (15) feet, as measured from the average grade at the base of the sign or the grade of the nearest adjacent roadway, whichever is lower.
  5. Individual Occupant Identification - The freestanding business identification sign shall not contain the name of any individual business occupant of the premises unless such tenant or occupant occupies thirty percent (30%) or more of the total development. Each freestanding business identification sign may include affixed directly to it a directory indicating only the names of the business occupants of the development in which the sign is to be located. The directory shall include the names of all business tenants/occupants on one sign and shall not be comprised of individual signs. The gross surface area of a directory sign shall not exceed ten (10) square feet for each exposed face for each occupant in the development.

#### 1107.3 Business Subdivision Road Entrance Signs

Business subdivision road entrance signs for developments with two (2) or more commercial, manufacturing, industrial, public and semi-public buildings, referred to as *business* in this section, indicating only the name of the development shall be subject to the following:

- A. Type - The business subdivision road entrance signs shall be ground signs.
- B. Number - There shall not be more than two (2) business subdivision road entrance signs for each point of

vehicular access to a development

- C. Area - Business subdivision road entrance signs shall not exceed twenty-four (24) square feet in gross surface area.
- D. Location - Business subdivision road entrance 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 public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Officer.
- E. Height - Business subdivision road entrance signs shall not project higher than five (5) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
- F. Sign Faces - Business subdivision road entrance signs may be double-faced only when one (1) such sign is used at a road entrance.

#### 1107.4 Automatic Teller Machine (ATM) Signs

ATM signs shall be permitted in association with an approved commercial use subject to the following:

- A. Location - Such sign shall be located on the face of the machine and may only identify the individual business name, logo, time, and principal services offered at the ATM.
- B. Area - The area of any such sign shall not exceed ten (10) square feet. The bezel and architectural border of an ATM sign shall not be included in the sign area unless they contain sign characters, logos, or other sign graphics. The area of any ATM signage not visible beyond the boundaries of the property shall not be deducted from the sum total area permitted for the use. Wording, symbols, and graphics which instruct persons on the use of the ATM shall not be considered part of the sign area unless they are visible beyond the boundaries of the property and attract the attention of the public.
- C. Permit - No sign permit shall be required for such sign.

#### 1107.5 Business Directional Signs in RA and CI Districts

The intent of this section is to allow commercial, manufacturing, industrial, public and semi-public uses, referred to as *business* in this section, located in the Clinton Township in RA and CI Districts, and which do not front on State Routes 6, 29 and 92, to erect signs directing the public to the *business*.

- A. Number - There shall not be more than four (4) directional signs for each parcel of land eligible for such signs. In the case of multi-businesses on the same parcel, each business shall not be eligible for signs; instead, the directional signs shall refer to the parcel as a whole.
- B. Area - The surface area of each sign shall not exceed six (6) square feet for each exposed face.
- C. Height - A directional sign shall not project higher than ten (10) feet, as measured from the average grade at the base of the sign or the grade of the nearest adjacent roadway, whichever is lower.
- D. Sign Information - The information on the sign shall be limited to the business name, logo, telephone number and directional information.
- E. Property Owner Permission - The person making application for the erection of a business directional sign shall provide a written statement of permission signed by the owner of the property upon which the sign is

proposed.

- F. Permit - A permit shall be required for the placement of the directional signs and shall establish the number and location of all the signs.

#### **1108 Reserved**

#### **1109 Off-Premises Advertising Signs and Billboards**

The intent of this §1109 is to limit the number, size and location of off-premises advertising signs and billboards to reduce visual clutter, prevent the distraction of drivers, and maintain the character of the community. Off-premises advertising signs and billboards, as defined in Article III, may be erected and maintained only in CI Districts in accord with the requirements of this §1109 and all other applicable requirements of this Zoning Ordinance, and applications for such signs shall be considered conditional uses.

##### **1109.1 Principal Use**

Off-premises advertising signs and billboards shall be considered principal uses and shall not be permitted on a lot with any other principal use.

##### **1109.2 Illumination**

Off-premises advertising sign or billboard may be illuminated, but flashing lights or devices and animation shall be prohibited.

##### **1109.3 Setbacks**

The applicable zone district side yard setbacks for principal structures shall be maintained. for off-premises advertising signs and billboards and the front yard setback shall be ten (10) feet.

##### **1109.4 Height of Signs**

No off-premises advertising sign or billboard shall project above the maximum height limit for buildings or other structures for the District in which the sign is located. The height of the sign shall be measured from the base of the support structure.

##### **1109.5 Maximum Area of Off-Premises Advertising Signs and Billboards**

- A. The maximum area for any one off-premises advertising sign or billboard shall not exceed three hundred (300) square feet with a maximum height of twelve (12) feet and a maximum length of twenty-five (25) feet.
- B. A sign structure shall contain only one (1) sign per facing.

##### **1109.6 Spacing of Off-Premises Advertising Signs and Billboards:**

- A. No off-premises advertising sign or billboard shall be permitted within five hundred (500) feet of another off-premises advertising sign or billboard, measured in all directions. The separation distance shall be measured between the closest points of the two (2) signs in question.
- B. No off-premises advertising sign or billboard shall be permitted within three hundred (300) of any dwelling or R District in the Township or any adjoining municipality. The separation distance shall be measured between the closest points of the proposed sign and the residential lot or R District in question.
- C. No off-premises advertising sign or billboard shall be permitted within five hundred (500) feet of any park, recreational area, trail system, public or parochial school, municipal building, library, church, hospital, or similar

institutional use. The separation distance shall be measured between the closest points of the proposed sign and the parcel of land on which the building or use in question is located.

- D. No off-premises advertising sign or billboard shall be erected within two hundred (200) feet of the public street intersection. The separation distance shall be measured between the closest point of the proposed sign and the nearest intersection of the right-of-way lines of the streets in question.
- E. No off-premises advertising sign or billboard shall be constructed at an angle of less than forty-five (45) degrees to the right-of-way upon which it faces.

#### 1109.7 Engineering Certification

Any applications for an off-premise advertising sign or billboard shall be accompanied by certification under seal by a Professional Engineer registered in the Commonwealth of Pennsylvania that the sign as proposed will not present a structural safety hazard.

### 1110 Nonconforming Signs

#### 1110.1 Legal, Non-Conforming 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 as a legal non-conforming sign subject to compliance with the requirements of §1110.2.

#### 1110.2 Maintenance and Repair of Legal Non-Conforming Signs

Normal maintenance of legal non-conforming signs, including changing of copy, necessary repairs, and incidental alterations which do not extend or intensify the non-conforming features of the sign, shall be permitted. However, no alteration, enlargement, or extension shall be made to a legal non-conforming sign unless the alteration, enlargement, or extension will result in the elimination of the non-conforming features of the sign. If a legal non-conforming sign is damaged or destroyed by any means to the extent of fifty (50%) percent or more of its replacement value at the time, the sign may not be rebuilt to its original condition and may not continue to be displayed.

### 1111 Removal of Certain Signs

#### 1111.1 Obsolete Signs

Any sign, whether existing on or erected after the effective date of this Ordinance, which advertises a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located, shall be removed within ninety (90) days upon the cessation of such business or sale of such product by the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located. If the Zoning Officer shall find that any such sign advertising a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located has not been removed within ninety (90) days upon the cessation of such business or sale of such product, he shall give written notices to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be affected within thirty (30) days after receipt of the notice from the Zoning Officer. 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.

#### 1111.2 Unsafe Signs

If the Zoning Officer shall find that any sign is unsafe or insecure, or is a menace to the public, he shall give written notice to the owner, agent, or person having the beneficial interest in the building or the premises on which such

sign is located. Correction to the condition which caused the Zoning Officer to give such notice shall be effected within ten (10) days after receipt of the notice. If such condition is not corrected after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located. Notwithstanding, the foregoing provisions, the Zoning Officer is authorized to cause any sign to be removed summarily and without notice, at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located, whenever the Zoning Officer determines that such sign is an immediate peril to persons or property.

## ARTICLE XII ADMINISTRATION

### 1200 Applicability

#### 1200.1 Conformance

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

#### 1200.2 Authorization

This Ordinance regulates all matters and activities authorized by Article VI of the Pennsylvania MPC (hereinafter referred to as MPC).

#### 1200.3 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.

#### 1200.4 Repairs and Maintenance

Ordinary repairs, structural strengthening, facade improvements and maintenance to existing structures that do not infringe upon a required setback may be made without a zoning permit provide such activity does not involve 1) a change in use; 2) an expansion, construction or placement of a structure; 3) an increase in the number of dwelling units or boarding house units; and/or 4) any other activity regulated by this Ordinance.

### 1201 General Procedure for Permits

#### 1201.1 Principal Permitted Use

Within ninety (90) days of receiving a proper and complete application for a principal permitted use (permitted by right), 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.

#### 1201.2 Reviews

Certain activities require approval of the Zoning Hearing Board and/or of the Governing Body, 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.

#### 1201.3 Appeal

See §1205.2 which describes processes to appeal actions of the Zoning Officer to the Zoning Hearing Board.

#### 1201.4 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 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 use permit process in §1202.7)

### 1202 Permits and Certificates

#### 1202.1 Applicability See §1200.

#### 1202.2 Types of Uses

- A. Principal Permitted Uses (Permitted by Right Uses) - If a use is listed as a principal permitted use by this Ordinance and meets the requirements of this Ordinance, the Zoning Officer shall issue a permit in response to a complete application.
- 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 Governing Body.

#### 1202.3 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 Zoning Officer and in accord with the procedures established by the Municipalities. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to the municipal employee responsible for processing such application. The applicant is responsible to ensure that a responsible municipal 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 Governing Body; and, two (2) copies shall be submitted if action by the Zoning Hearing Board or Governing Body is not required.
- C. Information Required - Any application to the Zoning Officer, Zoning Hearing Board, Planning Commission or Governing Body shall include the following information:

In the case of an application involving the construction of any new structure or any addition to an existing structure, all of the information required in this §1202.3 shall be provided by the applicant. However, the Zoning Officer, Planning Commission, Governing Body, 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, Governing Body, 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, Governing Body, 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, Governing Body, or the Zoning Hearing Board, as the case may be, may require any other additional information or any level of detail deemed necessary to determine compliance with this Ordinance or to identify any impacts of the proposed use.

1. Names and address of the applicant, or appellant; and, the name and address of the owner of the affected property.
2. A description of the existing and proposed use(s) of the property, including numbers of dwelling units, minimum square feet of proposed dwelling units and number of proposed business establishments, if any.
3. A description of any proposed nonresidential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards, or other significant public health and safety hazards.
4. If a principal nonresidential use is proposed within close proximity to dwellings, a description of hours of operation and proposed methods of storing garbage outdoors on-site.
5. A listing of any specific sections of this Ordinances being appealed, with the reasons for any appeal.
6. A plot plan legible in every detail and drawn to scale, but not necessarily showing precise dimensions, which includes the following information:
  - a. Name of the development.
  - b. Name and address of land owner and/or land developer. (If a corporation, list names of officers.)
  - c. Location map.
  - d. North arrow, true or magnetic.
  - e. Graphic scale.
  - f. Written scale.
  - g. Date plot plan was completed.
  - h. Names of adjacent property owners and tax map numbers, including those across adjacent roads.
  - i. Proposed and existing street and lot layout, including street names and right-of-way widths.
  - j. Existing and proposed man-made and/or natural features:
    1. Water courses, lakes and wetlands (with names).
    2. Rock outcrops, ledges and stone fields.
    3. Buildings, structures, signs and setbacks required by this Zoning Ordinance.
    4. Approximate location of tree masses.
    5. Utility lines, wells and sewage system(s).
    6. Entrances, exits, access roads and parking areas, including the number of spaces.
    7. Drainage and storm water management facilities.
    8. Plans for any required buffer plantings.
    9. Any and all other significant features.
7. Location of permanent and seasonal high water table areas and 100 year flood zones.
8. Tract boundaries accurately labeled.
9. The total acreage of the tract and extent of the areas of the site to be disturbed and percentage lot coverage when the project is completed.
10. Location and type of rights-of-way or other existing restrictive covenants which might affect the subdivision and/or development.
11. A statement of the type of water supply and sewage disposal proposed.
12. The present Zoning District and major applicable lot requirements.

- D. Other Laws - The Zoning Officer may withhold issuance of a permit under this Ordinance if there is clear knowledge by the Zoning Officer that such a use would violate another Municipal, 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. (See definition of "landowner" in Article III.)
- 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 Wyoming County Planning Commission, the County Conservation District or Municipal 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 §1202.7 of this Ordinance.

#### 1202.4 Issuance of Permit

- A. At least two (2) copies of any permit required under this Ordinance shall be made.
- B. One (1) copy of any such permit shall be retained in Municipal 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. The Zoning Officer shall issue or deny a permit for a principal permitted use within a maximum of thirty (30) days after a complete, duly filed application and fees are submitted.
- D. 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, nor shall such persons conduct such work after notice that a zoning permit has been revoked.

#### 1202.5 Revocation of Permits

The Zoning Officer shall revoke a permit or approval issued under the provisions of this Ordinance in case of:

- A. 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 any condition lawfully imposed upon a special exception, variance or conditional use; or,
- C. 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. Any other just cause set forth in this Ordinance.

If a zoning permit is revoked, the person holding the permit shall immediately surrender such permit and all copies to the Zoning Officer.

### 1202.6 Changes to Approved Plans

- A. 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 Municipality, as stated in Subsection B below.
- B. Changes to an approval by the Zoning Hearing Board as a special exception use or by the Governing Body 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 Governing Body 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. A copy of such adjustment or correction shall be provided, in writing, to the Chairperson of the Planning Commission, the President of the Governing Body or the Chairperson of the Zoning Hearing Board, as appropriate, if the change concerns a plan approved by such bodies.

### 1202.7 Certificate of Use

- A. A Certificate of Use shall be required 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. An application for a Certificate of Use shall be made on an official Municipal form. If the use is in conformance with Municipal 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 Municipal records.
- C. 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 Municipal codes, approvals and permits, then such Certificate of Use shall be issued.
- D. The applicant shall show a valid Certificate of Use to the Zoning Officer upon the Officer's request.

## 1203 Fees

### 1203.1 Application Fees

As authorized by §617.3(e) and §908(1.1) of the MPC, the Governing Body 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.

### 1203.2 Stenographer Fees

The appearance fee for a stenographer shall be shared equally by the applicant and the Municipality as required by §908(7) of the MPC. The cost of the original transcript shall be paid by the Municipality if the transcript is ordered by the Municipality or shall be paid by the person appealing from the decision of the Municipality 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.

**1204    Zoning Officer****1204.1   Appointment**

In accord with §815-A of the MPC, the Clinton Township Board of Supervisors shall appoint a Zoning Officer to administer the Zoning Ordinance in Clinton Township and the Nicholson Borough Council shall appoint a Zoning Officer to administer the Zoning Ordinance in Nicholson Borough. The Zoning Officers shall not hold any elective office within the Township or Borough, but may hold other appointed offices not in conflict with the MPC.

**1204.2   Duties and Powers**

The Zoning Officer shall:

- A. Administer this Ordinance.
- B. Provide information to applicants regarding required procedures.
- C. Receive and examine all applications required under the terms of this Ordinance, and issue or refuse permits in accord with this Ordinance.
- D. 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. 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 Governing Body, of complaints received, of inspections made, of reports rendered, and of notices or orders issued.
- F. Make all required inspections and perform all other duties in accord with this Ordinance.
- G. Not have the power to permit any activity which does not conform to this Ordinance, or all other Ordinances known to the Zoning Officer.

**1204.3   Qualifications**

Pursuant to §614 of the MPC, the following minimum qualifications shall apply to any Zoning Officer appointed after the adoption of this Ordinance, unless such mandatory qualifications are waived by motion of the Governing Body:

- A. The person shall demonstrate a working knowledge of municipal zoning.
- B. The person shall have one of the following combinations of education and experience:
  - 1. A high school diploma or equivalent and a minimum of four (4) years responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances; or,
  - 2. A high school diploma or equivalent and two (2) additional years of continuing education, such as an Associate Degree (preferably should be in a field such as law enforcement, community planning and/or public administration) and a minimum of two (2) years responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances; or,
  - 3. A college or university Bachelor's degree in a field related to zoning (such as law enforcement, community planning and/or government administration) and a minimum of eight (8) months responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances.
- C. The person shall be familiar with Constitutional issues concerning search and seizure and with the process of

filing actions with the Magisterial District Judge.

- D. The person shall exhibit an ability to thoroughly evaluate site plans and building plans.
- E. The person shall demonstrate competent oral and written communication skills.
- F. The person shall be familiar with the MPC.

## **1205    Zoning Hearing Board**

### **1205.1   Membership and Qualifications**

- A. Membership - The Governing Body of each Municipality shall each create an individual Zoning Hearing Board in accord with Article IX of the MPC. Each Board 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 should:
  - 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 Governing Body 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 ordinances and laws of the Commonwealth of Pennsylvania.

### **1205.2   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 challenges to the validity of any land use ordinance, except those brought before the Governing Body pursuant to §609.1 (Landowner Curative Amendments) and §916.1(a) (2) (Validity of Ordinances) of the MPC.
- B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process

of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.

- C. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- D. Applications for variances from the terms of this Ordinance pursuant to §910.2 of the MPC.
- E. Applications for special exceptions under this Ordinance pursuant to §912.1 of the MPC and the requirements of this Ordinance.
- F. Appeals from the Zoning Officer's determination under §916.2 (Preliminary Opinion) of the MPC.
- G. Appeals from the determination of the Zoning Officer or Municipal Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development applications.
- H. The Zoning Hearing Board shall not, under any circumstances, have the authority to order any specific change in or amendment to the Zoning Map or to allow any use of property substantially different from those permitted under the Schedule of Use Regulations for the particular District.

## **1206 Zoning Hearing Board -- Hearings and Decisions; Notice**

### **1206.1 Hearings and Decision**

The Zoning Hearing Board shall conduct hearings and make decisions in accord with §908 of the MPC, and the provisions of this §1206. The hearings shall be conducted by the Board, or, the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings, shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Municipality, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

### **1206.2 Notice**

In addition to the notice and posting requirements of the MPC, notice of all hearings before the Zoning Hearing Board 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 Wyoming County tax assessment records.

## **1207 Variances**

The Zoning Hearing Board shall hear duly filed requests for variances.

### **1207.1 Standards**

The Board may grant a variance only in accord with the requirements of §910.2 of the MPC. **The applicant shall have the burden of proof to show compliance with such standards.** As of January 2003, the MPC provided that **all** of the following findings are made where relevant in a given case:

- A. 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. 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. That such unnecessary hardship has not been created by the appellant.
- D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

#### 1207.2 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.

#### 1207.3 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.

### **1208 Conditional Uses and Special Exceptions**

#### 1208.1 Applications

Applications for conditional uses and special exceptions shall, at a minimum, include the information required in §1208.6. In addition, the Planning Commission, Governing Body, or the Zoning Hearing Board shall require any other information deemed necessary.

#### 1208.2 Conditional Uses

Uses specified as conditional uses shall be permitted only after review and approval by the Governing Body pursuant to the express standards as provided for specific conditional uses in this Ordinance, in §1208.4, 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 Governing Body. A minimum of one (1) copy shall be retained in the Municipal files. The 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 Governing Body stating whether the application complies with this Ordinance. The Zoning Officer may

recommend a review by the Municipal 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 Governing Body within the time limit within which the Governing Body must issue its decision, or within thirty (30) days of such application being sent to the Planning Commission, then the Governing Body may make its decision without having received comments from the Planning Commission.

5. Governing Body Action - The Governing Body shall conduct hearings and make decisions in accordance with §908 and §913.2 of the MPC. In granting a conditional use, the Governing Body 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 Wyoming County tax assessment records.

1208.3 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 §1208.4.

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. 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. All applications shall contain the information required in §1208.6.
3. Municipal 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 Municipal 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 §1206 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.

1208.4 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 Municipality. 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. The proposed use shall be in harmony with the purposes, goals, objectives and standards of the Comprehensive Plan, this Ordinance, and all other ordinances of the Municipality.
- B. 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. 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 Municipality or other government agency having jurisdiction to guide growth and development.
- D. The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities, and services of the Municipalities, whether such services are provided by the Municipalities 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. The permit approval shall be so conditioned.
- E. 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. No application shall be approved unless it is found that, in addition to complying with all of the standards and criteria enumerated above, all of the applicable standards contained in this Ordinance shall be met. In instances where the supplemental standards contained herein do not adequately protect the general health, safety, and welfare of parties affected, all conditions and safeguards deemed necessary by the Governing Body 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.

The applicant shall supply evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the public health, safety, and welfare; and, the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

#### **1208.5 Limitation of Approval**

Any conditional use approval granted by the Governing Body and any special exception approval granted by the Zoning Hearing Board shall expire one (1) year from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to submit another application for the same. The Governing Body or Zoning Hearing Board, as the case may be, may grant an extension of the time limitations for good cause.

#### **1208.6 Information Required**

The applicant shall supply the information required by §1202.3,C, 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.

### **1209 Time Limits on Permits and Variances**

#### **1209.1 Zoning Permit**

After a variance is approved or a conditional or special exception approval is officially authorized under this

Ordinance, then a Zoning Permit shall be secured by the applicant within twelve (12) months of such approval; otherwise, such approval shall be deemed null and void and the developer shall be required to submit another application for the same.

#### **1209.2 Review Completion**

If the applicant submits complete plans for a subdivision or land development approval or special exception or conditional use approval that is related to the variance or issuance of a permit under this Ordinance within the above time limits, then such time limits shall begin after such plan review is completed or such plan approval is granted.

#### **1209.3 Extension**

For good cause the Zoning Officer may, upon application, in writing stating the reasons therefore, extend, in writing, the twelve (12) month application period to up to eighteen (18) months.

#### **1209.4 Expiration**

If an applicant fails to obtain the necessary permits within the above time period, or after having obtained the permit fails to diligently commence substantial construction within twelve (12) months, or allows interruptions in substantial construction of longer than six (6) months, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned the approval, and all such approvals, variances and permits shall be deemed automatically rescinded.

#### **1209.5 Completion**

Any building construction shall be completed within twelve (12) months of issuance of an applicable permit, unless a written extension is granted by the Zoning Officer for good cause. Otherwise, a permit shall be considered to have automatically expired at the end of such twelve (12) month period.

### **1210 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.

### **1211 Time Limits for Appeals**

The time limitations for appeals shall be as follows:

#### **1211.1 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 Governing Body or the Zoning Hearing Board, except as may be provided under §914.1 of the MPC.

#### **1211.2 Reserved**

#### **1211.3 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.

### **1212 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.

### **1213 Public Utility Corporation Exemptions**

See §619 of the MPC.

#### **1214 Limited Municipal Exemption**

The minimum lot area requirements of this Ordinance shall not apply to uses or structures owned by the Municipalities for uses and structures that are intended for a legitimate governmental, recycling, public recreation, storm water control or public health and safety purpose.

#### **1215 Amendments**

This Ordinance may be amended by complying with the requirements set forth in Article VIII-A 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 with a written request that his challenge and proposed amendment be heard and decided as provided in §609.1, §810-A, and §916.1 of the MPC.

#### **1216 Violations**

##### **1216.1 Compliance**

Failure to comply with any provision of this Ordinance; failure to secure or comply with a decision of the Governing Body 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.

##### **1216.2 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.

##### **1216.3 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 §1216.3, such violation shall be discontinued or corrected as set forth in said notice.

- A. If it appears to the Zoning Officer that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this §1216.3,B.
- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested, in writing, by the owner of record.
- C. An enforcement notice shall state at least the following:
  - 1. The name of the owner of record and any other person against whom the municipality 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 must be commenced and the date before which the steps must 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. In any appeal of an enforcement notice to the Zoning Hearing Board, the Municipality shall have the responsibility of presenting its evidence first.
- E. 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 Municipality if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

## **1217 Penalties and Remedies**

### **1217.1 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 Governing Body or, with the approval of the Governing Body, an officer of the Municipality, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping, or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Municipality at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Governing Body. No such action may be maintained until such notice has been given.

### **1217.2 Enforcement Remedies**

- A. 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 Municipality, pay a judgment of not more than \$500 (state law) plus all court costs, including reasonable attorney fees incurred by the Municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the 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 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. 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. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Municipality, the right to commence any action for enforcement pursuant to this section.

### **1218 Liability**

Neither the approval nor the granting of any review, issuance of permit or approval related to construction, activity within the flood plain, site plan review, subdivision or land development approval, erosion control, storm water runoff, activity on steep slopes, or any other review or permit of this Ordinance, by an officer, employee, consultant or agency of the Municipalities, shall constitute a representation, guarantee or warranty of any kind by the Municipalities, 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 Municipalities shall not be liable for any later lawful withdrawal of such permit for valid cause shown.

**ARTICLE XIII**  
**AIRPORT OVERLAY DISTRICT;**  
**STANDARDS APPLICABLE TO NEW AIRPORTS AND CHANGES TO EXISTING AIRPORTS**

**1300 Introduction and Intent**

**1300.1 Introduction**

This Article XIII applies to the *Airport Overlay District* created by §401.6 of this Ordinance which includes all of the land lying beneath the approach surfaces, primary surfaces, transitional surfaces, horizontal surfaces and conical surfaces as applied to airports as defined and regulated by this Article XIII. In addition to all other applicable standards of this Zoning Ordinance the requirements of this Article XIII shall apply in the Airport Overlay District.

This Article XIII regulates and restricts the height to which structures may be erected or objects of natural growth are permitted to extend, and otherwise regulates the use of property in the vicinity of an airport regulated by this Article XIII by creating the appropriate zones and establishing the boundaries thereof; provides for changes in the restrictions and boundaries of such zones; and defines certain terms used herein.

The standards in this Article XIII shall also apply to any other existing or proposed airports.

**1300.2 Intent**

The intent of the *Airport Overlay District* is to regulate airport hazard zones. Activities at airports may limit the uses of the lands owned by others, and the uses of land in airport hazard zones may limit the operation of an airport. Therefore, the purpose of the overlay district is to provide procedures and criteria for balancing the rights of airport owners and landowners in the vicinity of airports, in light of the need for aircraft safety.

**1301 Authority**

In addition to the authority for zoning in general as authorized by the Pennsylvania Municipalities Code, the provisions of this Article XIII are adopted pursuant to the authority conferred by the Act of October 10, 1984, P.L. 8313, No. 164, of the General Assembly of the Commonwealth of Pennsylvania, as amended, known and cited as the *Aviation Code of Pennsylvania* and specifically that subchapter of the *Aviation Code* known as the *Airport Zoning Act*

**1302 Findings and Declaration of Policy**

**1302.1 Findings**

It is hereby found that:

- A. An obstruction has the potential for endangering the lives and property of users of an airport regulated by this Article XIII and property or occupants of land in the vicinity;
- B. An obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of an airport regulated by this Article XIII ;
- C. That obstructions to aircraft concern the Federal Aviation Administration (FAA), and the Pennsylvania Department of Transportation, Bureau of Aviation (Bureau);
- D. That FAA and the Bureau have issued model regulations and guidelines for municipalities to facilitate the control of obstructions to aircraft;
- E. That the regulation of these obstructions, upon lands not owned by the airport owner or operator, shall not adversely affect the right of neighboring landowners to reasonably use their lands within the reasonable height

limitations of the Zoning Ordinance;

- F. That the prevention of the creation or establishment of hazards to air navigation are public purposes necessary for the protection of the safety, health, and welfare of residents and the traveling public.
- G. That expansion or changes at public airports may result in changes to airport hazard zones;
- H. That changes in airport hazard zones affect the rights of property owners to reasonably use or develop their land;
- I. That the character of the flying operations conducted at airports, the nature of the terrain within airport hazard zones, the character of the neighborhood, and the public interest, are all considerations needing protection by airport hazard zoning regulations;
- J. That any changes to airport hazard zones resulting in changes at airports shall be carefully reviewed for its affects upon neighboring landowners as well as for the safety of the aircraft; and
- K. That the regulation, restriction, or prohibition of uses, and structures at, along, or near public airports is an important function for which zoning and land use ordinances are enacted, and that a municipality may require permits prior to changes in uses or structures at or near airports, and may enact reasonable regulations to protect the public health, welfare, safety, morals, and general welfare.

#### 1302.2 Declaration of Policy

Accordingly, it is declared that:

- A. The creation or establishment of an obstruction has the potential of being a public nuisance and may injure the public health, safety and welfare;
- B. It is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and,
- C. The prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the powers of the Governing Body.

#### **1303 General Definitions**

The definitions in this §1303 shall supplement the definitions in Article III of this Ordinance and shall apply to the requirements and standards of this Article XIII.

**AIRCRAFT** -- Any contrivance used for manned ascent into or flight through the air.

**AIRPORT** -- In general, any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon.

**AIRPORT ELEVATION** -- In general, the highest point of an airport's usable landing area measured in feet above sea level.

**AIRPORT HAZARD** -- Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined by "Airport Hazard" in 74 Pa. Cons. Stat. §5102.

**AIRPORT HAZARD AREA** -- Any area of land or water upon which an airport hazard might be established if not



prevented as provided for in this Article and PA Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

AIRPORT ZONE MAP --See *Height Limitation and Zoning District Map*.

APPROACH SURFACE -- A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach surface zone height limitation slope set forth in §1304 of this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach surface zone.

APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL SURFACE ZONES-- These zones are set forth in §1304 of this Ordinance.

BUREAU OF AVIATION -- Pennsylvania Department of Transportation, Bureau of Aviation.

CONICAL SURFACE -- A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of four thousand (4,000) feet.

DEPARTMENT -- Pennsylvania Department of Transportation, Bureau of Aviation.

FAA -- Federal Aviation Administration of the United States Department of Transportation.

HEIGHT -- For the purpose of determining the height limits in all zones set forth in this Article and shown on the airport zone map, the datum shall be mean sea level elevation unless otherwise specified.

HEIGHT LIMITATION AND ZONING DISTRICT MAP (also referred to as *airport zone map*) -- For any airport regulated by this Article XIII, the most current *Height Limitation and Zoning District Map* as published by the Pennsylvania Department of Transportation, Bureau of Aviation.

HORIZONTAL SURFACE -- A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal surface zone.

NONCONFORMING USE -- Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article or an amendment thereto.

NON-PRECISION INSTRUMENT RUNWAY -- A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved or planned.

OBSTRUCTION -- Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in §1304 of this Ordinance.

PERSON -- An individual, firm partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

PRIMARY SURFACE -- A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in §1304 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY -- A defined area on an airport prepared for landing and takeoff of aircraft along its length.

**STRUCTURE** -- An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

**TRANSITIONAL SURFACES** -- These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

**UTILITY RUNWAY** -- A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

**VEGETATION** -- Any object of natural vegetative growth.

**VISUAL RUNWAY** -- A runway intended solely for the operation of aircraft using visual approach procedures.

### 1304 Airport Surface Zones

In order to carry out the provisions of this Article XIII, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, primary surfaces, transitional surfaces, horizontal surfaces and conical surfaces as applied to airports as defined and regulated by this Article XIII. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. Should any airport be developed or any existing airport be upgraded beyond the zones included in this section, FAA criteria for the applicable classification shall apply.

The various zones are hereby established and defined as follows:

#### 1304.1 Utility Runway Approach Surface Zones

- A. Visual Approach Surface Zone - Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface and is two hundred fifty (250) feet wide (125 feet on each side of the runway centerline). The zone expands outward uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- B. Non-precision Instrument Approach Surface Zone - Established beneath the non-precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is five hundred (500) feet wide (250 feet on each side of the runway centerline). The zone expands outward uniformly to a width of two thousand (2,000) feet at a horizontal distance five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

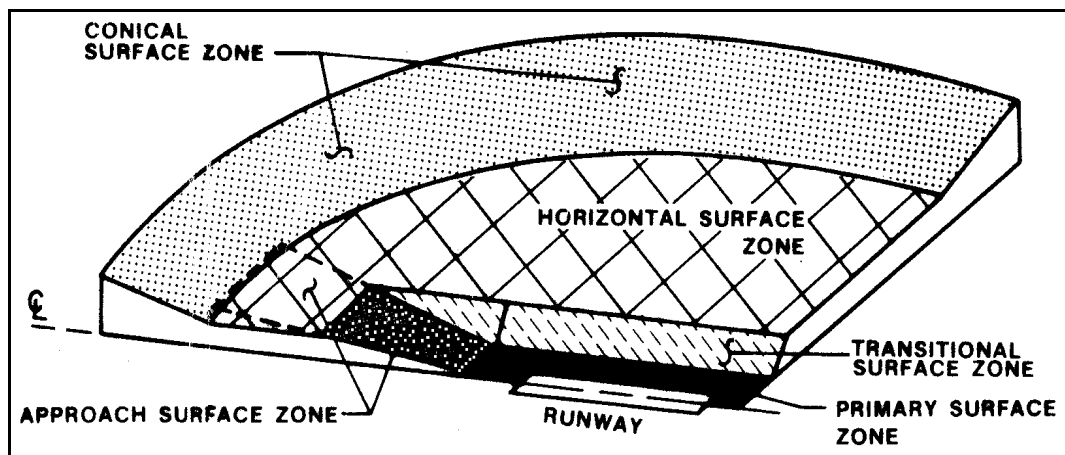


FIGURE 1 - ISOMETRIC VIEW OF AIRPORT SURFACE ZONES

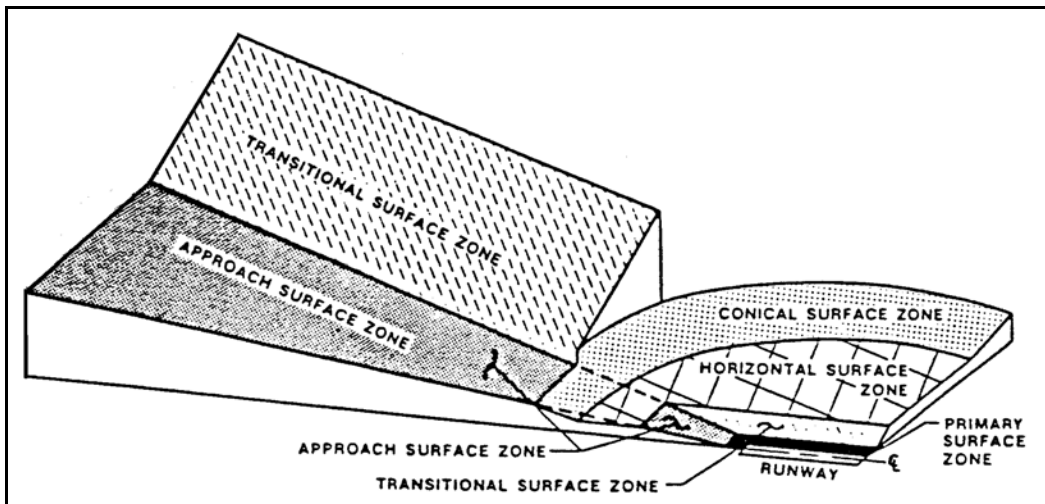


FIGURE 3 - EXTENDED ISOMETRIC VIEW OF AIRPORT SURFACE ZONES

**1304.2 Utility Runway Primary Surface Zone**

The primary surface zone is longitudinally centered on the runway. When the runway has a specially prepared hard surface, the primary surface zone extends two hundred (200) feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface zone ends at each end of that runway.

- A. Primary Surface Zone for Visual Approaches - The boundary of this zone coincides with the primary surface and is two hundred and fifty (250) feet wide (125 feet on each side of the runway centerline).
- B. Primary Surface Zone for Non-precision Instrument Circling Approaches - The boundary of this zone coincides with the primary surface and is two hundred and fifty (250) feet wide (125 feet on each side of the runway centerline).
- C. Primary Surface Zone for Non-precision Instrument Straight-In Approaches - The boundary of this zone coincides with the primary surface and is five hundred (500) feet wide (250 feet on each side of the runway centerline).

**1304.3 Transitional Surface Zone**

Established beneath the transitional surfaces adjacent to each runway and approach surface as indicated on the Height Limitation and Zoning District Map.

**1304.4 Horizontal Surface Zone**

Established beneath the horizontal surface, one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal surface zone does not include the approach surface and transitional surface zones.

**1304.5 Conical Surface Zone**

Established beneath the conical surface. This zone commences at the periphery of the horizontal surface and extends outward therefrom a horizontal distance of four thousand (4,000) feet.

**1305 Airport Surface Zone Height Limitations**

Except as otherwise provided in this Article XIII, no structure shall be erected, altered, or maintained, and no vegetation shall be allowed to grow in any zone created by this Article XIII to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

**1305.1 Utility Runway Surface Zones**

- A. Visual Approach Surface Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) feet along the extended runway centerline.
- B. Non-precision Instrument Approach Surface Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) along the extended runway centerline.

**1305.2 Primary Surface Zone**

Established at the same height as the primary surface. The exception provided in §1305.6 shall not apply in the Primary Surface Zone.

**1305.3 Transitional Surface Zones**

Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation.

**1305.4 Horizontal Surface Zone**

Established at one hundred fifty (150) feet above the established airport elevation.

**1305.5 Conical Surface Zone**

Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal surface and at one hundred fifty (150) feet above the established airport elevation and extending to a height of three hundred fifty (350) feet above the established airport elevation.

**1305.6 Excepted Height Limitations**

However, nothing in this Article XIII shall be construed as prohibiting the construction or maintenance of any structure, or growth of any vegetation to a height up to fifty (50) feet above the surface of the land, which is not otherwise prohibited by this Zoning Ordinance. This exception shall not apply in the Primary Surface Zone.

**1306 Airport Zoning Requirements****1306.1 Use Restrictions -- Electrical Interference, Lighting, Glare, Bird Hazards**

Notwithstanding any other provisions of this Article XIII, no use may be made of land or water within any zone established by this Article XIII in such a manner as to:

- A. Create electrical interference with navigational signals or radio communication between the airport and aircraft. This is not intended to preclude the normal use of household appliances such as for example, microwave ovens, televisions, portable telephones and computers.
- B. Make it difficult for pilots to distinguish between airport lights and others.
- C. Result in glare in the eyes of pilots using the airport, or impair visibility in the vicinity of the airport.
- D. Create bird strike hazards.
- E. Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

**1306.2    Nonconforming Uses**

- A. Regulations Not Retroactive - The regulations prescribed by this Article XIII shall not be construed to require the removal, lowering, or other change or alteration of any structure or vegetation not conforming to the regulations as of the effective date of this Article XIII or governing predecessor ordinance, or otherwise interfere with the continuance of any nonconforming use, except as provided in §1307 (relating to permits and variances). Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Article XIII or governing predecessor ordinance, and is diligently executed.
- B. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or vegetation is hereby required to permit the installation, operation, and maintenance thereon or nearby of such markers and lights as shall be deemed necessary by the Governing Body in accord with FAA or Bureau of Aviation guidelines or regulations to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Airport.

**1307    Permits**

The permits and variances required by this Article XIII shall be in addition to those required by Article VI of this Zoning Ordinance with respect to principal permitted uses, conditional uses, special exceptions and accessory uses. Applications for permits and variances required by this Article XIII may be submitted and considered concurrently with the application for any other such approval required and no permit shall be granted under the terms of this Article XIII unless any other permit required by other Articles of this Ordinance has been granted.

**1307.1    Future Uses; Permits Required**

Except as specifically provided in subsections A, B, and C hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no vegetation shall be permitted to exceed the established height limitation in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient information for the Municipality to determine whether the resulting use, structure, or vegetation would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Article XIII shall be granted unless a variance has been approved in accordance with this Article XIII.

Nothing contained in any of the exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any vegetation in excess of any of the height limits established by this Article XIII, except that no permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure. However, a general zoning permit may be required pursuant to the other requirements of this Zoning Ordinance.

- A. Horizontal Zone and Conical Zone - In the area lying within the limits of the horizontal zone and conical zone, no permit under this Article XIII shall be required for any vegetation or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such vegetation or structure would extend above the height limits prescribed for such zones.
- B. Approach Zones - In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit under this Article XIII shall be required for any vegetation or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such vegetation or structure would extend above the height limit prescribed for such approach zones.
- C. Transition Zones - In the areas lying within the limits of the transition zones beyond the perimeter of the

horizontal zones, no permit under this Article XIII shall be required for any vegetation or structure less than seventy-five (75) feet of vertical height above the ground, except when such vegetation or structure, because of terrain, land contour, or topographic feature, would extend above the height limit prescribed for such transition zones.

D. Primary Surface Zones - No permit exemptions.

1307.2 Existing Uses

Before any nonconforming structure may be replaced, substantially altered or rebuilt or vegetation allowed to grow higher, a permit must be secured from the Municipality authorizing the replacement or change. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or vegetation to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made.

1307.3 Nonconforming Uses Abandoned or Destroyed

Whenever the Zoning Officer determines that any nonconforming vegetation or structure has been abandoned or discontinued as governed by Article IX of this Zoning Ordinance, no permit shall be granted that would allow such structure or vegetation to exceed the applicable height limit or otherwise deviate from this Article XIII.

1307.4 Procedures

- A. Application - The applicant for a permit shall, in addition to the other information required for zoning permits by this Zoning Ordinance, provide information detailing the height of the proposed structure, object or vegetation, the elevation of the proposed site, and a statement as to the compliance with the height limitations established by this Article XIII.
- B. FAA, Bureau of Aviation Filing - A person who plans to erect a new structure, to add to an existing structure, or to erect any object (natural or manmade) in the approach surface zone, the primary surface zone, or the transitional surface zone, or where the proposed object exceeds a height of fifty feet in the horizontal surface zone and conical surface zone, shall first obtain approval from both the FAA and the Pennsylvania Department of Transportation, Bureau of Aviation. If, in consultation with the Governing Body and the Municipal Engineer, the Zoning Officer determines that any uncertainty exists as to the compliance with the height limitations of this Article XIII, the applicant shall be required to file Form AV-57 with the Bureau of Aviation; and File FAA Form 7460-1 with the FAA. Copies of the forms and responses shall be provided to the Zoning Officer. In cases where FAA or Bureau of Aviation regulations so require, the submission of a *Notice of Proposed Construction or Alteration* shall be mandatory. No application shall be considered as complete for consideration until required responses are received from the FAA and Bureau of Aviation. Any requirements of the FAA or Bureau of Aviation shall be a condition of approval of any variance or permit approval.
- C. Zoning Officer Action - In cases where FAA and Pennsylvania Department of Transportation, Bureau of Aviation action is required in accord with §1307.4,B, the Zoning Officer shall not issue a Zoning Permit unless and until written responses are received from both FAA and the Bureau of Aviation.
1. If the Bureau of Aviation and the FAA report the landowner's proposed construction or alteration does not constitute an obstruction, the Zoning Officer may issue a Zoning Permit.
  2. If either the Bureau of Aviation or the FAA reports the proposed construction or alteration is an obstruction, the permit shall not be issued and the applicant may apply for a variance.

1308 Variances

- A. Application - Any person desiring to erect any structure or increase the height of any structure or permit the

growth of any vegetation or otherwise use his property not in accordance with these airport zoning regulations, may apply to the Zoning Hearing Board (ZHB) in accord with this Article XIII and §608 of this Ordinance for a variance from the zoning regulation in question.

- B. Requirements - A variance shall only be granted after the requirements of §1308 and §608.3 are satisfied. No variance shall be granted which is contrary to the public interest, which will create a hazard to air navigation, or which would not be in accordance with the spirit of the regulations in this Article XIII. Any variance may be granted subject to any reasonable conditions that the ZHB may deem necessary to effectuate the purpose of this Article XIII.
- C. FAA / Bureau of Aviation Determination - The application for variance shall be accompanied by a determination from the Federal Aviation Administration and the Bureau of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Any requirements of the FAA and Bureau of Aviation shall be a condition of approval of any variance or permit approval.
- D. Airport Notification - See §1310.2.
- E. Notice of Intent to Grant Variance To Bureau of Aviation - See §1310.3.

### **1309 Obstruction Marking and Lighting**

Any permit or variance granted under this Article XIII may, if such action is deemed advisable to effectuate the purpose of this Article XIII and is reasonable under the circumstances, be so conditioned as to require the owner of the structure or vegetation in question to permit the Airport, at its own expense, or require the person or persons requesting the permit or variance, to install, operate and maintain thereon such markers and lights as may be required by guidelines or regulations adopted by the FAA or Bureau of Aviation.

### **1310 Enforcement and Notice**

#### **1310.1 Local Enforcement**

It shall be the duty of the Zoning Officer to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Officer upon a form published for that purpose. Application for action by the ZHB shall be forthwith transmitted by the Zoning Officer. All such applications may be made and may be considered concurrently with any required general zoning application.

#### **1310.2 Airport Notification**

- A. Permits - Upon receipt of any application for a permit pursuant to this Article XIII which is subject to FAA and Bureau of Aviation determination in accord with §1307.4,B, the Zoning Officer shall notify the Airport Manager (or person of equivalent description) who shall be given the opportunity to review and comment on said application as to the aeronautical effects. If the Airport Manager (or person of equivalent description) does not review the application within fifteen (15) days after such notice, the Zoning Officer may act without such input to grant or deny said application.
- B. Variances - No application for variance to the requirements of this Article XIII may be considered by the ZHB unless a copy of the application has been furnished to the Airport Manager (or person of equivalent description) for comments as to the aeronautical effects of the variance. If the Airport Manager (or person of equivalent description) does not respond to the application within fifteen (15) days after receipt, the ZHB may act without such input to grant or deny said application.

#### **1310.3 Notice of Intent to Grant Variance To Bureau of Aviation**

Notwithstanding any other provision of law, should the ZHB decide to grant a permit or variance, respectively, under this Article XIII, the Department of Transportation, Bureau of Aviation, shall be notified of the intent to issue the

permit or variance. This notice shall be in writing and shall be sent so as to reach the Department at least ten (10) days before the date upon which the decision is to be issued.

#### 1310.4 Subdivisions and Land Developments

- A. Notice of Development - In the case of major subdivisions or land developments as defined by the Subdivision and Land Development Ordinance, notice of receipt of any such application shall be provided to the Airport Manager (or person of equivalent description) for comments as to the aeronautical effects of the proposed subdivision or land development. If the Airport Manager (or person of equivalent description) does not respond to the application within fifteen (15) days after receipt, the Municipality may act without such input to grant or deny said application. Notice to the Bureau of Aviation shall be provided in accord with §1310.3.
- B. Plan Information - The Municipality shall require that the plans include information to notify potential owners of the property or lots subdivided therefrom that the property is subject to airport zone requirements pertaining to height of structures and vegetation, electrical interference, lighting and glare. The details of the then current standards shall also be included on the plan along with the fact that more stringent standards may have been adopted by the Municipality and that the property owner and/or lot purchaser has the responsibility to comply with all applicable standards.

#### 1310.5 Airport Owner to File Correspondence with Municipality

The airport owner shall send to the Municipality copies of all forms, applications, and requests affecting airport hazard zone movement or hazard zone changes sent to FAA and/or the Bureau of Aviation by the airport owner. Said copies shall be sent to the Municipality within three (3) days of sending said forms, applications and requests to the FAA or the Bureau of Aviation. The airport owner shall also include copies of all maps, documents, correspondence and plans attached to, required by, or accompanying said requests, applications, or forms.

### **1311 Relation to Other Zoning Regulations**

In the event of conflict between any airport zoning regulations adopted under this Article XIII and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or vegetation, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

### **1312 Standards Applicable to New Airports and Changes to Existing Airports**

The standards in this §1310, in addition to other applicable standards in this Zoning Ordinance, shall apply to all existing and proposed airports as defined and regulated by this Article XIII. For the purposes of this §1312 airports shall include heliports.

#### 1312.1 Conditional Use

The existence of airport hazard zones limits the uses of surrounding landowners. No airport shall be permitted to make any change which would effect the location of airport surface zones, approach zones, or hazard zones, and no new airport shall be developed unless Conditional Use approval has been granted. In addition to the requirements of §509 of this Zoning Ordinance, the following procedures and criteria shall apply to any airport conditional use application. The following shall constitute changes at an airport requiring conditional use approval prior to the change:

- A. Any extension of a runway's length;
- B. Any change in the height of a runway;
- C. 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;



- D. Any change of runway direction or alignment;
- E. Any change in the status of taxiways or holding areas effecting the location areas of airport hazard zones;
- F. 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.
- G. 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.

#### 1312.2 Application Contents

The application for conditional use shall contain the following documents and information:

- A. A full narrative description of the airport and any changes proposed.
- B. Plans and maps prepared by a registered professional engineer showing the airport and any changes proposed to the airport.
- C. Plans and maps prepared by a registered professional engineer showing existing and proposed locations of the airport hazard zones.
- D. 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.
- E. A plan showing of how the lands or air rights negatively affected shall be acquired.
- F. 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.
- G. A list of the names and addresses of all landowners adjoining lands owned or leased by the airport owner.

#### 1312.3 Engineering Review

The Municipal Engineer shall review the application and report whether the application to the Planning Commission complies with all applicable ordinances, laws and regulations relating to airport hazard zones. The Municipal Engineer shall also report how the proposed airport or change will affect neighboring landowners and landowners in airport hazard zones. The Municipal 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.

#### 1312.4 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 Municipality's professional consultants or engineer relating to application review and report under the terms of the Subdivision and Land Development Ordinance.

#### 1312.5 Notice to FAA, the Bureau of Aviation, and the County

The Zoning Officer shall send a copy of the completed application to the Bureau of Aviation, FAA and the County Planning Department by certified mail, at least fourteen (14) days before the date of the hearing.

**1312.6 Criteria to Review**

In granting or denying a conditional use, the Governing Body shall consider:

- A. The effect upon reasonable use of properties affected by the proposal.
- B. How the applicant plans to acquire any necessary air rights.
- C. The character of the flying operations expected to be conducted at the airport;
- D. The nature of the terrain within the airport hazard zone area;
- E. The character of the community which is affected by the proposal.
- F. The effect upon roads, development, transportation routes, and other aspects of the Comprehensive Plan;
- G. The provision of hazard lighting and marking;
- H. The importance of aircraft safety.

**1312.7 Standards**

- A. The applicant shall document compliance with all applicable state and federal regulations.
- B. The runway and/or landing pad shall be a minimum of two hundred and fifty (250) feet from any property line.

**ARTICLE XIV  
FLOODPLAIN MANAGEMENT**

**1400    Statutory Authority and Floodplain Overlay District**

- A. Statutory Authority - The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors of the Township of Clinton and the Borough Council of the Borough of Nicholson, do hereby order as follows in this Article XIV.
- B. Floodplain Overlay District - The requirements of this Article XIV shall apply in the Floodplain Overlay District established by §401.3 of this Zoning Ordinance.

**1401    General Provisions**

**1401.1   Intent**

The intent of this Article is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

**1401.2   Applicability**

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Clinton Township or Nicholson Borough, unless a zoning permit has been obtained from the Zoning Officer.
- B. A zoning permit shall not be required for minor repairs to existing buildings or structures.

**1401.3   Abrogation and Greater Restrictions**

This Article supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Article, the more restrictive shall apply.

**1401.4   Warning and Disclaimer of Liability**

- A. Warning - The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur, flood

heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside any identified floodplain areas or that land uses permitted within such areas will be free from flooding or flood damages.

- B. Disclaimer - This Article shall not create liability on the part of the Township or Borough or any officer of the Township or Borough or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

## **1402 Administration**

### **1402.1 Floodplain Administrator; Zoning Permits**

- A. Floodplain Administrator - The Zoning Officer in Clinton Township and the Zoning Officer in Nicholson Borough are hereby appointed to administer and enforce this Article and are herein referred to as the Floodplain Administrator.
- B. Zoning Permits Required - Zoning permits shall be required before any construction or development is undertaken within any area of Clinton Township and Nicholson Borough.

### **1402.2 Issuance of Zoning Permit**

- A. Conformance - The Floodplain Administrator shall issue a zoning permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Ordinance and all other applicable codes and ordinances.
- B. State and Federal Laws - Prior to the issuance of any zoning permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, §404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. Repetitive Loss - In the case of existing structures, prior to the issuance of a zoning permit the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.
- D. Inspections - During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. The Floodplain Administrator shall make as many inspections during and upon completion of the work as are necessary.
- E. Authority for Entry - In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Article.
- F. Enforcement Action; Penalties and Remedies
1. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the permit and report such

fact to the Board of Supervisors for whatever action it considers necessary.

2. All enforcement actions shall be undertaken in accord with §1216 - Violations and §1217 - Penalties and Remedies.
- G. Records - The Floodplain Administrator shall maintain all records associated with the requirements of this Article including, but not limited to, permitting, inspection and enforcement.
- H. Construction Codes - The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

#### 1402.3 Application Procedures and Requirements

Applications shall be made in accord with §1202 of this Ordinance, and in addition to the information required by §1202.3, applications shall include the following:

- A. Other Permits - Listing of other permits required.
- B. Description of Work - Brief description of proposed work and estimated cost, including a breakout of the flood-related cost and the market value of the building before the flood damage occurred.
- C. Site Plan - A plan of the site showing the exact size and location of the proposed construction, as well as, any existing buildings or structures.
- D. Flood Damage Minimization - If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for zoning permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
  1. All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances.
  2. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.
  3. Adequate drainage is provided so as to reduce exposure to flood hazards.
  4. Structures will be anchored to prevent floatation, collapse, or lateral movement.
  5. Building materials are flood-resistant.
  6. Appropriate practices that minimize flood damage have been used.
  7. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.
- E. Contours - Topographic contour lines, if available.
- F. Water Features - The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
- G. Improvements; Elevations - Plans of all proposed buildings, structures and other improvements, drawn at

suitable scale showing the following:

1. The proposed lowest floor elevation of any proposed building based upon North American Geodetic Vertical Datum of 1988.
2. The elevation of the base flood.
3. Supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC.
4. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
5. Detailed information concerning any proposed flood proofing measures and corresponding elevations.

#### H. Certifications

1. AE Area/District - Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any AE Area/District without floodway (see §1403.2.B), when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point.
  2. Other Floodplain Areas - Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any identified floodplain area which is not an AE Area/District without floodway, when combined with all other existing and anticipated development, will not increase the base flood elevation as designated in §1403.
  3. Flood Proofing Measures - A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood elevation. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
- I. Dangerous Materials - Detailed information needed to determine compliance with §1404.3.F - Storage, and §1404.4 - Development Which May Endanger Human Life, including:
1. The amount, location and purpose of any materials or substances referred to in §1404.3.F and §1404.4 which are intended to be used, produced, stored or otherwise maintained on site.
  2. A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in §1404.4 during a one hundred (100) year flood.

1402.4 Reserved.

#### 1402.5 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

#### 1402.6 Start of Construction

- A. Beginning; Completion - Work on the proposed construction or development shall begin within one hundred and eighty (180) days after the date of issuance and shall be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator.
- B. Permanent Construction - The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- C. Substantial Improvement - For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

### 1403 Identification of Floodplain Areas

#### 1403.1 Identification

- A. Identified Floodplain Area - The identified floodplain area shall be any areas of Clinton Township and Nicholson Borough classified as special flood hazard areas (SFHAs) in the most recent Flood Insurance Study (FIS) and the most recent Flood Insurance Rate Maps (FIRMs) dated August 2, 2012, as issued by the Federal Emergency Management Agency (FEMA), including all digital data developed as part of the Flood Insurance Study.
- B. FIS and FIRM Adoption - The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted and declared to be a part of this Article.

#### 1403.2 Description and Special Requirements of Identified Floodplain Areas

The identified floodplain area shall consist of the following specific areas:

- A. Floodway Area/District - The Floodway Area/District shall be those areas identified as Floodway on the FIRM as well as those floodway areas which have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS. The floodway represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot at any point.
  - 1. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - 2. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

- B. AE Area/District Without Floodway - The AE Area/District without floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which base flood elevations have been provided in the FIS but no floodway has been delineated.
1. In AE Area/District without floodway, no new development shall be permitted unless it can be demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than one (1) foot.
  2. No permit shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE than one (1) foot at any point.
- C. A Area/District
1. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no one (1%) percent annual chance flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
  2. In lieu of the above, the Township/Borough may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.
- D. Shallow Flooding Area/ District - The Shallow Flooding Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide flood waters around and away from structures on slopes.
- E. Watercourses - In any identified floodplain area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.

#### 1403.3 Changes in Identification of Area

The identified floodplain area may be revised or modified by the Township/Borough where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (FEMA). Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data.

#### 1403.4 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Planning Commission and any party aggrieved by this decision or determination may appeal to the Township/Borough. The burden of proof shall be on the appellant.



#### 1403.5 Jurisdictional Boundary Disputes

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the Township/Borough shall review flood hazard data affecting the lands subject to boundary changes. The Township/Borough shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.

#### **1404 Technical Provisions**

Any development in Clinton Township or Nicholson Borough authorized by this Article shall comply with the technical provisions of this §1404 and all other applicable codes, ordinances and regulations.

##### 1404.1 General

###### A. Alteration or Relocation of Watercourse

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
3. In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

###### B. Technical Information - Technical or scientific data shall be submitted by the Applicant to FEMA for a Letter of Map Revision (LOMR) as soon as practicable but within six (6) months of any new construction, development, or other activity resulting in changes in the BFE. The situations when a LOMR or a Conditional Letter of Map Revision (CLOMR) are required are:

1. Any development that causes a rise in the base flood elevations within the floodway; or,
2. Any development occurring in Zone A, Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one (1) foot in the base flood elevation; or,
3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges).

###### C. Watercourses - In any identified floodplain area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

##### 1404.2 Elevation and Floodproofing Requirements

###### A. Residential Structures

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.

2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with §1403.2.C of this Article.
3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
4. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

**B. Non-residential Structures**

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
  - a. is flood proofed so that the structure is watertight with walls substantially impermeable to the passage of water, and,
  - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
2. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
3. In A Zones, where there are no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely flood proofed up to, or above, the regulatory flood elevation determined in accordance with §1403.2 of this Article.
4. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be flood proofed in accordance with the WI or W2 space classification standards contained in the publication entitled *Flood-Proofing Regulations* published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such flood proofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
5. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

**C. Space Below the Lowest Floor**

1. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing

hydrostatic forces on exterior walls. The term *fully enclosed space* also includes crawl spaces.

2. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a. minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  - b. the bottom of all openings shall be no higher than one (1) foot above grade.
  - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- D. Historic Structures - Historic structures undergoing repair or rehabilitation that would constitute a *substantial improvement* as defined in §1408, must comply with all Ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from Ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.
- E. Accessory Structures - Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
  1. The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
  2. Floor area shall not exceed 200 square feet.
  3. The structure will have a low damage potential.
  4. The structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
  5. Power lines, wiring, and outlets shall be elevated to or above the regulatory flood elevation.
  6. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
  7. Sanitary facilities are prohibited.
  8. The structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of flood water for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
    - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
    - b. the bottom of all openings shall be no higher than one (1) foot above grade.

- c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

#### 1404.3 Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

A. Fill - If fill is used, it shall:

1. Extend laterally at least fifteen (15) feet beyond the building line from all points;
2. Consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
3. Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
4. Be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are
5. Submitted to, and approved by the Floodplain Administrator; and
6. Be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities - Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
4. The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code shall be utilized.

D. Other Utilities - All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

E. Streets - The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

F. Storage - All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in §1404.4, Development Which May Endanger Human Life, shall be

stored at or above the Regulatory Flood Elevation and/or flood proofed to the maximum extent possible.

- G. Placement of Buildings and Structures - All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the Regulatory Flood Elevation shall be of a *marine* or *water-resistant* variety.
3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are *water-resistant* and will withstand inundation.
4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other *water-resistant* material.
5. The provisions of the UCC pertaining to this subsection and referenced in the 34 PA Code (Chapters 401-405 as amended) and contained in the 2009 IBC (Secs. 801.1.3, 1403.2, 1403.4, 1403.6 and 1404.2), the 2009 IRC (Secs. R323.1.7 & R501.3) and ASCE 24-98 (Chapter 6).

J. Paints and Adhesives

1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of *marine* or *water-resistant* quality.
2. Adhesives used at or below the Regulatory Flood Elevation shall be of a *marine* or *water-resistant* variety.
3. All wooden components (doors, trim, cabinets, etc.) shall be finished with a *marine* or *water-resistant* paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

- L. Equipment - Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

- M. Fuel Supply Systems - All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.
- N. Uniform Construction Code Coordination - The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and subsections of this Article, to the extent that they are more restrictive and/or supplement the requirements of this Article.
1. International Building Code (IBC) 2009 or the latest edition thereof: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
  2. International Residential Building Code (IRC) 2009 or the latest edition thereof: Sections R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

#### 1404.4 Development Which May Endanger Human Life

- A. Prohibition - In accord with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:
1. Will be used for the production or storage of any of the following dangerous materials or substances; or,
  2. Will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
  3. Will involve the production, storage, or use of any amount of radioactive substances;
- shall be prohibited in any identified floodplain area.
- B. Materials and Substances - The following list of materials and substances are considered dangerous to human life:
1. Acetone
  2. Ammonia
  3. Benzene
  4. Calcium carbide
  5. Carbon disulfide
  6. Celluloid
  7. Chlorine
  8. Hydrochloric acid
  9. Hydrocyanic acid
  10. Magnesium
  11. Nitric acid and oxides of nitrogen
  12. Petroleum products (gasoline, fuel oil, etc.)
  13. Phosphorus
  14. Potassium
  15. Sodium
  16. Sulphur and sulphur products
  17. Pesticides (including insecticides, fungicides, and rodenticides)

18. Radioactive substances, insofar as such substances are not otherwise regulated.

- C. Floodway Area - Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited

#### 1404.5 Special Requirements for Manufactured Homes

Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall be:

- A. Placed on a permanent foundation.
- B. Elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above the base flood elevation.
- C. Anchored to resist flotation, collapse, or lateral movement.
- D. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.
- E. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the most recent revisions thereto and 34 PA Code, as amended, where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the unit(s) proposed for installation.

#### 1404.6 Special Requirements for Recreational Vehicles

Recreational vehicles in Zones A, A1-30, AH and AE must either:

- A. Be on the site for fewer than 180 consecutive days,
- B. Be fully licensed and ready for highway use, or
- C. Meet the permit requirements for manufactured homes in §1404.5.

#### 1404.7 Special Requirements for Subdivisions

All subdivision proposals and development proposals containing at least fifty (50) lots or at least five (5) acres, whichever is the lesser, in flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submission requirements and processing fees shall be the responsibility of the applicant.

### **1405 Activities Prohibited in Identified Floodplain Areas**

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area:

- A. The commencement of any of the following activities; or the construction enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
  - 1. Hospitals
  - 2. Nursing homes
  - 3. Jails or prisons
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

#### **1406 Existing Structures in Identified Floodplain Areas**

##### **1406.1 Changes/Improvements not required**

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when any improvement is made to any existing structure located within any identified floodplain area, the provisions of §1406.2 shall apply.

##### **1406.2 Improvements**

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

#### **A. AE Area/District without Floodway**

- 1. No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
- 2. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.

#### **B. Substantial Improvements**

- 1. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
- 2. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

#### **C. Repetitive Loss - Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of *repetitive loss* shall be undertaken only in full compliance with the provisions of this Article.**

#### **D. Construction Standards - The above activity shall also address the requirements of the 34 PA Code, as amended, and the 2009 IBC and the 2009 IRC.**



**1407 Variances****1407.1 Hardship**

If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer or landowner, the Zoning Hearing Board may, upon written request in accord with §1207 of this Ordinance, grant relief from the strict application of the requirements.

**1407.2 Procedure**

In addition to the requirements of §1207 the following shall apply:

**A. Prohibited Variances**

1. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE.
2. No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
3. No variance shall be granted for any of the activities prohibited by §1404.4 - Development Which May Endanger Human Life or §1405 - Activities Prohibited in Identified Floodplain Areas.

**B. Least Modification - If granted, a variance shall involve only the least modification necessary to provide relief.****C. Conditions and Safeguards - In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.****D. Standards - In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:**

1. That there is good and sufficient cause.
2. That failure to grant the variance would result in exceptional hardship to the applicant.
3. That the granting of the variance will:
  - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
  - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

**E. Notice - Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:**

- a. The granting of the variance may result in increased premium rates for flood insurance.
- b. Such variances may increase the risks to life and property.

**F. Record - A complete record of all variance requests and related actions shall be maintained by the**

Township/Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

- G. Flood Resistance - Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one (1) percent annual chance flood.

#### **1408 Definitions**

In addition to the definitions included in Article III of this Ordinance, the following definitions shall apply to this Article XIV. In cases where a definition appears in Article III and this §1408, the definition in this §1408 shall apply to this Article XIV. Unless specifically defined below or in Article III of this Ordinance, words and phrases used in this Article XIV shall be interpreted so as to give this Article its most reasonable application.

1. Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Base Flood - a flood that has a one (1) percent chance of being equaled or exceeded in any given year (also called the *100-year flood* or *one-percent annual chance flood*)
3. Base Flood Discharge - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
4. Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
5. Basement - any area of the building having its floor below ground level on all sides.
6. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
7. Development - any man-made change to improved or unimproved real estate, including, but not limited to, the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
8. Existing Manufactured Home Park or Subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the Township/Borough.
9. Expansion to an Existing Manufactured Home Park or Subdivision - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads)
10. Flood - a temporary inundation of normally dry land areas.
11. Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

12. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
13. 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.
14. Flood proofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
15. Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
16. Highest Adjacent Grade - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
17. Historic Structure - any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
  - d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
    - 1) By an approved state program as determined by the Secretary of the Interior or
    - 2) Directly by the Secretary of the Interior in states without approved programs.
18. Lowest Floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Article.
19. Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles that are placed on a site for more than 180 consecutive days.

20. Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
21. Minor Repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit way requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
22. New Construction - structures for which the start of construction commenced on or after 07/03/90 in Clinton Township, and on or after 03/01/87 in Nicholson Borough, and includes any subsequent improvements thereto. Any construction started after 07/03/90 in Clinton Township, and on or after 03/01/87 in Nicholson Borough and before August 2, 2012, is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within one hundred eighty (180 days) of permit issuance.
23. New Manufactured Home Park or Subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the Township/Borough.
24. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
25. Planning Commission - The Northeast Wyoming County Planning Commission, Wyoming County, Pennsylvania.
26. Recreational Vehicle - a vehicle which is:
- a. Built on a single chassis;
  - b. Not more than four hundred (400) square feet, measured at the largest horizontal projections;
  - c. Designed to be self-propelled or permanently towable by a light-duty truck;
  - d. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
27. Regulatory Flood Elevation - the base flood elevation (BFE) plus a freeboard safety factor of one and one-half (1 ½) feet.
28. Repetitive Loss - flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damages occurred.
29. Special Flood Hazard Area (SFHA) - means an area in the floodplain subject to a 1-percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

30. Start of Construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days from the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
31. Structure - a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
32. Subdivision - the division or re-division 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.
33. Substantial Damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
34. Substantial Improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. (See §1404.2.D for historic structures.)
35. Township/Borough - Clinton Township or Nicholson Borough, as applicable.
36. Uniform Construction Code (UCC) - the statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
37. Violation - the failure of a structure or other development to be fully compliant with the Township's/Borough's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**ARTICLE XV  
ADOPTION**

**CLINTON TOWNSHIP ADOPTION**

**THIS ORDINANCE ORDAINED AND ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2006, by the Board of Supervisors of Clinton Township, Wyoming County, Pennsylvania, to be effective immediately.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Township Secretary

**NICHOLSON BOROUGH ADOPTION**

**THIS ORDINANCE ORDAINED AND ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2006, by the Borough Council of Nicholson Borough, Wyoming County, Pennsylvania, to be effective immediately.

**BOROUGH OF NICHOLSON**

By: \_\_\_\_\_  
Council President

ATTEST:

\_\_\_\_\_  
Borough Secretary

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2006

By: \_\_\_\_\_  
Mayor